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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 309  
135<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Wilson

Holly Gilman, Attorney

### SUMMARY

- Permits a community foundation to be trustee of endowments and other charitable funds received by public schools.
- Permits a public school to appoint a community foundation to invest money in the Education Foundation Fund created under continuing law.
- Classifies a fund held for an institution by a community foundation trustee as an “institutional fund.”

### DETAILED ANALYSIS

#### Community foundation as trustee of educational funds

The bill generally permits a school district board of education, governing authority of a community school, or governing body of a STEM school to designate a community foundation as trustee of any gift or endowment of intangible personal property made by grant, devise, or bequest, or in any other manner, or any proceeds from any gift or endowment, including charitable funds and institutional or endowment funds, provided the latter are related to the school district or school.<sup>1</sup>

Under the bill, a “community foundation” is a nonprofit, tax-exempt foundation that does all of the following:

1. Supports a specific and defined geographical area by either or both of the following:
  - a. Facilitating and pooling donations or state and federal grants to address community needs and support local nonprofit corporations and educational institutions; or

<sup>1</sup> R.C. 3314.55, 3315.43, 3326.53, and 3328.53.

- b. Providing grants, including donor-advised funds, endowments, scholarships, field-of-interest funds, and giving circles;
2. Publishes at least annually and circulates widely within its community an audited report of its fund balances, activities, and donors;
3. Satisfies the federal requirements for community trusts.<sup>2</sup>

### **Limitations on gifts or endowments**

The bill requires that when a district or school designates a community foundation to invest funds, that designation remains subject to any conditions and limitations to which the original gift or endowment was subject or to which the institutional or endowment fund was subject.<sup>3</sup>

### **Return of property**

In addition, the bill requires that the community foundation return any property it receives from the district or school if the foundation: (1) no longer satisfies the bill's requirements, (2) is liquidated, or (3) substantially violates any condition, limitation, or requirement imposed on the property.<sup>4</sup>

### **Education Foundation Fund – school districts**

The bill specifies that a community foundation may be the nonprofit, tax-exempt foundation a school district board may appoint as trustee of an education foundation fund the district board has created under continuing law. Under continuing law school districts may establish an education foundation fund to invest any bequests, gifts, or endowments for which the proceeds may be used for operating or capital costs of any existing or new and innovative program designed to enhance or promote education within the district, such as scholarships for students or teachers.<sup>5</sup>

### **Institutional funds**

The bill expands the definition of “institutional fund” to include a fund held for an institution by a community foundation trustee under the bill.

Under continuing law, an institutional fund is a fund that is held by an institution exclusively for charitable purposes but does not include (1) program-related assets, (2) funds held for an institution by a trustee that is not an institution, and (3) funds in which a beneficiary that is not an institution has an interest other than an interest that may arise upon a violation of or the failure of the purposes of the fund.<sup>6</sup>

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<sup>2</sup> R.C. 3315.43(A); see also 26 Code of Federal Regulations 1.170A-9(10) and (11).

<sup>3</sup> R.C. 3314.55(C), 3315.43(C), 3326.53(C), and 3328.53(C).

<sup>4</sup> R.C. 3314.55(D), 3315.43(D), 3326.53(D), and 3328.53(D).

<sup>5</sup> R.C. 3315.41; see also R.C. 3315.40, not in the bill.

<sup>6</sup> R.C. 1715.51.

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## HISTORY

Action	Date
Introduced	8-28-24

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