



Policy & Advocacy Update

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MASA

Michigan Association of
Superintendents & Administrators

The Statute

- Legislation approved in 1996 ([HB 5108](#))
 - ◆ Original intent was to stop a union service agreement scenario, as referenced in HFA and SFA analysis.
 - ◆ Later version of bill included the new section at issue.
 - Unclear where the change came from.

The Statute – MCL 38.1303a

- What specifically counts as compensation – 3(a)(2)
- What specifically does not count compensation – 3(a)(3)

The Statute – Sub (f)

“Compensation in excess of an amount over the level of compensation reported for the preceding year except increases provided by the normal salary schedule for the current job classification. In cases where the current job classification in the reporting unit has less than 3 members, the normal salary schedule for the most nearly identical job classification in the reporting unit or in similar reporting units shall be used.”

The Statute – sub (e)

- **“Remuneration paid for the specific purpose of increasing the final average compensation.”**
- ◆ We believe based on the plain language that this is the pension spiking provision.
- ◆ Why is (f) there?

Legal History

- **Batista filed – 2019**
- **Court of Claims dismissed on behalf of ORS**
- **Court of Appeals rules for MASA – 2021**
- **Supreme Court upholds in part, remands in part – 2023**
 - ◆ Rules that the NSI was created contrary to statutory authority, but remands to COA to determine applicability of (f) to non-CBA employees

Legal History

→ Court of Appeals (2nd decision) – 2023

- ◆ Affirmed NSI was created contrary to statutory authority
- ◆ Held that for employees as part of a unit of 3 and above – no increases in FAC
 - Because this unit was not named in statute, the plain language of it means this group gets no increases

Legal History

- ◆ Also held that for employees as part of a unit of 2 and below, possible increases
 - ORS, in its reply brief, has cited to potentially using teacher salary schedules
- ◆ IMPORTANT – explicitly called for a legislative fix

Legal History

→ MASA brief for leave to appeal

- ◆ Arguing the result is absurd and there is ongoing harm

→ ORS response

- ◆ Ignored what COA said about the 3 and above class
- ◆ Essentially arguing that all is well – they will figure it out, no need to worry

Legal History

- **Supreme Court has agreed to hear our appeal and expedited it to April**
 - Has invited further briefing, focusing specifically on the salary schedule question
- **Decision should be by made by end of June (end of Supreme Court term)**

In Case You Missed It

- Legislature adjourned early.
- Impacts:
 - We weren't up all night in late December – Yay!
 - Nothing bad passed!
 - Sine Die moved up = Immediate Effect moved up
 - Important legislation took effect Tuesday



Good Stuff Taking Effect

- 3rd grade reading retention repeal
- A-F letter grade accountability
- 401(k) opt in default



The Not So Good

- PERA – prohibited subjects
- Removing prohibition on increases during negotiation



The Meh...

- Educator evaluations
- Automatic deduction of union dues



What's Coming Up?



What's Coming Up?

- REMINDER: the House is split 54/54
- Democrats still technically in the majority, but functionally can pass very little on the floor.
- Sen. McDonald Rivet is running for Congress



March - April

- The Senate will still have a functioning majority and will likely be somewhat active.
- The House...will not.
- Expect budget work, but likely no budget bills coming out of the House.



April - June

- Special elections are in April.
- Expect House to be fully operational in beginning of May.
- Expect major priority to get a budget done for the summer and campaign.



Summer / Fall



Watch Out for Lame Duck



Pension Changes

- Lots of discussion that there is interest amongst unions in looking at strengthening pension system.
- Big key – potential costs.
- Reminder, bill passed that now defaults new employees into pension option if no election is made.



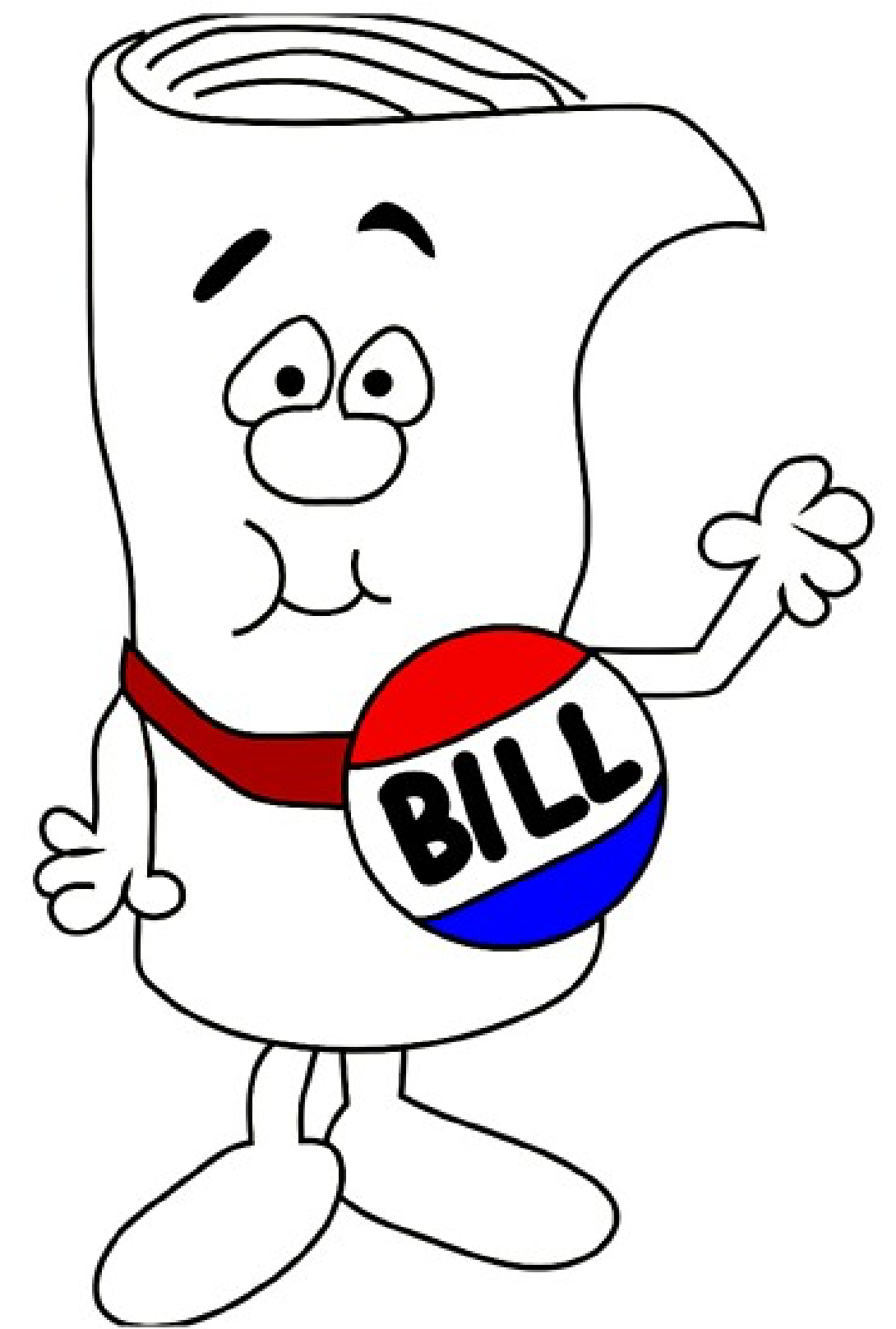
Tenure Reform – 2011 Changes

- Standard for dismissal – arbitrary and capricious instead of just cause.
- Probationary teacher can be dismissed.



Other Possible Legislation

- Dyslexia: Could pass the Senate this Spring – still likely a lame duck issue.
- Charter School Transparency: Rep. Koleszar introduced bills before they adjourned last year.
- Seclusion and Restraint: Periodically in the news.



Political Update



- House is up this election cycle.
 - Democrats will *likely* have a 56-54 margin.
 - Losing ONE seat results in shared power.
 - Losing TWO results in GOP taking the majority.
- Possibly a seat in the Senate is up as well, depending on results of Congressional race.

Political Update

- Michigan GOP Party... or Parties?
- U.S. Senate
 - Sen. Stabenow retiring
 - Rep. Slotkin vs. ?
- Presidential race



Redistricting

- 13 Districts in metro Detroit area must be redrawn after a federal court ruled they violated the Equal Protection clause restricting lines drawn based on race.
 - Ripple effect throughout the entire state.
- Redistricting commission must have new maps completed by March 29.

