



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 438\*

131st General Assembly  
(As Reported by S. Education)

**Reps.** Patterson, Boyd, M. O'Brien, Phillips, K. Smith, Lepore-Hagan, Ramos, Bocchieri, Leland, Howse, Slaby, Brenner, Fedor, Cupp, Schaffer, R. Smith, Anielski, Antonio, Barnes, Bishoff, Boggs, Boyce, Brown, Craig, Dovilla, Duffey, Grossman, Hambley, Hayes, G. Johnson, Kuhns, Kunze, Manning, S. O'Brien, Reece, Rezabek, Roegner, Rogers, Ruhl, Ryan, Sheehy, Sweeney, Sykes, Thompson, Young

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## BILL SUMMARY

### "Ohio Public Education Appreciation Week"

- Designates the week prior to the week of Thanksgiving Day as "Ohio Public Education Appreciation Week."

### School counselor evaluations

- Permits a district or school, beginning with the 2017-2018 school year, to choose not to evaluate certain school counselors.

### Anatomical gift instruction

- Requires each school district to include instruction in the process of making an anatomical gift in the district's health curriculum.
- Requires the Second Chance Trust Fund Advisory Committee to submit recommendations for instruction in the process of making an anatomical gift to the Department of Education by July 1, 2017.
- Requires the Department, upon receiving the recommendations, to publish them on its website.

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\* This analysis was prepared before the report of the Senate Education Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

## **Disposal of property by school districts**

- Modifies the timelines for the sale or lease of real property or unused facilities by a school district by requiring only one 60-day offer period to all start-up community schools and college-preparatory boarding schools within the district but retaining the priority status afforded to high-performing community schools.
- Requires the Department of Education to post in a prominent location on its website a list of schools that qualify as high-performing community schools.

## **Facilities funding for certain consolidating school districts**

- Requires the School Facilities Commission to give a school district first priority for funding for a project under the Classroom Facilities Assistance Program if that district (1) results from a transfer, merger, consolidation, or creation of a new local district that becomes effective between July 1, 2013, and June 30, 2018 and (2) has demonstrated to the Commission an efficient use of facility space.
- Specifies that, if an eligible school district results from a transfer, merger, consolidation, or creation of a new local district that takes place prior to the bill's effective date, the district's portion of the total project cost must be the required percentage of the basic project cost based on the percentile ranking of the lowest wealth district that was transferred, merged, consolidated, or existed prior to the creation of the new district.
- Permits the Commission to reduce an eligible school district's portion of the total cost of the project by 25 percentage points, provided the district's portion is at least 5%.
- Permits the Commission to reduce an eligible school district's portion of the total cost of the project by an additional 10 percentage points, provided the district's portion is at least 5%, if the district's project involves construction of a building on land owned by a state institution of higher education that is participating in the College Credit Plus Program and certain criteria are satisfied.
- Repeals a provision of existing law that requires the Commission to adopt rules providing guidelines for prioritizing facility funding for districts that voluntarily develop certain joint use agreements and permits the Commission to advance the funding priority for projects of districts that are parties to such agreements.

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## **CONTENT AND OPERATION**

### **Ohio Public Education Appreciation Week**

The bill designates the week prior to the week of Thanksgiving Day as "Ohio Public Education Appreciation Week."<sup>1</sup>

### **School counselor evaluations**

Under current law, all school counselors must be evaluated annually, unless the counselor is "high-performing." Under the bill, beginning with the 2017-2018 school year, a district or school also may choose not to evaluate a school counselor who either:

(1) Was on leave from the school district for 50% or more of the school year; or

(2) Has submitted a notice of retirement and whose notice has been accepted not later than December 1 of the school year in which the evaluation is otherwise scheduled to be conducted.<sup>2</sup>

The same exemptions currently apply to teacher evaluations.<sup>3</sup>

### **Instruction in the process of making an anatomical gift**

The bill requires each school district to include instruction in the process of making an anatomical gift in the district's health curriculum. This instruction must emphasize the life-saving and life-enhancing effects of organ and tissue donation.<sup>4</sup>

Current law, not affected by the bill, authorizes the State Board of Education to require the inclusion of information promoting the donation of anatomical gifts as part of a district's health curriculum.<sup>5</sup>

### **Recommendations for instruction in the process of making an anatomical gift**

The bill requires the Second Chance Trust Fund Advisory Committee to submit recommendations for the instruction in the process of making an anatomical gift to the

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<sup>1</sup> R.C. 5.235.

<sup>2</sup> R.C. 3319.113.

<sup>3</sup> R.C. 3319.111(C)(2)(d), not in the bill.

<sup>4</sup> R.C. 3313.60(A)(5)(g). See R.C. Chapter 2108., not in the bill.

<sup>5</sup> R.C. 3301.07(E), not in the bill.



Department of Education by July 1, 2017. The Advisory Committee currently makes recommendations regarding the Second Chance Trust Fund, which is used to raise awareness about the donation of anatomical gifts in Ohio.<sup>6</sup>

Upon receiving the recommendations, the Department must publish them in a prominent location on its website for use by school districts in developing their health curricula.<sup>7</sup>

## **Disposal of property by school districts**

The bill streamlines the process by which a school district board of education must offer real property and unused facilities for sale or lease to the governing authorities of community schools.

Under current law, a school district board, when it decides to sell real property or unused facilities, must first offer that property or facilities for sale to the governing authorities of "high-performing" community schools and newly established community schools with a community school model that has a track record of high quality academic performance, as determined by the Department of Education, for a period of 60 days. Next, the board must offer the property for sale or lease to the governing authorities of the start-up community schools and the board of trustees of any college-preparatory boarding schools that are located within the school district's territory for an additional 60 days.<sup>8</sup> If no high-performing community school, start-up community school, or college-preparatory boarding school accepts the offer the board may sell or lease the property or facilities pursuant to continuing law.<sup>9</sup>

Under the bill, start-up high-performing community schools within the district retain first priority, but the school district must only offer the property to all community schools and college-preparatory boarding schools for one period of 60 days.

### **Sale of real property**

Under the bill, when a school district board of education offers to sell property or unused facilities it must offer it to the governing authorities of all start-up community schools and the boards of trustees of any college-preparatory boarding schools that are located within the district, but the board must give first priority to high-performing

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<sup>6</sup> See R.C. 2108.34 and 2108.35, neither in the bill.

<sup>7</sup> Section \_\_\_\_.

<sup>8</sup> R.C. 3313.41(G) (division removed by the bill) and 3313.413(B).

<sup>9</sup> R.C. 3313.41(G). See also divisions (A) through (F).



start-up community schools. If more than one high-performing start-up community school notifies the district treasurer of its intention to purchase the property the board must conduct a public auction. Only the high-performing start-up community schools that notified the district treasurer are eligible to bid at the auction.<sup>10</sup>

If no high-performing start-up community school notifies the treasurer of its intention to purchase the property, the board must then proceed with the offers from all other start-up community schools and college-preparatory boarding schools. If more than one entity notifies the district treasurer of its intention to purchase the property then the board must conduct a public auction among those entities.

Only if no start-up community school or college-preparatory boarding school notifies the district treasurer of its intention to purchase the property may the district offer the property for sale in the manner prescribed under continuing law.<sup>11</sup> Generally, that law requires sale by public auction but also permits private sale in specified circumstances.<sup>12</sup>

### **Lease of unused facilities**

Under the bill, if more than one high-performing community school notifies the district treasurer of its intention to *lease* unused facilities, the board must conduct a lottery to select from among the entities the one qualified high-performing community school to which the district must lease the property. If no high-performing community school wishes to lease the property, the district board must proceed with the offers from all other start-up community schools and college-preparatory boarding schools that are located within the district. If more than one start-up community school or college-preparatory boarding school notified the district of its intention to lease the property, the board must conduct a lottery to select from among those parties the one qualified party to which the district board must lease the property.<sup>13</sup>

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<sup>10</sup> R.C. 3313.411(C)(2) and 3313.413(B)(1).

<sup>11</sup> R.C. 3313.411(C)(3) and 3313.413(B)(2).

<sup>12</sup> R.C. 3313.41(A) to (F).

<sup>13</sup> R.C. 3313.411(C)(3).



## List of high-performing schools

The bill requires the Department of Education, annually by October 1, to post in a prominent location on its website a list of schools that qualify as high-performing community schools.<sup>14</sup>

For purposes of priority for acquiring school district property, continuing law defines a "high-performing" community school as follow:

(1) The school received a grade of "A," "B," or "C" for the performance index score or has increased its performance index score for the previous three years, and received a grade of "A" or "B" for the value-added progress dimension on its most recent report card rating;

(2) If the school serves only grades K through 3, the school received a grade of "A" or "B" for making progress in literacy on its most recent report card;

(3) If the school is a dropout recovery school, the school received a rating of "exceeds standards" on its most recent report card.

Current law, retained by the bill, also gives priority to newly established community schools that are implementing school models that have a track record of high-quality academic performance as determined by the Department.<sup>15</sup>

## Classroom facilities assistance for certain consolidating school districts

The bill requires the School Facilities Commission, if it determines that a city, local, or exempted village school district is an eligible school district, to give that district first priority for funding for a project under the Classroom Facilities Assistance Program as such funds become available, regardless of the district's percentile ranking for that program.<sup>16</sup>

### Eligible school district

For purposes of this provision, an "eligible school district" is a city, local, or exempted village school district that satisfies both of the following:

(1) The district resulted from one of the following that became effective between July 1, 2013, and June 30, 2018:

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<sup>14</sup> R.C. 3313.413(D).

<sup>15</sup> R.C. 3313.413(A).

<sup>16</sup> R.C. 3318.036(B)(1).



--The transfer of all of the territory of one or more local school districts to an adjoining local school district within the same educational service center;<sup>17</sup>

--The transfer of all of the territory of one or more local school districts to an adjoining educational service center or an adjoining city or exempted village school district;<sup>18</sup>

--The voluntary transfer of the entire territory of a city, local, or exempted village school district to an adjoining district by action initiated by the district board or by a citizen petition;<sup>19</sup>

--The voluntary transfer of the entire territory of a city, local, or exempted village school district to one or more contiguous or noncontiguous city, local, or exempted village school districts by action initiated by the State Board of Education or the district board;<sup>20</sup>

--The merger of two or more city, local, or exempted village school districts primarily located in the same county, provided that county has a population of less than 100,000;<sup>21</sup>

--The creation of a new local school district from all of one or more local school districts by resolution of the State Board;<sup>22</sup> or

--The consolidation of two or more contiguous city, local, or exempted village school districts into a new district following a proposal for consolidation by the State Board and a vote by the electors residing in the territory of the new district.<sup>23</sup>

(2) The district has demonstrated to the Commission an efficient use of facility space, including a reduction in the number of buildings used by students and administrative staff.<sup>24</sup>

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<sup>17</sup> R.C. 3311.22, not in the bill.

<sup>18</sup> R.C. 3311.231, not in the bill.

<sup>19</sup> R.C. 3311.24, not in the bill.

<sup>20</sup> R.C. 3311.38, not in the bill.

<sup>21</sup> R.C. 3311.25, not in the bill.

<sup>22</sup> R.C. 3311.26, not in the bill.

<sup>23</sup> R.C. 3311.37, not in the bill.

<sup>24</sup> R.C. 3318.036(A)(1).

## **School district portion of the total cost of the project**

### **Initial determination of a district's portion of the total cost**

The bill specifies that, if an eligible school district results from a transfer, merger, consolidation, or creation of a new local district that takes effect prior to the bill's effective date, the district's portion of the total cost of the project must be the "required percentage of the basic project cost" (1% times a district's wealth percentile)<sup>25</sup> based on the percentile ranking of the lowest wealth district that was transferred, merged, consolidated, or existed prior to the creation of the new district.<sup>26</sup>

However, if an eligible school district results from a transfer, merger, consolidation, or creation of a new local district that takes effect on or after the bill's effective date, the district's portion of the total cost of the project must be the "required percentage of the basic project cost" based on the percentile ranking of the newly formed district (as required under current law).<sup>27</sup>

### **Reductions of the initial determination of a district's portion of the total cost**

The bill provides that the Commission may reduce an eligible school district's portion of the total cost of the project by 25 percentage points, provided that the district's portion is at least 5%.<sup>28</sup>

Additionally, the bill provides that the Commission may reduce an eligible school district's portion of the total cost of the project by an additional 10 percentage points if the district's project satisfies all of the following conditions, provided the district's portion is at least 5%:

(1) It involves construction of a building on land owned by a state institution of higher education, and the Commission approves the project.<sup>29</sup>

(2) The district and the institution enter into a written agreement regarding the continued use of the institution's land by the district, and the Commission approves the agreement.

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<sup>25</sup> R.C. 3318.01, not in the bill.

<sup>26</sup> R.C. 3318.036(B)(1).

<sup>27</sup> R.C. 3318.032, not in the bill.

<sup>28</sup> R.C. 3318.036(B)(2).

<sup>29</sup> R.C. 3345.011, not in the bill.





(3) On the date the district and institution enter into the written agreement, the institution is participating in the College Credit Plus Program (CCP).<sup>30</sup> The CCP Program allows high school students who are enrolled in public or nonpublic high schools or who are home-instructed to enroll in nonsectarian college courses at any public or private college, or any eligible out-of-state college, in order to receive high school and college credit.<sup>31</sup>

## Repeal of current provision for prioritizing facility funding for joint projects

The bill repeals a provision of existing law that does both of the following:

(1) Requires the Commission to adopt rules providing guidelines for prioritizing facility funding for districts that voluntarily develop joint use or other cooperative agreements that significantly improve the efficiency of the use of facility space within or between districts;

(2) Permits the Commission to advance the funding priority for projects of districts that are parties to such agreements if the Commission determines that the agreements comply with the guidelines.<sup>32</sup>

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## HISTORY

ACTION	DATE
Introduced	01-27-16
Reported, H. Education	05-04-16
Passed House (95-1)	05-18-16
Reported, S. Education	---

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<sup>30</sup> R.C. 3318.036(B)(3).

<sup>31</sup> R.C. Chapter 3365., not in the bill.

<sup>32</sup> Repealed R.C. 3318.32; conforming changes in R.C. 3318.02, 3318.024, and 3318.30.

