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Published by the RI Federation of Teachers and Health Professionals, AFT, AFL-CIO
www.rifthp.org

Volume 12, No. 3, January 16, 2009

Governor Carcieri's Supplemental Budget Attacks Schools, Pensions, Benefits, and Rights

On Wednesday January 7th, Governor Carcieri gave a televised address to explain the highlights of his plan to close the projected \$357 million budget deficit for the current fiscal year ending June 30, 2009. That same day, Representative Robert Watson introduced 2009-H 5019, the bill to implement the Governor's plan. Included in Rep. Watson's bills are the provisions the Governor talked about (pension cuts, benefit changes, aid to cities and towns cuts) and a number of other changes important to RIFTHP members.

What is most striking in the 50 articles of the Supplemental Budget are how many of them hurt schools, public services, and the people who provide these services. The Governor has used the national budget crisis to cut worker pay, benefits and collective bargaining rights. He has used the State deficit to make seismic changes to teacher working conditions.

The General Assembly will now decide which proposals to enact and which ones not to approve. Action may be swift as some are predicting legislation to balance the current fiscal year budget may be voted on by the end of the month.

The provisions of the budget, known as budget articles, that are of most immediate concern to the RIFTHP members are:

Article 2 – Gubernatorial Authority

This article, in times of budget deficits, would allow the Governor to reduce or suspend State funding to State agencies and local government without General Assembly approval. The budget article merely requires the Governor to give ten days' written notice prior to changing State funding provisions that had been previously approved by the General Assembly. The Governor has also proposed in this article to permit State agencies to enact emergency regulation changes "deemed necessary or advisable to achieve budgetary savings during fiscal years 2009 and 2010." This budget article is contrary to the Separation of Powers doctrine that gives

authority to make appropriations to the legislative branch of our Government.

Article 4 – Retiree Health Care Trust Fund

This article delays the implementation of a trust fund for State worker retiree medical benefits from July 1, 2008 to July 1, 2010. Other dates to implement the new method of funding retiree medical insurance are also proposed to be delayed. The trust fund was created when the Assembly approved major cuts in State worker retiree medical benefits as part of last year's Supplemental Budget.

Article 17 – Statewide School Lunch Program

This article authorizes the Department of Education to create a single statewide school lunch program through a contract process and requires school districts, State schools and charter schools to participate in the statewide program when their current food service contracts expire.

Article 18 – School-Bus Monitors

This budget proposal eliminates the statutory provision that requires school districts to use school-bus monitors when transporting students in grades K-5. The RIFTHP represents school-bus monitors in some districts.

Article 19 – Statewide School Employee Healthcare and Dental Program

This article narrows the scope of collective bargaining by preventing unions representing teachers and other school employees from bargaining health insurance, including dental and vision benefits for their members. The article permits existing contractual benefits for active employees and future retirees until July 1, 2010 or upon the expiration of a contract if the contract is currently in place after the effective date of the Article. The Article also places other municipal employees in the State health insurance plan.

Article 19 requires the Department of Education to create the Standardized Health Insurance Plan. It also requires a minimum 25% of premium cost-sharing for school district and municipal employees and caps the payment for those waiving medical insurance to 10% of the premium. Double coverage of two spouses both working for any government entity within Rhode Island would be prohibited.

The article proposes that the State Department of Administration (not RIDE) procure the medical insurance plan after receiving recommendations from a newly-created Healthcare Advisory Council. The Council is made of an undetermined number of representatives of labor, management, insurance purchasing collaboratives and State government. The Advisory Council would determine, not negotiate, healthcare plans.

Article 20 – Statewide Purchasing System

The article requires the Department of Administration and RIDE to create a mandatory statewide purchasing program for school districts. This program would be used to purchase supplies, equipment, textbooks, healthcare, food services and transportation services.

Article 21 – School – Municipality Budget Disputes

This article changes the existing process (known as a Caruolo action) that permits school districts to sue in Superior Court for additional funding. The process would be amended to prevent a judgment to provide more funding than the cap in property taxes enacted as part of S3050 (sponsored by Teresa Paiva-Weed, current Senate President). The current law caps school district budget requests to the same percentage as the property tax cap, which will soon be reduced to 4%.

This article suspends Caruolo actions in response to any budget reduction after January 1, 2009, and empowers a 3 person panel to resolve the budget disputes between school committees and municipalities. The panel would be composed of the Commissioner of Education (or designee), the Auditor General (or designee), and the Director of Revenue (or designee). The panel would have binding authority over budget disputes. The panel would also be able to

create a corrective action plan that “may include the suspension of any contracts or non-contractual provisions to the extent that State aid has been reduced and to the extent legally permissible.”

Article 22 – Statewide Transportation System

This article restricts future contracts between school district and private transportation companies unless the contract permits the district to participate in the statewide transportation system to be developed by RIDE. The article permits the districts that own their own buses to continue to operate their own school transportation system. Once the statewide system is created, all districts that contract for transportation would be required to participate in the State system.

Article 23 – School Nurse-Teachers

This article amends State law that requires school health programs to be run by certified school nurse-teachers. The article permits the use of nurses who are not certified teachers to administer nursing care and run programs in schools.

Article 24 – Teacher Termination

This article amends a specific State statute pertaining to the termination of teachers in Woonsocket and Cumberland during a school year. The article would permit teacher terminations without following specific procedural rules such as the accusation being put in writing and that the vote to terminate a teacher is by 2/3 of the school committee.

Article 25 – Teacher Tenure

This article changes the notification deadline for non-renewal of a non-tenured teacher, termination of a tenured teacher, or the layoff of a teacher because of population decline from March 1 to June 1. The article also proposes to eliminate a teacher’s right to have a hearing with the school committee if the termination, non-renewal or layoff is “a result of reduction in the district’s personnel budget.” The article would permit the termination of tenured teachers because of a reduction in the school district’s personnel budget. The article allows districts to bypass the seniority of laid off teachers in order “to meet the requirements of State or Federal mandates.” Finally, the article changes the tenure rule for teachers who transfer from one district to another by eliminating tenure protection if the new employer provides a written notice.

Article 26 – Fiscal Impact Statements

Existing State law requires school committees to prepare and make public a fiscal impact statement of any collective bargaining agreement upon ratification of the contract. This budget article would require school districts to post the fiscal impact statement on a website for at least thirty (30) days prior to contract ratification.

Article 27 – Teacher Strikes

This article specifically prohibits teacher strikes. The definition of a strike would include “work-to-rule” or “other concerted job action.” Teachers would be penalized with the loss of two days’ pay for each day on strike or work-to-rule. Any labor organization participating in a strike or other action would lose recognition rights and the ability to collect dues for three (3) years. The article creates an investigatory procedure prior to the taking of a teacher’s pay, culminating in an appeal to the Commissioner of Education. The article also permits that a judge can issue an

injunction against a strike or other job action without making a finding of irreparable harm.

Article 28 – Progressive Support and Intervention – Teacher Rights Limitations

This article would suspend teacher contract rights related assignments and transfers if the school is under the State's intervention system for three years. Those districts would also be required to utilize a State evaluation system in lieu of the collectively-bargained evaluation system. The article would also require the Regents to adopt criteria for an evaluation system.

Article 29 – School Committee Management Rights

This article would give school management unrestricted rights to: establish class sizes, establish academic achievement criteria, assign school personnel, transfer, layoff, recall, promote, discharge, assign, reward or discipline employees, and select textbooks, supplies and equipment.

Article 31 – Education Aid

This article suspends the entire State expenditure for teacher professional development and reduces aid to school districts and charter schools by deferring employer contributions into the pension fund.

Article 32 – Teacher and State Worker Pension

This article would impose a minimum age requirement of 59 years for those in schedule A of the teacher and State worker pension plan if retiring on or after April 1, 2009. The article would also eliminate the COLA adjustment for anyone (either schedule A or B) who retires on or after April 1, 2009. The

article cuts employer contributions by 75% for five months while maintaining current employee contributions. Those who retired because of on-the-job injuries would get 50% of salary instead of 66 2/3% of salary after April 1, 2009, unless the individual is incapable of performing work in any capacity.

Article 41 – School and Municipal Realignment Commissions

This article creates two commissions - one for public schools and one for municipal and public safety services. One of the fourteen members of the School Alignment Commission would represent labor, and two of the fifteen members of the Municipal Alignment Commission would represent labor. Labor appointments would be made by the Governor. The Commission's recommendation will be made to the General Assembly and may result in issues being placed on the November, 2010 ballot.

Article 44 – Health Insurance Cost Sharing

This article repeats language presented in Article 19 preventing public sector bargaining for health insurance and requiring a 25% employee cost-share for all contracts executed after January 1, 2009.

Article 45 – Municipal Pensions

This article makes changes to municipal, police and fire employees matching changes proposed to teachers and State workers in Article 31. Municipal employees with less than 10 years of contributory service as of July 1, 2009, would have a minimum retirement age of 59 with 29 or more years of service. The article would cut certain accidental disability retirement pensions to 50% of salary, and increase employee contributions from 6% to 7% of salary.