



# OHIO LEGISLATIVE SERVICE COMMISSION

Jason Glover and other LSC staff

---

## Fiscal Note & Local Impact Statement

**Bill:** S.B. 216 of the 132nd G.A.

**Status:** As Reported by House Education and Career Readiness

**Sponsor:** Sen. Huffman

**Local Impact Statement Procedure Required:** No

**Subject:** Modifies various laws related to primary and secondary education

---

### State & Local Fiscal Highlights

#### State achievement assessments

- The bill may increase the state's assessment system costs by allowing public and chartered nonpublic schools to administer the third grade English language arts and mathematics assessments in a paper format beginning in the 2019-2020 school year. State assessments are primarily funded by the GRF.

#### Excessively absent students

- The bill requires public districts and schools to consider only unexcused absences when determining if a student is excessively absent from school rather than both excused and unexcused absences. If fewer students are declared excessively absent due to the bill, districts and schools may experience a decrease in administrative costs to provide various intervention services.

#### Teacher evaluation system

- The bill's revisions to the teacher evaluation system, generally effective beginning in the 2020-2021 school year, may increase or decrease the workload or costs of public districts and schools depending on how the system is implemented.
- The Ohio Department of Education (ODE) will likely incur costs to apply the bill's changes to the online system available for districts and schools to determine educator performance (the electronic Teacher and Principal Evaluation System or "eTPES"), the extent of which will depend on implementation decisions. In addition, ODE must operate a pilot program in the 2019-2020 school year that will guide implementation of the revised teacher evaluation framework.

#### Educator licensure and employment

- Public district or school professional development costs may decrease due to a provision that extends the time in which a gifted service provider has to complete required professional development hours.
- Various provisions of the bill may provide public districts and schools with additional flexibility in responding to certain staffing needs, including provisions

that modify educator license grade bands and early college high school teaching licenses and replace highly qualified teacher requirements that are no longer federally required with requirements for "properly certified or licensed" teachers.

### **Automatic withdrawal of community school students**

- The bill changes the current law requirement to automatically withdraw a community school student after failure to participate in a certain number of consecutive hours of learning opportunities, by lowering the number of hours from 105 to 72. Because the state's school funding formula is based on student enrollment, this provision may decrease state aid expenditures beginning in FY 2019.

### **Safe harbor related to e-school closure**

- The bill limits circumstances in which a school district or community school may be subject to sanctions as a result of enrolling students that had been enrolled during the 2017-2018 school year in an Internet- or computer-based community school that was suspended that year.

### **Required reports**

- The bill requires ODE to establish a consolidated school mandate report for school districts on certain topics and generally prohibits ODE from requiring a separate report for any of the items included in the report, potentially decreasing the administrative responsibilities for districts and schools to complete and file various reports and for ODE to manage them.
- Administrative costs may increase for ODE to review all policies and procedures regarding academic distress commissions and to prepare a report of its findings with recommendations for improving the operations of the commissions.
- Administrative costs also may increase for ODE to conduct a study on the results and cost-effectiveness of the College Credit Plus Program.

### **Reading improvement plans**

- An estimated additional 421 school districts and 86 community schools will incur what are likely to be minimal costs to develop and implement a reading improvement plan due to the bill's requirement that districts and schools with a proficiency rate of 80% or less on the third grade English language arts assessment establish the plans.

## **Detailed Fiscal Analysis**

The bill makes many changes to a variety of laws governing primary and secondary education. A number of provisions in the bill may reduce costs or administrative duties for the state and public districts and schools while a few others may increase them. Provisions in the bill with a notable fiscal effect are discussed in more detail below.

## **Provisions related to assessments and accountability**

### **Paper and online administration of certain state assessments**

Currently, public districts and schools are generally expected to administer all state assessments online. According to the Ohio Department of Education (ODE), districts and schools that demonstrate a lack of infrastructure to test all students online must apply to the Department for an exemption. The bill creates a limited exception to this testing policy beginning in the 2019-2020 school year by generally allowing public and chartered nonpublic schools to administer in a paper format the third grade English language arts (ELA) or mathematics achievement assessments, or both, if a school board or governing body opts to do so. The bill also requires ODE to submit a report to the General Assembly comparing results of online and paper format assessments using data from the 2019-2020 and 2020-2021 school years.

The state's assessment system costs may increase as a result. Paper tests tend to be more expensive than computer-based assessments due to additional printing, shipping, and test security costs. The state's assessment costs are primarily funded by the GRF.

### **Assessment analysis and assistance**

The bill requires ODE to request each assessment vendor contracted by ODE to provide an analysis explaining how questions on each of the state achievement assessments are aligned to the statewide academic content standards. The analysis must be provided to all school districts and schools for all grade levels for which assessments are prescribed. Additionally, the bill requires that ODE request each assessment vendor to provide information and materials to school districts and schools for assistance with the state achievement assessments, including practice assessments and other preparatory materials. The analysis must be produced and the information and materials must be distributed to districts and schools annually beginning with the 2019-2020 school year. This provision may increase the cost of the state's assessment contracts if this work is not already being performed. Presumably, any additional cost would depend on negotiations between the state and the testing companies.

### **Minimum student group size for accountability purposes**

The "Gap Closing" component of Ohio's school report cards evaluate how successful public districts and schools are at closing achievement gaps among certain student subgroups, including economically disadvantaged students, students with disabilities, limited English proficient students, African-American students, Hispanic students, white students, and so on. In order to close those gaps, the state has determined a set of goals, referred to as annual measurable objectives (AMOs), to measure progress. A minimum number of students is necessary for a subgroup of students to ensure statistical validity. ODE's practice under the federal No Child Left Behind Act era was to use a minimum group size ("n-size") of 30. The bill requires ODE

to progressively reduce the n-size to 25 for the 2017-2018 school year, 20 for the 2018-2019 school year, and 15 for the 2019-2020 school year and thereafter.

This provision codifies the approach to n-sizes that ODE committed to in the state's Every Student Succeeds Act (ESSA) state plan that was approved by the U.S. Department of Education in January 2018. According to that plan, reducing the n-size "will increase the proportion of students in each group that contribute to the overall calculation. It will also increase the number of schools that are evaluated for each subgroup." Under ODE simulations using FY 2016 data, an n-size of 15 substantially increased the percentage of schools evaluated on the performance of students identified as Asian or Pacific Islander, African-American, disabled, Hispanic or Latino, English language learners, and multi-racial. This, in turn, may affect report card grades for public districts and schools depending on how well the schools meet the performance expectations for those students.

### **Excessively absent students**

Current law specifies that a school district or school must consider a student's *excused and unexcused* absences when determining whether a student is excessively absent from school.<sup>1</sup> Under the bill, school districts and schools are required to consider only *unexcused* absences when determining if a student is excessively absent. Under continuing law, when a student becomes excessively absent from school, the district or school must notify the student's parent, guardian, or custodian of those absences, in writing, within seven days of the most recent triggering absence. In addition, school districts with a chronic absenteeism percentage of 5% or more must assign excessively absent students to an absence intervention team and develop an intervention plan for the student, with the aim of reducing or eliminating further absences. Statewide, 543 (89.3%) school districts have a chronic absenteeism percentage equal to or greater than 5%, according to the report cards for the 2016-2017 school year. School districts that are exempt from the absence intervention plan process (districts with a chronic absenteeism percentage of less than 5%) must instead implement any appropriate intervention strategy contained in the district's or school's policy on addressing and ameliorating student absences.

Under the bill, school districts subject to the absence intervention plan process may need to complete that process for fewer students, which may result in a decrease in administrative costs to carry out those responsibilities. School districts that are exempt from the absence intervention plan process may also experience a decrease in administrative costs to implement other intervention strategies for chronically absent students. Likewise, juvenile courts caseloads may decrease if the bill's changes lead to fewer students referred to the juvenile court system for excessive absences. Due to data limitations, the magnitude of this provision is unclear.

---

<sup>1</sup> The threshold for a student to be declared "excessively absent from school" is when a student's absences exceed 38 or more hours in one school month or 65 or more hours in a school year.

## Provisions related to teachers

### Teacher evaluation system

The bill makes a number of changes to the Ohio Teacher Evaluation System (OTES) based on the January 2017 recommendations made by the Educator Standards Board for revising the system.<sup>2</sup> Notably, the bill:

- Requires the State Board of Education to revise the state framework for OTES based on those recommendations and, after at least one public hearing, to adopt the revised framework by May 1, 2020, and each district board, by July 1, 2020, to update its teacher evaluation policies to conform to the updated framework;
- Eliminates a requirement that 50% of an evaluation consist of value-added student data and replaces it with at least two measures of "high-quality student data," as defined by the State Board, including the value-added progress dimension and at least one other measure;
- Eliminates shared attribution of performance data among all teachers in a district, building, grade, content area, or group;
- Eliminates an option for districts to formally observe an "accomplished" teacher only once (instead of the general requirement of twice) as part of the teacher's evaluation if the teacher meets certain requirements;
- Eliminates the alternative framework for the evaluation of teachers; and
- Prohibits the use of student learning objectives.

ODE will likely incur some additional costs to apply the bill's changes to the online system available for districts and schools to determine educator performance, referred to as the electronic Teacher and Principal Evaluation System (eTPES). Overall, these provisions are not likely to have a substantial effect on ODE's costs to operate OTES from year to year, though the extent of any new costs will ultimately depend on the manner in which the bill's revisions are implemented.<sup>3</sup> State funding for OTES is spread throughout various GRF and non-GRF earmarks in ODE's budget. The bill may also increase ODE's administrative costs to operate a required pilot program in the 2019-2020 school year to guide implementation of the revised system, provide guidance to districts on various aspects of the revised evaluation system, and review and possibly revise a list of assessments that currently pertains to grade levels or subjects for which value-added data does not apply but, under the bill, may be expanded to include other assessments that districts may use as a measure of high-quality student data.

---

<sup>2</sup> Jacques, Catherine, Jessica Giffin, and Amy Potemski, "Ohio Educator Standards Board Recommendations for Revising the Ohio Teacher Evaluation System," January 2017, accessible online at [http://education.ohio.gov/getattachment/Topics/Teaching/Educator-Standards-Board/OTES-Recommendations-By-ESB\\_Jan2017\\_FINAL.pdf.aspx](http://education.ohio.gov/getattachment/Topics/Teaching/Educator-Standards-Board/OTES-Recommendations-By-ESB_Jan2017_FINAL.pdf.aspx).

<sup>3</sup> For reference, prior changes to OTES in 2013 cost roughly \$500,000 to implement, according to ODE.

Public districts and schools may experience an increase or decrease in workload or costs associated with these provisions. For example, costs may increase for the districts and schools that have elected to formally observe "accomplished" teachers once as under current law, to observe those teachers twice if they find it necessary to hire or contract with additional evaluators in order to complete more frequent formal observations. In the 2016-2017 school year, approximately 58% of teachers were rated "accomplished." According to ODE, 679 out of 711 public schools, educational service centers, joint vocational school districts, and other education agencies that are required to use OTES have opted for a less frequent interval cycle for formal observations and evaluations. Also, the bill's removal of the alternative framework may result in additional work for districts and schools that were using the alternative framework to comply with the requirements of the revised framework. According to ODE, 41 school districts and 25 community schools are currently using the alternative framework to evaluate teachers. There may also be costs to train educators on the revised system and, for districts that either opt in or are selected by ODE (with the consent of the district board of education), to participate in the pilot program created by the bill.

On the other hand, the bill eliminates the requirement for traditional and joint vocational school teachers of core subject areas that have been rated "ineffective" for two of the three most recent school years and all teachers of core subject areas in "low-performing" community and STEM schools (i.e., the school ranks in lowest 10% of all public school buildings by performance index score) to take content area tests. The bill, therefore, eliminates the cost for districts and schools to pay for the tests, as current law prohibits teachers from paying for them. In practice, districts and schools purchase vouchers from the test vendor or make other arrangements to handle payment or reimbursement for the tests, depending on which tests are taken. In addition, the bill will eliminate teacher workload associated with creating student learning objectives that measure student progress in subjects or grades lacking state assessments or other approved assessments.

### **Staffing flexibility**

Various provisions of the bill may provide public districts and schools with additional flexibility in responding to certain staffing needs. In general, these provisions:

- Change grade band specifications so that an educator is licensed to teach grades prekindergarten through five, grades four through nine, or grades seven through twelve (the State Board's current rules specify that licenses be issued for "Early Childhood" (grades prekindergarten through three), "Middle Childhood" (grades four through nine in named curriculum areas), and "Adolescence through Adult" (grades seven through twelve in named curriculum areas)).
- Establish a nonrenewable four-year provisional educator license for teaching grades seven through twelve at an early college high school that

allows college professors who teach courses in early college high schools to do so without obtaining an alternate resident educator license, which has additional requirements that include completion of the Intensive Pedagogical Training Institute.

- Replace "highly qualified teacher" (HQT) requirements in current law, enacted to comply with former federal law, with a requirement for "properly certified or licensed teachers," which are teachers that are fully licensed in the core subject areas and grade levels for which the teacher provides instruction (under the bill, "core subject area" no longer includes government, economics, and geography but adds social studies). According to ODE, 97.4% of core courses statewide were taught by HQTs in the 2016-2017 school year while 98.3% were taught by properly certified or licensed teachers.

Additionally, eliminating the HQT requirement may reduce ODE and district and school reporting costs since public districts and schools will no longer need to report or collect data on both HQT and properly licensed or certified teachers. ODE and the State Board may have additional administrative responsibilities to develop and adopt any necessary changes in rules to comply with the provisions described above.

#### **Professional development for certain gifted services providers**

The bill requires the State Board of Education, by July 1, 2019, to modify standards for professional development hours related to gifted education to extend the time in which a gifted service provider has to complete the required hours, which may decrease school districts' professional development costs.

Under the State Board's current rules, a designated provider of gifted services with a license in general education must participate in 30 hours of professional development related to gifted education from an educator licensed or endorsed in gifted education during both their first and second year, and must participate in additional hours each year thereafter, as determined by the district or school. Under the bill, teachers designated as gifted service providers, but who are not certified advanced placement (AP) or international baccalaureate (IB) teachers, must participate in at least 15 hours of ongoing gifted professional development by the end of the first year the teacher has that designation and an additional 45 hours by the end of the fourth year. Service providers who are also certified AP or IB teachers and have earned at least 24 hours of certified AP or IB professional development within the past five years must participate in 7.5 hours of ongoing professional development by the end of the first year and an additional 22.5 hours by the end of the fourth year.

#### **Substitute teacher licenses**

Current law requires the State Board to issue educator licenses for substitute teaching that are valid for one year, five years, and any other length of time up to five years as determined by the State Board. Applicants may choose a short-term license, which requires an individual to hold a postsecondary degree and allows the individual

to teach for up to 60 school days in a given school year, or a long-term license that allows the individual to teach for longer periods in specified areas (e.g., early childhood, middle childhood, adolescence to young adult, etc.), which requires a postsecondary degree and certain coursework.

The bill requires the State Board to adopt new rules for obtaining a substitute teaching license that base the duration that a substitute may teach under the new license on whether the teacher's postsecondary degree is related to the subject area taught. Under the new rules, there would be a single substitute license that would require an applicant to hold a postsecondary degree, but not in any specified subject area.<sup>4</sup> A license holder with a postsecondary degree in either education or a subject area directly related to the class to be taught may work for an unlimited number of school days. A license holder with a postsecondary degree in a subject not related to the class to be taught must receive approval from the district board of education for each semester that the license holder will teach. The State Board must begin issuing substitute teaching licenses under these new rules on July 1, 2019. The bill specifies that any license that is issued or renewed under current law and is still in force on the bill's effective date must remain in force for the remainder of the term for which it was issued or renewed. At the end of that term, the license holder is subject to the bill's requirements for licensure.

Under the bill, more individuals may qualify for and obtain a substitute teaching license due to less stringent criteria. If so, Fund 4L20 may gain license fee revenue while ODE's administrative responsibilities may increase to process additional applications, both of which would depend on the rules the State Board adopts to govern the issuance and renewal of the licenses. Currently, substitute teachers pay \$25 for a one-year license or \$125 for a five-year license. This provision may also provide a larger pool of individuals for school districts to choose from to fill staffing needs.

## **Operations of community schools**

### **Automatic withdrawal of community school students**

Under current law, the governing authority of a community school must automatically withdraw a student who is absent for more than 105 consecutive hours of learning opportunities offered by the community school without a legitimate excuse. The bill lowers the number of hours in this provision to 72. Because the state's school funding formula is based on student enrollment, this provision may decrease the state's state aid expenditures and community schools' state aid revenues. Currently, there are 348 community schools collectively educating over 108,000 full-time equivalent (FTE) students. Community schools are slated to receive approximately \$887.3 million in state foundation aid in FY 2018.

---

<sup>4</sup> The bill specifically exempts from the requirement to hold a postsecondary degree an applicant who holds a career-technical workforce development educator license when applying to work as a substitute teacher for career-technical education classes.



### **Joint legislative committee**

The bill creates a six-member joint committee of the General Assembly to study (1) a funding system for e-schools based on competency and (2) the categories of expenses for which an operator must provide a detailed accounting. The committee must submit a report to the General Assembly no later than November 15, 2018. There may be some minimal administrative costs associated with the activities of the committee.

### **Recommendations to the Joint Education Oversight Committee**

The bill requires the Superintendent of Public Instruction to develop recommended definitions for a specified list of terms related to e-schools and submit the recommendations to the Joint Education Oversight Committee (JEOC). The bill specifies criteria for the recommendations and requires the Superintendent to submit them to JEOC by November 30, 2018. JEOC is then required to conduct at least one hearing on the recommended definitions. Under the bill, JEOC is permitted to make further recommendations to the General Assembly with respect to the definitions of those terms by December 31, 2018. Any administrative costs to develop these recommendations should not be significant.

### **Safe Harbor related to e-school closure**

The bill limits circumstances in which a school district or community school may be subject to sanctions as a result of enrolling students that had been enrolled any time during the 2017-2018 school year in an Internet- or computer-based community school (e-school) that had its operations suspended by the school's sponsor. Specifically, the bill:

- Excludes any displaced e-school student from the calculation of the academic performance component of a community school sponsor evaluation ratings for the 2017-2018 and 2018-2019 school years.
- Exempts a community school from being subject to closure for the 2017-2018, 2018-2019, and 2019-2020 school years if the number of displaced e-school students caused enrollment to increase by more than 10% in the 2017-2018 school year.
- Exempts a school district from being considered a new challenged school district for the 2018-2019 and 2019-2020 school years if the number of displaced e-school students caused enrollment to increase by more than 10% in the 2017-2018 school year.

ODE may incur a minimal increase in administrative costs to apply the bill's changes.

## **Required reports**

### **School mandate reports**

The bill requires ODE to establish a consolidated school mandate report for school districts on the following topics: (1) staff training on the use of physical restraint or seclusion on students, (2) staff training on harassment, intimidation, or bullying, (3) staff training on the use of cardiopulmonary resuscitation and automated external defibrillators, (4) the establishment of a wellness committee, (5) the reporting of compliance with nutritional standards, (6) the screening of pupils for hearing, vision, speech, and medical problems and for developmental disorders, and (7) compliance with intra-district and inter-district open enrollment. Each district or school must complete and file a consolidated school mandate report by November 30 each year that specifies whether the district or school has or has not complied with the requirements contained within each item and provides any other information that ODE requests regarding those items. A district or school that specifies it has not complied with the requirements of an item must submit to the school district board, within 30 days, a written explanation and a written plan of action for accurately and efficiently addressing the problem.

The bill prohibits ODE from requiring a separate report for any of the items listed above, except for a public presentation on nutrition standards required by continuing law. Thus, the bill may decrease the administrative responsibilities for districts and schools to complete and file various reports and for ODE to manage them.

### **Academic distress commission report**

ODE's administrative workload will increase to conduct a study required by the bill to review all policies and procedures regarding academic distress commissions. The report must include recommendations for improving the operations of the commissions and must be submitted to the General Assembly no later than May 1, 2019.

### **Study on College Credit Plus results and cost-effectiveness**

ODE's administrative workload will increase to conduct a study required by the bill on the College Credit Plus (CCP) Program's results and cost-effectiveness and to submit its findings not later than one year after the bill's effective date to the Governor, Chancellor of Higher Education, each member of the General Assembly, and the superintendent of each school district and educational service center (ESC). The study must include the cost-effectiveness for secondary schools and participants and whether participants in CCP save money on college tuition and reduce the amount of time to degree completion.

### **Reading improvement plans**

Beginning with the 2019-2020 school year, the bill requires a school district, community school, or STEM school in which less than 80% of its students attain proficient scores on the third grade ELA assessment to establish a reading improvement plan supported by reading specialists. The reading improvement plan must be

approved by the district's board of education or school's governing authority or body prior to implementation. Current law already requires a school district or community school with a grade of "D" or "F" on the literacy progress measure and less than 60% of students scoring proficient on the third grade ELA assessment to implement a reading improvement plan.

Based on the 2016-2017 report card grades, the provision would result in 421 additional school districts and 86 new community schools that will need to establish a reading improvement plan. The bill's requirement may result in what is likely to be a minimal increase in costs for qualifying districts and schools to develop the plans, which may require hiring an outside consulting service. According to the Buckeye Association of School Administrators, this assistance may be available from the ESC with which the district currently contracts.

### **School district five-year forecasts**

The bill prohibits ODE and the Auditor of State, in the rules they jointly adopt concerning a school district's submission of its required five-year forecast, from requiring the district to submit the forecast before November 30 of any fiscal year. The current rules adopted by ODE and the Auditor require submission by October 31, so this provision will result in some presumably minor administrative adjustments.