

HB0463S01 compared with HB0463

~~text~~ shows text that was in HB0463 but was deleted in HB0463S01.

text shows text that was not in HB0463 but was inserted into HB0463S01.

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Representative Steve Waldrip proposes the following substitute bill:

CHANGES TO EDUCATION GOVERNANCE

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Waldrip

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates a process for appealing certain local education agency actions to the State Board of Education.

Highlighted Provisions:

This bill:

- ▶ permits parents ~~, teachers, or jointly the governor, the president of the Senate, and the speaker of the House of Representatives~~ or local education agency (LEA) employees to appeal certain actions of ~~a local education agency (an LEA)~~ governing board;
- ▶ requires an LEA governing board to create ~~an~~ a public appeal process for parents or ~~teachers~~ LEA employees to appeal certain actions to the LEA governing board;
- ▶ requires the State Board of Education (state board) to:

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- establish appeal procedures; and
- appoint an appeal ombudsman to receive petitions and advise the public regarding the appeal process;
- ▶ permits the state board to:
 - establish a committee to assist the state board in carrying out its duties; and
 - issue rulings on certain appeals;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53E-3-524, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53E-3-524** is enacted to read:

53E-3-524. Public education appeal.

(1) As used in this section:

(a) "Appeal ombudsman" or "ombudsman" means the ombudsman the state board appoints under Subsection (2).

(b) "Appeal procedures" means the rules the state board establishes under Subsection (2).

(c) "Authorized petition" means a petition ~~for expedited petition~~ that meets the requirements of this section.

(d) "Core standards for Utah public schools" means the standards established by the state board as described in Section 53E-4-202.

~~{ (e) "Eligible petitioners" means parents, or parents and teachers, equaling at least the lesser of:~~

~~(i) 50 parents, or parents and teachers, in the LEA; or~~

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- ~~(ii) 10% of parents, or parents and teachers, in the LEA.~~
- ~~(f) "Eligible teacher LEA employee petitioners" means teachers LEA employees~~
equaling at least the lesser of:
- ~~(i) 10 teachers 35 LEA employees~~ in the LEA; or
 - ~~(ii) 5% 25%~~ of ~~teachers LEA employees~~ in the LEA.
- ~~(g) "Expedited petition" means a petition to appeal a qualifying action that the governor, the president of the Senate, and the speaker of the House of Representatives jointly allege is an urgent~~
Eligible petitioners" means parents, or parents and LEA employees,
equaling at least the lesser of:
- (i) 100 parents, or parents and LEA employees, in the LEA; or
 - (ii) 25% of parents, or parents and employees, in the LEA.
 - (g) "LEA employee" means an individual employed in an LEA that takes a qualifying
action.
- (h) "Parent" means the parent of a student enrolled in an LEA that takes a qualifying
action.
- (i) "Petition" means a petition to appeal a qualifying action that eligible petitioners or
eligible teacher LEA employee petitioners allege:
- (i) violates state board rule, a statutory requirement, or other provision of law; or
 - (ii) is an urgent action.
- (j) (i) "Qualifying action" means a decision or policy that an LEA governing board
establishes by majority vote at a meeting of the LEA governing board.
- (ii) "Qualifying action" does not include an individual LEA governing board member's
statement.
- (iii) "Qualifying action" does not include an LEA governing board's decision or policy
related to:
- (A) bonding or levying a property tax;
 - (B) borrowing money;
 - (C) LEA budgets or expenditures;
 - (D) LEA governing board elections;
 - (E) school district boundaries;
 - (F) a school's location;

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(G) a school's permanent closure;

(H) curriculum or instructional materials that meet the core standards for Utah public schools as reasonably determined by the LEA;

(I) a school's name or mascot;

(J) discipline of an individual student;

(K) LEA or school personnel matters, ~~including employee evaluations, a plan of correction, employee discipline, employee salaries, or teaching assignments;~~

(L) an LEA governing board's statement of an official policy position;

(M) an LEA governing board's makeup; or

(N) contract negotiations, ~~including negotiations related to employment contracts.~~

(iv) "Qualifying action" does not include an LEA governing board's decision or policy made in compliance with:

(A) statutory requirements; or

(B) a court order.

~~{ (k) "Teacher" means a teacher employed in an LEA that takes a qualifying action.~~

~~{ (H)(k) "Urgent action" means a qualifying action that:~~

~~(i) an LEA governing board takes within the three months prior to the date on which eligible petitioners or ~~{eligible teacher}~~LEA employee petitioners file a petition with the state board; and~~

~~(ii) is reasonably likely to affect a majority of students in an LEA.~~

~~(2) (a) The state board shall:~~

~~(i) appoint an appeal ombudsman to carry out the duties described this section; and~~

~~(ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative~~

~~Rulemaking Act, to establish:~~

~~(A) procedures for eligible petitioners or eligible ~~{teacher}~~LEA employee petitioners to submit a petition to the state board;~~

~~(B) procedures for an LEA governing board to file a written response to an authorized petition;}~~

~~_____ (C) procedures for the governor, the president of the Senate, and the speaker of the House of Representatives to submit a petition to the governance and practices committee as described in Subsection (8);} and~~

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(~~D~~C) other procedures the state board determines are necessary to carry out the duties described in this section.

(b) The state board may establish a governance and practices committee to assist the state board in carrying out the state board's duties described in this section.

(3) (a) An LEA governing board shall establish a process for eligible petitioners or eligible ~~teacher~~LEA employee petitioners to appeal a qualifying action to the LEA governing board.

(b) The process described in Subsection (3)(a) shall include a public hearing on the appeal.

(4) Eligible petitioners or eligible ~~teacher~~LEA employee petitioners:

(a) may appeal a qualifying action to the state board by filing a petition in accordance with this section and appeal procedures; and

(b) shall include with the petition evidence that the eligible petitioners or eligible ~~teacher~~LEA employee petitioners have followed the process established by an LEA in accordance with Subsection (3).

(5) (a) Eligible ~~teacher~~LEA employee petitioners who take an action described in this section are entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act.

(b) Nothing in this section requires an LEA employee to take an action permitted under this section prior to exercising any other rights the LEA employee has under the law.

(6) (a) The ombudsman shall:

(i) review a petition that eligible petitioners or eligible ~~teacher~~LEA employee petitioners submit as described in Subsection (4);

(ii) advise the public regarding appeal procedures and the requirements of this section;

(iii) if a petition alleges a violation of statute or state board rule, advise eligible petitioners or eligible ~~teacher~~LEA employee petitioners regarding the eligible petitioners' or eligible ~~teacher~~LEA employee petitioners' rights under applicable provisions of state law and state board rule;

(iv) refer a petition that is not an authorized petition to the LEA governing board;

(v) refer an authorized petition that appeals an urgent action to the state board; and

(vi) fulfill other duties the state board assigns.

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(b) When the ombudsman refers a petition to an LEA governing board as described in Subsection (5)(a)(iv), the ombudsman may make a recommendation that the LEA governing board reconsider the qualifying action.

(7) The state board, in accordance with appeal procedures:

(a) shall issue a ruling on an authorized petition that appeals an urgent action that the ombudsman refers to the state board; and

(b) may request a response to an authorized petition from the LEA governing board before issuing a ruling as described in Subsection (7)(a).

~~{ (8) (a) The governor, the president of the Senate, and the speaker of the House of Representatives may jointly submit an expedited petition to the state board in accordance with appeal procedures:~~

~~— (b) The state board shall, in accordance with appeal procedures:~~

~~— (i) determine whether the expedited petition:~~

~~— (A) appeals an urgent action; and~~

~~— (B) is an authorized petition;~~

~~— (ii) if the committee determines that an expedited petition is an authorized petition and appeals an urgent action:~~

~~— (A) request a response to an expedited petition from the LEA governing board; and~~

~~— (B) issue a ruling on the expedited petition.~~

~~† (9) 8) An LEA governing board may, in accordance with appeal procedures, file a response to any { petition or expedited } petition filed under this section.~~