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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 40  
134<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Sobecki and Crossman

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### SUMMARY

- Exempts all public and chartered nonpublic schools from administering the state achievement assessments for the 2020-2021 school year.
- For the 2020-2021 school year, prohibits the Department of Education from publishing and issuing ratings for overall grades, components, and individual measures on the state report cards and submitting preliminary data for report cards for school districts and buildings.
- Establishes a safe harbor from penalties and sanctions for districts and schools based on the absence of state report card grades for the 2020-2021 school year.
- Declares an emergency.

### DETAILED ANALYSIS

#### State assessments for the 2020-2021 school year

The bill specifies that all public and chartered nonpublic schools are not required to administer any state assessments otherwise prescribed in the 2020-2021 school year, as long as the Department of Education receives a waiver from the U.S. Secretary of Education (see below). In addition to the state achievement assessments and end-of-course exams, the bill applies to the Ohio English Language Proficiency Assessment administered to English learners, WebXams for career-technical education students, and the Alternate Assessment for Students with Significant Cognitive Disabilities.<sup>1</sup>

<sup>1</sup> Section 1(A)(1).

Additionally, the bill requires the Department to seek a waiver from the U.S. Secretary of Education for testing requirements prescribed under federal law. It also requires the Superintendent of Public Instruction to adjust assessment administration dates to accommodate the assessments required by federal law if the U.S. Secretary of Education does not provide a waiver. It further directs districts and schools to administer federally required assessments if a waiver is not provided.<sup>2</sup>

Under continuing law, school districts, other public schools, and certain nonpublic schools must administer state assessments to students each year on dates set by the Superintendent of Public Instruction.<sup>3</sup> Many, but not all, of the state assessments are required by federal law to qualify Ohio for federal education funds.

### **State aid to districts**

The bill prohibits the Department from subtracting from a district or school's student count for state funding any students to whom a district or school did not administer assessments.<sup>4</sup>

### **E-school students**

The act prohibits an internet- or computer-based school from withdrawing students who were unable to complete assessments for the 2020-2021 school year.<sup>5</sup>

Under continuing law, internet- or computer-based schools (operated either as community schools or as separate school district schools) are required to automatically withdraw any student who has not participated in the spring administration of any required assessment for two consecutive years and were not otherwise excused from taking such an assessment.<sup>6</sup>

### **Scholarship students**

The bill specifies that students participating in the Educational Choice Scholarship Program, the Jon Peterson Special Needs Scholarship Program, or the Pilot Project (Cleveland) Scholarship Program may apply to renew their scholarships for the 2021-2022 school year regardless of whether they took the state assessments in the 2020-2021 school year.<sup>7</sup>

Continuing law specifies that a student who receives a state scholarship will remain eligible for that scholarship and may continue to receive that scholarship in subsequent school

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<sup>2</sup> Section 1(A)(1).

<sup>3</sup> R.C. 3301.0710, 3301.0711, and 3301.0712, none in the bill.

<sup>4</sup> Section 1(A)(2). See also, R.C. 3314.08(L)(3), 3317.03(E)(3), and 3326.37, none in the bill.

<sup>5</sup> Section 1(A)(3).

<sup>6</sup> R.C. 3313.6410 and 3314.26, neither in the bill.

<sup>7</sup> Section 1(A)(4).

years if the student meets certain eligibility requirements.<sup>8</sup> One of those requirements is that the student take all required state assessments unless otherwise excused

## Report cards and safe harbor

Similar to a provision that was enacted in H.B. 409 of the 133<sup>rd</sup> General Assembly (see below), the bill prohibits the Department from publishing and issuing ratings for overall grades, components, and individual measures on the state report cards for any school districts or schools for the 2020-2021 school year. It also relieves the Department from the requirement to submit preliminary data for report cards for school districts and buildings. However, the Department must report any data that it has regarding the performance of districts and buildings for the 2020-2021 school year by September 15, 2021.<sup>9</sup>

The bill also establishes a safe harbor from penalties and sanctions for districts and schools based on the absence of state report card grades for the 2020-2021 school year. The act includes safe harbor from all of the following:<sup>10</sup>

1. Restructuring under state law based on poor performance;
2. The Columbus City School Pilot Project;
3. Provisions for academic distress commissions and progressive consequences for existing commissions (but specifically retains the chief executive officer's powers prior to the 2021-2022 school year);
4. Buildings becoming subject to the Ed Choice Scholarship;
5. Determination of "challenged school districts" where new start-up community schools may be located;
6. Community school closure requirements;
7. Identification of school districts and buildings for federal and state targeted support and improvement; and
8. Restrictions to which community schools may change sponsors.

Additionally, the bill specifically states that the state report card ratings of previous and subsequent school years still must be used in determining sanctions and penalties. It further states that the 2020-2021 school year does not create a new starting point for such determinations that are based on multiple years of state report card ratings.<sup>11</sup>

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<sup>8</sup> R.C. 3301.0711(K), 3310.03(F), 3310.522, and 3313.976(A)(11), none in the bill.

<sup>9</sup> Section 1(B)(1).

<sup>10</sup> Section 1(B)(2).

<sup>11</sup> Section 1(B)(2).

A similar prohibition against publishing and issuing state report card ratings and rankings, and a safe harbor from penalties and sanctions for districts and schools based on the absence of grades, was enacted into law in H.B. 409 of the 133<sup>rd</sup> General Assembly.<sup>12</sup>

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## HISTORY

Action	Date
Introduced	02-03-21

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H0040-I-134

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<sup>12</sup> Section 6(A) and (B) of H.B. 409 of the 133<sup>rd</sup> General Assembly, not in the bill.