

Frequently Asked Questions regarding Senate Bill 5

Implementation

1. What is the effective date of the bill?

A: The effective date of SB 5 is July 1, 2011. However, if a valid petition for referendum is filed, it will stay (halt) implementation of the law.

The Secretary of State will determine the sufficiency of the signatures not later than 105 days before the election. If the signatures are determined to be insufficient, ten additional days are allowed to cure the deficiency.

If the signatures are still not deemed sufficient after the additional ten days, and there are no legal challenges, the law will take effect when the final insufficiency is certified by the Secretary of State.

If the signatures are sufficient, the law will be placed on the ballot and will not become effective until it is submitted and passed by the voters. It is likely that the effective date of the law, if approved by the voters, will be the day that the vote is certified. Certification generally occurs between 2 weeks and 1 month after election day.

2. How soon will we see the impact of this bill? Will anything change prior to the expiration of the existing contracts? Will exempt employees see an impact soon?

A: Changes for exempt employees will occur as soon as SB 5 is effective. There will be no changes for bargaining unit employees until the expiration of their current contracts.

Performance-based Pay

1. How/when does the removal of pay scales in favor of merit pay affect current employees?

A: The effective date of performance pay depends on the effective date of the law.

2. With the elimination of steps, will the pay of employees revert to pay step one (the only pay step available under SB 5?) when this legislation becomes effective?

A: SB 5 eliminates all steps and requires the Director of DAS to put pay ranges in the OAC. There will be ranges (i.e. a minimum and a maximum) for each pay range. Employees will not automatically revert to the minimum pay in the range.

3. Does SB5 eliminate automatic step increases? And, if so, how will merit increases be implemented?

A: Yes, SB 5 eliminates automatic step increases and puts exempt employees on a performance pay system. The Director of DAS must create rules for the performance pay system. Rules for performance pay are currently in development.

4. **How will an increase in pay be determined? What criteria will be used to receive a merit increase?**

A: Increases will be based on performance pursuant to rules under development at DAS. Agencies will maintain the ability to determine what constitutes satisfactory performance for employees at each agency.

5. **Who will be eligible to receive merit increases?**

A: The rules under development at DAS will include direction on who is eligible to receive performance-based increases.

6. **Is anyone excluded from performance based pay? If so, who?**

A: The eligibility criteria is still being developed.

7. **How often can merit increases be received?**

A: According to ORC 124.15 (G)(1), advancements in the pay range based on performance may not occur more frequently than once in any 12 month period.

8. **We get our annual reviews done at the end of the fiscal year. Would we get raises then or on our step anniversary date?**

A: The performance pay system will move exempt employees to receiving increases at one time of the year instead of on anniversary dates.

9. **Is DAS going to have a new state-wide performance evaluation form and process for merit pay that all agencies will be expected to use?**

A: If SB 5 becomes effective July 1, 2011, agencies will be expected to use the current performance evaluation form or another approved form currently in use. All forms must conclude with an overall satisfactory/unsatisfactory rating.

Going forward, DAS will likely modify the current performance evaluation instrument or develop a new instrument. There will be some consistency with the instrument statewide, but there will also be ways in which agencies can customize the evaluation tool.

10. **Will evaluations be tied to the merit raises?**

A: Yes.

11. **If merit raises are tied to an evaluation what can be done to qualify for merit raises?**

A: Employees should continue to perform their job duties to the best of their ability.

12. **Is there an appeal process?**

A: Yes, there will be an appeal process.

13. Will supervisors be held accountable for the increases that they provide to staff (e.g., supervisors biases)?

A: The performance pay system will include mechanisms to control supervisor biases.

14. What process has been developed to ensure that performance pay is fair and equitable?

A: There will be consistent standards established statewide for increases. Also, there will be reviews of performance evaluations, with the final say at the level of the Appointing Authority.

15. What will be the merit pay scale?

a. Steps?

b. Percentages?

A: There will no longer be pay scales under SB 5. There will be ranges with a minimum and a maximum. Percentage or amount of performance-based increases will be provided in guidance on implementation of the performance pay system.

16. What is the pay scale for ODOT?

A: Agencies will not have special pay scales.

17. If you are currently in the last step of the pay range, will you be able to get a merit increase?

A: Employees that are currently “stepped out” may be eligible for some type of performance pay. However, the compensation philosophy is still under development.

18. What happens to employees that are currently in step “X”?

A: The intent is for employees to remain in their current rate of pay.

19. Will an/any increase be based on merit?

A: It has not yet been determined if any increases can be given that are not solely performance-based. If such increases were to be given to exempt employees, the increase would have to be provided for in statute.

20. Once pay ranges are in effect (no steps), how will it be determined in a demotion or downgrade situation how the employee will be compensated in the new pay range?

A: Guidelines will be coming on how compensation will be determined when employees move—demote, promote, etc.

21. Will the new pay ranges negatively impact my current pay?

A: It is the intent for exempt employees to maintain their current base rate of pay but that is subject to approval of the pay range rules by JCARR.

22. How will the upper end of pay ranges be established? How will the lower end of pay ranges be established?

A: The lower end of the pay ranges will be the current Step 1. The rules are currently in development for the upper end of the pay ranges and are subject to approval by JCARR. However, the intent is for the ranges to be large enough to accommodate exempt employees' current base rate of pay.

23. How often can these ranges change and who has oversight of the changes?

A: There is no limit or set time for changes to the ranges. The authority to create the rules for the pay ranges is given to the Director of DAS, but the rules are subject to approval by JCARR.

24. After pay scales are established, how will future cost of living adjustments be determined?

A: The compensation philosophy is still under development.

25. Who will decide merit pay?

A: Supervisors will continue to be responsible for completing performance evaluations and there will continue to be reviews up the chain of command to the Appointing Authority. The amounts or percentages that can be given for performance will likely be standardized statewide.

26. What tools will be used?

A: A performance evaluation instrument will be used. All supervisors will receive training on use of the instrument.

27. Is there opportunity for reduction in pay based on poor performance or evaluations with low ratings?

A: As the performance pay system is still under development, a decision has not yet been made on this issue.

28. Will all probationary step increases be eliminated? If so, when will that be effective?

A: When SB 5 becomes effective, probationary step increases for exempt employees, along with all step increases for exempt employees, will be eliminated. Exempt employees will move to a performance pay system.

29. Section 124.15 (G)(1) removes the automatic step increase at the end of probation. Will employees be eligible for a merit based increase at the end of probation?

A: The performance pay system is still under development.

30. How will advanced step hires work? Will there be a standard for approvals?

A: There will be the ability to hire an employee above the minimum of the pay range. There will be standards put in place similar to what currently exists for hiring an employee above the minimum of the range. The current Advance Step Directive is currently being revised and will provide additional guidance on this topic.

- 31. Will the upper end of certain pay ranges include the previously issued "step 7"? If Step 7 is eliminated, do employees receive a pay cut?**

A: This is still under development. However, the intent is for exempt employees to maintain current base rate of pay, but this is subject to approval by JCARR.

- 32. Regarding the State's commitment to not lowering wages for associates that were downgraded during the IT Classification process; "Is the State going to honor the commitment of not lowering wages of downgraded associates should this bill pass?"**

A: The "cost neutral" approach for transitioning IT employees is contained in Article 36.05 of the collective bargaining agreement. Therefore, it will not change when SB 5 becomes effective.

Longevity Pay

- 1. Is longevity pay eliminated for current employees? If so, starting when?**

A: The longevity supplement is eliminated for exempt employees when SB 5 becomes effective. No change will be made for bargaining unit employees until the collective bargaining agreements expire.

- 2. If SB 5 eliminates longevity pay, will employees currently receiving longevity be "grandfathered in?"**

A: There is no language in SB 5 to "grandfather" employees.

- 3. Will employees that currently receive longevity continue to receive it?**
a. If those employees will continue to receive longevity how will it appear on their check?

A: The intent is for current exempt employees' rate of pay under the new pay ranges to be equal to the employee's current base rate of pay. Employees will no longer receive longevity supplements or increases. However, approval of the new pay ranges is subject to JCARR.

- 4. Does the maximum pay in a pay range include longevity, or is an employee eligible for the maximum pay in the range plus longevity?**

A: The proposed rules that will be submitted to JCARR for approval will include a maximum pay in each range that supports exempt employee's current base rate of pay. Exempt employees will not be eligible for the maximum pay in the new range plus longevity.

- 5. Will employees that are "close" to receiving longevity pay be grandfathered?**
a. If so, what is the window?

A: No, there is no provision to grandfather employees. If the exempt employee is not currently receiving a longevity supplement, the exempt employee's base rate of pay will not include a longevity supplement.

- 6. If longevity is eliminated and an employee's unclassified status is revoked, how will their fall back rights work related to determining their rate of pay – would they still be entitled to the longevity pay (since they had received it in their previous classified position) and how is it determined where they will land in the new pay range?**

A: Guidance will be forthcoming on how pay will be determined for all employee movement, including fall back.

Leave – (personal, sick and vacation)

- 1. Will sick, vacation and personal leave accrual amounts for employees change?**

A: For exempt employees, only the vacation accrual rate will change for employees with 24 or more years of service.

- 2. How do the vacation leave cap and vacation accrual rates affect current employees with more than 20 years of service?**

A: There will be no change for exempt employees with 20-23 years of service, except that those employees will not advance beyond their current accrual rate or cap. For exempt employees with 24 or more years of service, their vacation accrual rate will be reduced from 9.2 hours per pay to 7.7 hours per pay. For employees with 24 or more years of service, currently accruing at 9.2 hours per pay, and who currently have a vacation balance greater than 600 hours, their vacation cap will be 720 hours. All other employees with 24 or more years of service will have a vacation cap of 3 years' worth of accruals at the 7.7 hours per pay rate.

- 3. What is the current (prior to effective date of SB 5) pay-out of sick, vacation and personal leave upon retirement? What is it after SB 5 is effective?**

A: Currently, upon retirement, exempt employees can cash out every hour of accrued sick leave at 55% of current rate (ORC 124.384 (A)). Exempt employees can cash out vacation upon retirement at the current rate for all hours (ORC 124.134 (E)). Exempt employees can cash out personal leave at the current rate for all hours (ORC 124.386 (E)). There is no change for exempt employees under SB 5.

- 4. If someone is already over 1,000 sick leave hours, what happens to the excess hours when they retire?**

A: There is no change for exempt employees regarding sick leave payout upon retirement under SB 5.

- 5. If I have more than 600 hours vacation if/when SB 5 goes/becomes effective, I will not lose the accrued time over 600 hours; correct? If that is the case, what happens with the per pay accrual? Since I would be dropped to accruing 7.7 hours per pay does the maximum limit for the 7.7 apply? Would I not accrue any more vacation time until my balance was below 600 or could I still accrue (at the 7.7 rate) up to the 720 hour max?**

A: It is correct that exempt employees will not lose accrued vacation time under SB 5. The per pay accrual for vacation will be reduced to 7.7 hours per pay for exempt employees with 24 or

more years of service. Those exempt employees who qualify to maintain the 720 hour cap will be grandfathered until they separate employment.

6. What happens if my vacation balance is just a little below 600 hours of accrued vacation?

A: Exempt employees with 24 or more years of service, currently accruing at a rate of 9.2 hours per pay, but with balances below 600 hours will not be grandfathered. Those exempt employees will see a reduction in their annual cap to 3 years' of accruals at the rate of 7.7 hours per pay.

7. Since our pay is two weeks behind, what happens if someone were to retire on Nov. 4, SB 5 goes to the vote on the 8th and is not repealed, would the payout be based on the rules in SB 5 or what was in place on the actual date of retirement Nov. 4? Also does the last paycheck include the payout for sick leave/vacation or is it sent separately in another check?

A: There is no change in the payouts for exempt employees in SB 5. The final paycheck includes leave payouts, with the exception of accruals from the final pay period of work. The accruals from the final pay period of work are included in the final final paycheck.

8. Say I have 620 hours of vacation when SB 5 goes into place. I take 40 hours of vacation taking me under 600 after SB 5 is effective. Could I accrue to the 720 hour max since I was over the 600 hours at the time the bill went into place or do I accrue to 600 hours as the max?

A: You will be able to accrue to the 720 hour max until you separate.

9. Does it cap vacation accruals to a certain number of hours/weeks per year?

A: Vacation accruals are capped at 3 years' of accruals at the employee's accrual rate. This is current law and is not changed under SB 5.

10. Will we still have sick leave and personal leave conversions in December?

A: SB 5 does not affect December conversions.

11. Will I still be able to have my vacation and sick leave pay out when I retire? At what rate?

A: SB 5 made no change in this area.

12. How will the maximum accrual of vacation be handled for those that have reached that mark?

a. Will it be paid out?

A: Exempt employees who reach their vacation accrual maximum do not accrue additional vacation and are not paid for vacation in excess of that cap. This is unchanged in SB 5.

b. Will that time go into a different bucket, with the ability to use or be paid out upon termination?

A: No

c. Will the vacation time vanish?

A: Exempt employees who reach their vacation accrual maximum will not accrue additional vacation.

13. Will those currently accruing the maximum amount of vacation continue to accrue 9.2 or will they begin accruing 7.7?

A: Those exempt employees will begin accruing at the rate of 7.7 hours per pay when SB 5 becomes effective.

14. How many personal days will we accrue and when will we accrue them?

A: SB 5 made no changes to personal leave for exempt employees. Exempt employees will receive 32 hours of personal leave in December when the freeze is lifted.

15. Will personal leave hours (32) be reinstated?

A: There is no change regarding personal leave in SB 5 for exempt employees. Current law for personal leave provides for the freeze to be lifted July 1, 2011.

16. A lump sum payment equivalent to 32 hours of personal leave was planned for August 2011. Will this still occur?

A: Yes, SB 5 made no changes to the one-time payment scheduled to occur in August.

17. A lump sum award of 32 hours of sick leave was planned for July 2011. Will this still occur?

A: Yes, SB 5 made no changes to the one-time sick leave credit scheduled to occur in July.

18. Are there any changes with regard to sick leave accrual and/or usage?

A: No.

19. If an employee is due to receive an accrual of more vacation (e.g. 9.2 instead of 7.7), will this continue or will the employee only receive a maximum accrual of 7.7 per pay period regardless of 24 or more years of service?

A: Once SB 5 becomes effective, no exempt employees, regardless of years of service, will be eligible to move to a vacation accrual of 9.2 per pay period.

20. If I am currently earning 9.2 hours of vacation, will it be reduced to 7.7 hours accrual per pay period or does it mean that future employees will not accrue 9.2 hours upon the effective date and those currently at 9.2 hours will be grandfathered?

A: Exempt employees currently accruing at 9.2 hours per pay period will not be grandfathered. Their vacation accrual will be reduced to 7.7 hours per pay period and future employees will not be able to reach a 9.2 hour per pay period accrual.

21. If I currently have a vacation balance over 600 hours, do I need to take vacation in order to get my balance under 600 by the effective date? And related to this, similar to when CSDs were implemented, will we have a period of time where we can use vacation leave in order not to lose it?

A: If an exempt employee with more than 24 years of service, currently accruing at 9.2 hours per pay period, has a balance of more than 600 hours of vacation, the employee will be

grandfathered at a 720 hour cap. Exempt employees will not have to reduce their vacation balance by the effective date. Since the balance does not have to be reduced, there will be no period of time for such usage.

22. If we can maintain our 720 hours of vacation, can that amount also be cashed in at retirement or is the cash in limited to the 600 hours?

A: Yes, employees who are grandfathered in to the 720 hour cap will be able to cash out up to 720 hours upon retirement.

23. Will my vacation leave be capped? If it is capped, will I lose leave hours exceeding the amount of the cap?

A: Currently, there is a cap on the amount of vacation that an employee can accrue that is equal to 3 years' worth of accruals at the employee's current accrual rate. Once employees reach that cap, the employee forfeits the right to any vacation in excess of that cap. This has not changed with SB 5.

Layoff

1. How does SB 5 affect retention points for exempt employees?

A: Retention points can no longer be calculated solely based on length of service. Rules are currently being drafted on a new method for calculating retention points. However, length of service will continue to be a component.

2. SB5 states that length of service will not be the only factor in determining layoff lists of employees. What other factors would be considered in determining who is laid off?

A: Efficiency of service and other similar factors the director of DAS determines is appropriate in rule.

3. Which laws are applicable in the event of reductions in force?

A: If the agency's rationale is filed with DAS prior to the effective date of SB 5, the law currently in effect will govern the layoff. If the agency's rationale is filed after the effective date of SB 5, SB 5 and any corresponding administrative code provisions will govern the layoff.

4. Does SB 5 affect seniority points for bargaining unit employees?

A: There will be no change regarding seniority for bargaining unit employees until the current collective bargaining agreements expire.

Bargaining Contract

1. Will there be a union?

A: Yes.

2. Are "bargaining unit" employees no longer required to be in a union?

A: Bargaining unit employees have never been required to be members of a union. Non-members will no longer be required to pay a fair share fee under SB 5.

3. What happens to the union dues that have been collected?

A: SB 5 does not affect previously collected union dues.

4. Will there be union dues?

A: Unions will continue to charge dues to members.

5. How will SB 5 impact employees' right to file grievances and the grievance process?

A: SB 5 does not change the contractual grievance process.

6. How will SB5 impact progressive discipline and the disciplinary process?

A: SB 5 does not change the disciplinary process.

7. Will there be mediators and arbitrators for grievances?

A: Yes.

8. Will there be an equivalent of the 36.05 committee?

A: This is currently contained in the collective bargaining agreement. No change can be made until the current agreement expires.

9. Is there an appeal process for the Controlling Board's decision on dispute resolution/fact finding?

A: For the State, the Controlling Board is the final decision-maker.

10. How will "working out of class" issues be settled?

For OCSEA employees, pursuant to Article 19.

11. How does SB5 effect/change the contract?

A: SB 5 has no effect on the collective bargaining agreements until they expire.

12. Does SB 5 affect OCSEA post and shift assignments that are currently based on seniority?

A: Any impact that SB 5 may have on collective bargaining agreements does not occur until the current collective bargaining agreement expires.

13. Is seniority gone?

A: The terms of the current collective bargaining agreement remain in place until the agreement expires.

14. Does SB 5 affect selection currently based on seniority for bargaining unit members?

A: Any impact that SB 5 may have on collective bargaining agreements does not occur until the current collective bargaining agreement expires.

15. What happens to the agreements in the union contract that deal with assignment of overtime?

A: There is no change to the existing collective bargaining agreements until they expire.

16. If that agreement goes away, how will overtime assignments be made?

A: SB 5 does not eliminate collective bargaining agreements.

17. What are the “mandatory” topics of bargaining?

A: Under SB 5, the mandatory subjects of bargaining are wages, hours, terms and conditions of employment.

18. What topics are no longer permitted to be bargained?

A: Under SB 5, the following subjects are prohibited subjects of bargaining: health care benefits, pension pick-up, privatization or contracting out, and staffing levels.

19. When the state goes to the negotiating table with the union(s) in 2011... are they starting with a clean slate or will existing contracts be the basis for negotiations?

A: The existing collective bargaining agreements will be the basis for negotiations, but under SB 5, permissive subjects are no longer mandatory just because they are in the collective bargaining agreement.

20. Will I no longer be paying union dues out of my paycheck? How will I pay union dues if I decide to do so?

A: There is no prohibition on dues being deducted by payroll deduction.

21. What impact will the end of binding arbitration have on how we resolve disputes?

A: Binding arbitration as the last step in the grievance procedure is not eliminated in SB 5. The methods for coming to resolution during negotiations have changed, but there is still a dispute resolution mechanism.

Cost Saving Days

- 1. Will cost savings days continue? If not, will there be some other form of pay reductions under SB5?**

A: Cost savings days end on July 1, 2011. SB 5 does not contain any specific pay reductions.

Benefits

- 1. Will there be any decreases in benefits to state employees? If so what benefits and by how much?**

A: There will be no changes in the make up of the health care benefits offered by the State as a result of SB 5.

- 2. What are the Health care contributions changes (including vision and dental)?**

A: Employees must pay 15% of health care costs under SB 5.

- 3. What is the plan design for Healthcare?**

A: Please see Article 20 of the OCSEA collective bargaining agreement or the Benefits website.

- 4. Is there a disability program? If so, what is it?**

A: The disability program is unchanged as a result of SB 5. The details of the disability program can be found on the Benefits website.

- 5. Since State of Ohio employees already pay 15% of our health premium, does this mean we won't see an increase in the amount and/or percent that we pay due to passage of this bill?**

A: There will be a premium share of 15% for dental and vision benefits.

- 6. Dental & Vision Plan is provided through the Union, will they still be providing this coverage?**

A: Currently, there are no plans to change this arrangement.

- 7. Section 124.81(l) the state's maximum contribution of health care cost is 85%. My current contribution (\$89.07 out of \$543.08) is 16.4%. Will my contribution increase, decrease or remain the same?**

A: That contribution will remain the same.

- 8. When will we see the specific calculation that addresses benefits and ultimately take home pay?**

A: This is currently being determined. Information will be forthcoming when we know the implementation timeframe for SB 5.

Miscellaneous

1. How many holidays will we get and what will the holidays be?

A: Holidays for exempt employees are unchanged under SB 5.

2. Do you know if supplemental pay for a foreign language will be eliminated?

A: The only supplement that is eliminated in SB 5 is longevity.

3. Will the employee's share of PERS contributions be increased?

A: Changes in PERS contributions were proposed as part of the budget bill and not SB 5 and the outcome of the budget bill is unknown at this time.

4. Will step increases be reinstated? If so, are there any incentives for employees who are stepped out?

A: When SB 5 becomes effective, there will no longer be step increases for exempt employees. All exempt employees will be in a performance pay system. It has not yet been determined how employees who are stepped out will be affected by performance pay.

5. Will cost of living increases remain or be taken away?

A: State employees do not receive cost of living increases. In past years, general wage increases have been negotiated for the bargaining units and provided in statute for exempt employees. Currently, there are no scheduled general wage increases. It has not yet been determined if exempt employees will be subject to a general wage increase under the performance pay system.

6. Will there still be any probation periods?

A: Yes.

7. How will SB 5 affect PERS contributions?

A: For State employees, SB 5 does not affect PERS contributions because State agencies currently do not have pension pick up.

8. Section 124.382(A)(2) includes sick leave as active pay status. It has never been counted as active pay when calculating an employee's overtime. When the collective bargaining contract expires will sick leave be considered active pay?

A: ORC 124.18 states that sick leave is not active pay status for purposes of earning overtime or compensatory time.

9. Will SB 5 potentially give more leniency for scheduling, possibly flex time for employees not involved in direct care?

A: SB 5 does not change current flex time policies.

10. If SB 5 goes to referendum, will the changes be implemented (to exempt, union or both) as part of the State's Budget Bill?

A: The budget bill has not yet been finalized, so it is currently unknown if any of the provisions of SB 5 will be included.

11. Does anything within SB 5 change your status of OT Eligible versus OT Exempt?

A: No.

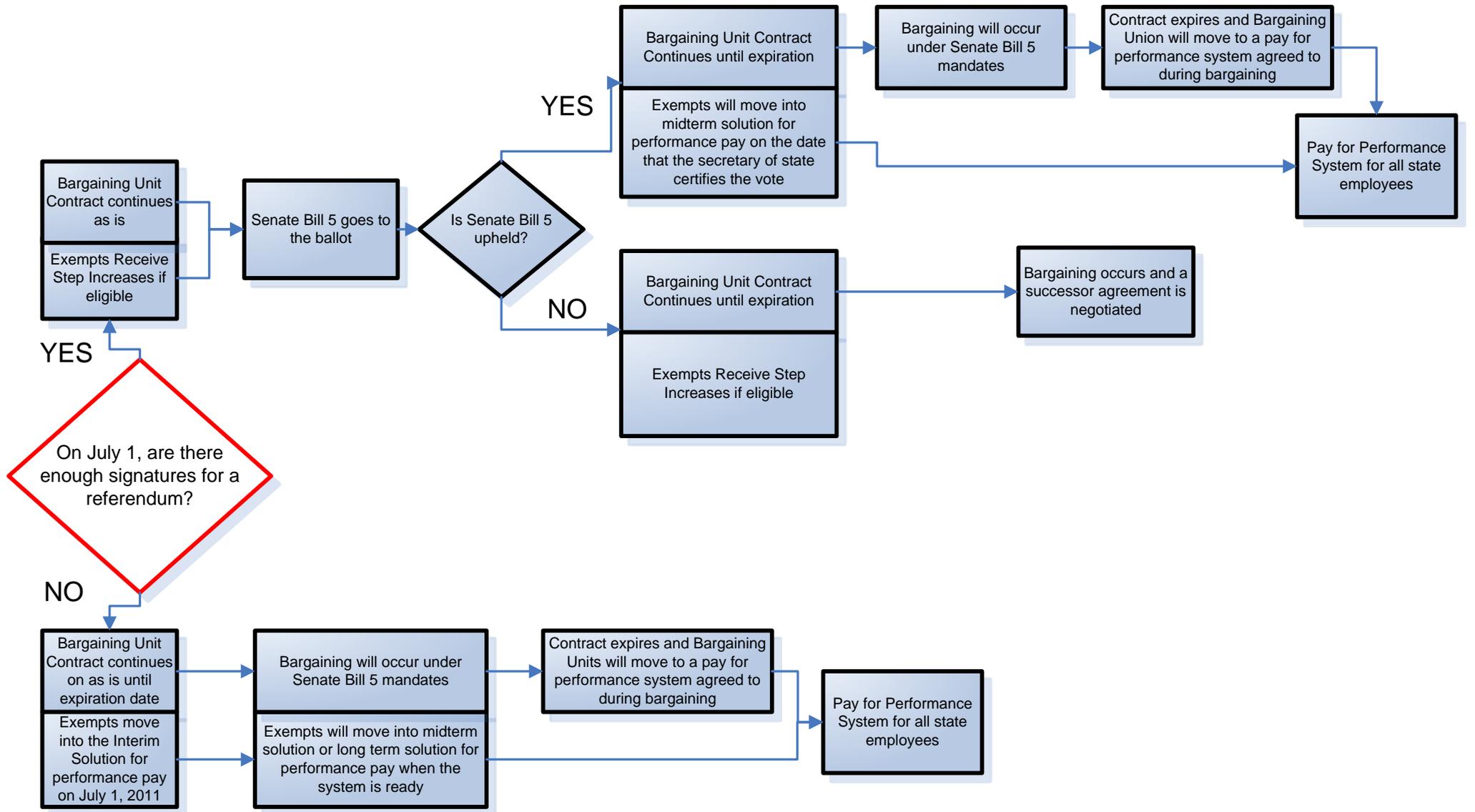
12. When will these rules adopted by the director of DAS be published?

A: This is dependent on the effective date of SB 5.

13. Does SB 5 also affect commissions such as the Turnpike Commission?

A: SB 5 affects all public employers who are covered by either ORC 124 or ORC 4117.

Senate Bill 5 Performance Pay Scenarios



WAGE INFORMATION REGARDING SENATE BILL 5

		If there is no referendum...	If there is a referendum...	If SB 5 becomes law...	If SB 5 does not become law...
Bargaining Unit Step Increases	Resume June 21, 2011 for all bargaining unit staff and shall continue through the expiration of each respective contract.	Steps continue through the expiration of the contracts and then what happens with steps will be based upon the negotiated terms of the next contracts.	Steps continue through the expiration of each respective contract.	Steps continue through the expiration of the contracts and then what happens with steps will be based upon the negotiated terms of the next contracts.	Steps continue through the expiration of each respective contract and then based upon the negotiated terms of the next contracts.
Bargaining Unit Longevity	Continues through expiration of each respective contract.	Continues through expiration of the contracts and then what happens with longevity will be based upon the negotiated terms of the next contracts.	Continues through the expiration of each respective contract.	Continues through expiration of the contracts and then what happens with longevity will be based upon the negotiated terms of the next contracts.	Continues through expiration of the contracts and then what happens with longevity will be based upon the negotiated terms of the next contracts.
Exempt Step Increases	Resume June 21, 2011 to June 30, 2011.	Steps frozen effective July 1, 2011 and employees are covered by a pay for performance system.	Steps continue until the November vote.	When the vote is certified, employees are covered by a pay for performance system.	Steps continue.
Exempt Longevity	Continues through June 30, 2011.	Longevity supplement ceases. Employees will no longer receive increases or new longevity supplements.	Continues until the November vote.	Longevity supplement ceases. Employees will no longer receive increases or new longevity supplements.	Longevity continues.