



OHIO LEGISLATIVE SERVICE COMMISSION

Edward M. Millane

Fiscal Note & Local Impact Statement

Bill: H.B. 66 of the 132nd G.A.

Status: As Reported by Senate Education

Sponsor: Rep. Young

Local Impact Statement Procedure Required: No

Subject: Committee to evaluate tenured faculty participation in undergraduate education, legal safe harbor for state institutions with a specified cybersecurity program, Educator Standards Board teacher preparation subcommittee

Fiscal Highlights

- The bill may lead to some additional administrative workload or costs on behalf of the Undergraduate Mission Study Committee created by the bill.
- The bill provides legal safe harbor to a state institution of higher education with a specified cybersecurity program against a tort action alleging the failure to implement reasonable information security controls that result in a data breach. This may prevent actions against institutions that may have otherwise led to litigation costs and payouts of damages.
- The bill's extension of legal safe harbor to state and private institutions of higher education may reduce the likelihood that certain plaintiffs sue an institution due to a data breach or cause such suits to be disposed of more quickly, creating a potential savings effect on the annual operations of the Court of Claims and local courts.

Detailed Fiscal Analysis

Undergraduate Mission Study Committee

The bill establishes the Undergraduate Mission Study Committee to study and evaluate each state university's contribution to the undergraduate mission, with a specific emphasis on ensuring each tenured faculty member's meaningful participation in undergraduate instruction through face-to-face interaction with students. The committee consists of 15 members, including the Chancellor of Higher Education and the president and chief executive officer of the Inter-University Council of Ohio, or their designees; two faculty members from state universities; two chief academic officers from state universities; two state university students; the chairperson of the Ohio Faculty Council, or the chairperson's designee; and three members each from the House of Representatives and the Senate appointed by the Speaker of the House of Representatives and the President of the Senate, respectively. Of the three members from each chamber, no more than two can be from the same political party. The Speaker and President must designate

one member from each of their selections to serve as co-chairpersons of the committee. Committee members are not compensated.

The committee must submit a written report of its findings and recommendations to the General Assembly within six months of the bill's effective date. Notably, the bill requires the report to recommend at least one entity that could conduct an external review of and grade each state university with respect to its efforts in encouraging tenured faculty to contribute to the undergraduate mission as well as the criteria under which a university would be evaluated. The bill may lead to some additional workload or administrative costs on behalf of the committee, but is silent on the matter of who would provide it with any services and support necessary to perform its duties. The workload or costs of the Department of Higher Education or state universities may increase if they provide some assistance to the committee.

Cybersecurity program safe harbor for institutions of higher education

S.B. 220 of the 132nd General Assembly, effective November 2, 2018, established a legal safe harbor for certain businesses and nonprofit entities that create, maintain, and comply with a written cybersecurity program that contains administrative, technical, and physical safeguards for the protection of personal or restricted information, provided that the program satisfies the act's requirements. This safe harbor acts as an affirmative defense to any tort action against a covered entity alleging the failure to implement reasonable information security controls resulting in a data breach. The bill adds state and private institutions of higher education with a compliant cybersecurity program as entities covered under the safe harbor. The bill, therefore, potentially limits any litigation costs or payouts of damages that may have otherwise resulted from an action against a state institution.

Similar to the effects on local courts from S.B. 220, this provision may provide a potential savings effect on the annual operations of the Court of Claims (Court), where tort claims against the state and state institutions are typically filed. The existence of an affirmative defense may reduce the likelihood that certain plaintiffs file an action against a state institution. Also, once it determines that a covered entity's cybersecurity program is compliant, the Court may be able to more promptly dispose of a case than it otherwise might have under current law. Either outcome may reduce the Court's docket or permit court personnel to focus on other matters. In addition, providing private institutions of higher education with an affirmative defense may augment S.B. 220's effects on local courts.

Subcommittee on standards for teacher preparation

The bill establishes a subcommittee of the Educator Standards Board (Board) to assist the Board in developing the standards for teacher preparation programs and with any additional matters the Board directs the subcommittee to examine. The subcommittee consists of nine members, including the Chancellor of Higher Education and the Superintendent of Public Instruction, or their designees, as nonvoting members; the three higher education employees appointed by the Chancellor to the Board; two

additional higher education representatives representing state and private, nonprofit institutions of higher education appointed by the State Board of Education; and two additional members of the Board appointed by its chairperson. Subcommittee members are not compensated.

The Board develops statewide standards for Ohio's teachers and principals. The Board's expenses are supported by an annual earmark included in each main operating budget act. These earmarked funds may pay any administrative costs associated with the subcommittee's work. In FY 2019, H.B. 49 of the 132nd General Assembly earmarks approximately \$68,000 from GRF line item 200448, Educator Preparation, to support the Board.