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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 404  
133<sup>rd</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 404's Bill Analysis](#)

**Version:** As Reported by Senate Government Oversight & Reform

**Primary Sponsors:** Reps. Manchester and Sweeney

**Local Impact Statement Procedure Required:** No

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### Highlights

- The bill may reduce administrative workload or costs for school districts by extending for an additional school year temporary provisions of current law that, in general, waive certain requirements with respect to school employee evaluations.
- The bill exempts schools and districts from penalties for failure to administer state assessments in the fall of the 2020-2021 school year and to conduct 2020-2021 kindergarten and first grade health screenings for certain students.
- The bill extends from December 1, 2020, to July 1, 2021, the exemption of a school or entity that has a food service operation license and is transporting food under the U.S. Department of Agriculture's Seamless Summer Option Program or the Summer Food Service Program from registering as a food processing establishment overseen by the Department of Agriculture and paying the fee of \$50 to \$300.
- Political subdivisions and state licensing agencies, boards, and commissions may experience an increased delay in fee revenues from motor vehicle licensing, driver's licenses, and professional licensing renewals under a provision of the bill further extending relevant deadlines for these renewals that were previously extended under H.B. 197 of the 133<sup>rd</sup> General Assembly as a result of the COVID-19 state of emergency.

### Detailed Analysis

The bill mainly extends for an additional period of time provisions of current law that were enacted in response to the implications of the COVID-19 pandemic, as described below. The bill declares an emergency so will go into immediate effect.

## Primary and secondary education provisions

### School employee evaluations

The bill may reduce administrative workload or costs for school districts by extending for an additional school year temporary provisions of current law that, in general, waive certain requirements with respect to school employee evaluations. Notably, the bill:

- Permits a school district to elect not to conduct evaluations of district employees, including teachers, school counselors, administrators, or a superintendent, for the 2020-2021 school year, if the district board determines that it would be impossible or impracticable to do so, without penalty to the employee for purposes of reemployment. A similar provision was enacted in H.B. 197 for the 2019-2020 school year.
- Extends to the 2021-2022 school year a prohibition against using value-added data, other high-quality student data, any other metric used to evaluate positive student outcomes, or any other academic growth data to measure student learning attributable to a teacher, principal, or school counselor while conducting performance evaluations.
- Extends to the 2020-2021 school year a separate authorization for a district board to complete a principal's performance evaluation without a student growth measure.
- Extends the authority for a school district that did not participate in the teacher evaluation pilot program established for the 2019-2020 school year and that completes evaluations for the 2020-2021 school year without a student growth measure to continue evaluating teachers who are on a two- or three-year evaluation cycle on their longer evaluation cycles. These teachers must remain at the same point in their evaluation cycle and retain their evaluation rating for the 2021-2022 school year as for 2019-2020, in addition to the 2020-2021 school year under current law (typically, teachers on these longer evaluation cycles are required to have student growth measures. Without them, teachers evaluated less frequently under current law would revert to a full evaluation in the following school year, meaning that a district otherwise would need to evaluate all of their teachers in the 2021-2022 school year).

### Fall tests and health screenings for the 2020-2021 school year

The bill exempts school districts and other public schools from any penalties for failure to administer state assessments to certain students in the fall of the 2020-2021 school year or for failure to conduct kindergarten and first grade health screenings for the 2020-2021 school year, provided the students meet the following criteria:<sup>1</sup>

- The student is being quarantined;
- The student cannot attend school or another testing location outside the home because the student or a family member is medically compromised;

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<sup>1</sup> Current law does not specify the penalties. Thus, any sanctions under current law for failing to adhere to these requirements appear to be at the discretion of the Ohio Department of Education.

- The student's geographic area is subject to an order requiring all persons remain in their residence; or
- The student is receiving remote instruction up to and through an assessment deadline and the assessment cannot be administered remotely.

Generally, school districts are required to conduct health screenings on all students who are enrolled for the first time in either kindergarten or first grade by November 1 of each school year. The screenings are intended to detect any hearing, vision, speech, or communication problems; other health or medical issues; and to detect potential developmental disabilities, which assists districts in properly providing services to these students. Under the bill, schools are permitted to forego the 2020-2021 health screenings for students meeting the above criteria until they can be conducted safely. However, parents or guardians may request the district conduct a screening on their child. If a screening is requested, the district must provide one.

### **Community school transportation**

For the 2020-2021 school year, the bill permits the governing authority of a community school to submit written notification to district boards of education that it will assume responsibility to provide or arrange transportation for the community school's students who reside in that district. The notification must be submitted to the district board by December 31, 2020 (instead of January 1 of the preceding school year as otherwise required under continuing law). The bill specifies that these community schools are required to receive transportation funding from the Ohio Department of Education (ODE) for the entire school year. Community school transportation payments are funded by deductions from the state foundation aid of the student's resident school district. If additional schools opt to assume transportation responsibility as a result of this provision, payments to the schools as well as deductions of school district foundation aid will increase, depending on how many community schools elect to transport students on their own. For reference, in FY 2020, 20 community schools received a cumulative total of \$2.3 million to provide transportation to students.

### **Other provisions**

#### **Food processing registration exemption for schools**

The bill extends from December 1, 2020, to July 1, 2021, the termination date of provisions of H.B. 197 of the 133<sup>rd</sup> General Assembly authorizing the Department of Agriculture to exempt from regulation a food processing establishment at a school or other entity that has (1) a food service operation license (issued by local boards of health), and (2) is transporting food from the establishment only for purposes of the Seamless Summer Option Program or the Summer Food Service Program administered by the U.S. Department of Agriculture. Without the exemption under these conditions, a school or entity may be required to undergo an inspection as a food processing establishment from the Department's Division of Food Safety and pay annual fees ranging from \$50 to \$300, with the proceeds going to the Food Safety Fund (Fund 4P70).

#### **License extensions during COVID-19 state of emergency**

Under H.B. 197 of the 133<sup>rd</sup> General Assembly, deadlines for various license-related actions, including licensure renewal by state agencies, political subdivisions, and individuals that are otherwise required by law to take place during the state of emergency due to the

COVID-19 outbreak were extended to 90 days after the date the emergency ended or December 1, 2020, whichever came sooner. The bill amends this by further extending these deadlines to July 1, 2021, if the required action date or license expiration date occurs between March 9, 2020, and April 1, 2021. As a result, short-term revenue losses by political subdivisions and state licensing boards, and commissions that, under H.B. 197, would likely have been mostly regained by December 1, 2020, might further be delayed until July 1, 2021.

### **County coronavirus relief distribution funds**

H.B. 481 of the 133<sup>rd</sup> General Assembly allocated \$350 million of federal funds to Ohio's 88 counties, subject to various federally imposed conditions. The appropriation was increased by another \$175 million during an August Controlling Board meeting, and a separate appropriation for \$650 million was enacted in H.B. 614. The uncodified law enacted in H.B. 481 (and amended by H.B. 614) requires the \$1.175 billion to be further distributed to political subdivisions within the county. Existing law requires those political subdivisions to return unencumbered coronavirus relief funds by November 20, 2020, in order for the funds to be reallocated by the county treasurers five days later.

This provision requires amounts remaining in a county coronavirus relief distribution fund on November 25, 2020, because either (1) no political subdivision within a county qualifies for a distribution or (2) only the county government qualifies for a distribution, be returned to the state treasury in a manner prescribed by the Director of the Office of Budget and Management (OBM).

### **Waivers of reemployment penalties during a COVID-19 outbreak**

The bill amends Section 13 of H.B. 197 of the 133<sup>rd</sup> General Assembly to extend the temporary penalty waiver provided under H.B. 197 from December 1, 2020, to July 1, 2021. Under the temporary penalty waiver, a retired state retirement system member who has received a retirement allowance from the Public Employees Retirement System, the State Teachers Retirement System, the School Employees Retirement System, the Ohio Police and Fire Pension Fund, or the State Highway Patrol Retirement System for less than two months and is reemployed by certain state agencies is not required to forfeit the retirement allowance during that two-month period. The temporary waiver applies to certain reemployed retirees who are working at the following agencies: (1) the Department of Rehabilitation and Correction, (2) the Department of Youth Services, (3) the Department of Mental Health and Addiction Services, (4) the Department of Veterans Services, and (5) the Department of Developmental Disabilities.

The waiver of reemployment penalties may minimally increase the retirement systems' expenditures. There would be no direct fiscal effect on the state or on political subdivisions.

### **Open meetings during Covid-19**

There appears to be no fiscal impact to extending the authority to hold public meetings and hearings by electronic means. The bill extends the authorization for members of a public body to hold or attend meetings and hearings via electronic technology from December 1, 2020, until July 1, 2021. The bill gives boards of trustees of institutions of higher education the same temporary authority as other public bodies to conduct meetings through electronic communications.