



# OHIO LEGISLATIVE SERVICE COMMISSION

Jason Glover

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 438 of the 131st G.A. **Date:** December 8, 2016

**Status:** As Enacted **Sponsor:** Rep. Patterson

**Local Impact Statement Procedure Required:** No

**Contents:** Modifies laws related to primary and secondary education

### State Fiscal Highlights

- The bill requires, rather than permits as under current law, the Ohio School Facilities Commission (SFC) to give first priority for classroom facilities assistance to a school district resulting from the consolidation, merger, or transfer of territory of two or more districts that satisfies specified conditions.
- The bill allows SFC to reduce an eligible school district's portion of the basic project cost (1% times the district's wealth percentile) by 25% and, if the district satisfies certain conditions, by an additional 10%. However, in no circumstance can a district's portion be less than 5%. As a result, the bill may increase the state share of the cost of such projects and delay the execution of facilities projects for other school districts.
- The bill requires the Second Chance Trust Fund Advisory Committee to submit recommendations for instruction in the process of making an anatomical gift to the Ohio Department of Education (ODE) by July 1, 2017, and also requires ODE, upon receiving the recommendations, to publish them on its website. These requirements will have negligible effects on the administrative responsibilities of both the Advisory Committee and ODE.

### Local Fiscal Highlights

- Eligible school districts opting to accept classroom facilities assistance under the bill may experience a decrease in the local share of the cost for classroom facilities projects. Through the bill's provision of priority funding for such districts, these projects may also be completed sooner than otherwise. Other districts may have their projects delayed as a result of the bill.

- The bill shortens the timeline for the sale or lease of unused real property 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. This provision may reduce the cost for school districts to maintain unused properties.
  - The bill requires each school district to include instruction in the process of making an anatomical gift in the district's health curriculum. This provision will have a negligible effect on the administrative responsibilities of districts and schools.
  - The bill permits a school district to choose not to evaluate school counselors who are on extended leave or have submitted a notice of retirement. There may be a minimal reduction in administrative responsibilities for districts that would perform fewer evaluations under the bill.
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## Detailed Fiscal Analysis

The bill makes a variety of changes to the laws governing primary and secondary education. Provisions in the bill with a fiscal effect are discussed below.

### **Classroom facilities assistance for consolidated districts**

Under current law and rules,<sup>1</sup> the Ohio School Facilities Commission (SFC) may prioritize funding through the Classroom Facilities Assistance Program (CFAP)<sup>2</sup> to a school district resulting from the consolidation of two or more districts that significantly improves the efficiency of the use of facility space within or between districts. If such assistance is offered, the state and local shares are based on the current formula by using the lower of the two districts' equity or wealth rankings. The bill repeals the provision of law authorizing SFC to adopt such rules and, instead, requires SFC to give first priority for funding for a CFAP project, as such funds become available, to eligible consolidated school districts regardless of the district's percentile ranking under CFAP and allows for the local share of an eligible school district's project costs to be reduced by up to 35% if certain conditions are met.

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<sup>1</sup> Ohio Administrative Code 3318:1-04-01, promulgated pursuant to R.C. 3318.32 (repealed by the bill).

<sup>2</sup> CFAP is a program designed to provide each city, exempted village, and local school district with partial funding to address all of the district's classroom facilities needs. It is a graduated, cost-sharing program where a district's portion of the total cost of the project and priority for funding are based on the district's relative wealth. Districts are ranked by wealth into percentiles. The poorest districts are served first and receive a greater amount of state assistance than wealthier districts will receive when it is their turn to be served based on their respective wealth percentile.

## **Eligibility**

For purposes of this bill, an "eligible school district" is a city, local, or exempted village school district that:

1. Resulted from a consolidation, merger, transfer of territory, or creation of a new local district between July 1, 2013 and June 30, 2018; and
2. Has demonstrated to SFC an efficient use of facility space, including a reduction in the number of buildings used by students and administrative staff (similar to the requirement for prioritized funding under current law).

In recent years, two district consolidations have occurred. In FY 2015, Old Fort Local School District (LSD), in Seneca County, acquired the territory of the Bettsville LSD. In FY 2016, Berkshire LSD, in Geauga County, acquired the territory of Ledgemont LSD. Thus, Old Fort LSD and Berkshire LSD are two districts that would be eligible for assistance under the bill provided that they meet the specified efficiency requirement.

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

As described above, the bill provides facilities funding incentives to certain school districts that have recently consolidated or will effectuate a consolidation before the end of FY 2018. Specifically, in addition to receiving priority funding under CFAP, the bill allows SFC to reduce an eligible school district's portion of the total cost of the project (1% times a district's wealth percentile) by 25%, provided the district's portion is at least 5%. Note that 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 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.

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

1. The project involves construction of a building on land owned by a state institution of higher education and SFC approves the project;
2. The district and the institution enter into a written agreement regarding the continued use of the institution's land by the district, and SFC approves the agreement; and
3. On the date of the agreement the institution is participating in the College Credit Plus Program.

The 10% reduction appears to apply to a proposal to house a new school building for Berkshire LSD and Newbury LSD students on the Kent State University – Geauga campus as part of a proposed merger between these two school districts.

Under this bill, an eligible school district may pay a lower percentage of the total cost of the project than otherwise under current law. To illustrate, if the Berkshire and Newbury LSDs were to consolidate into one district, then the consolidated school district would pay 93% of the basic project cost under current law, because Berkshire Local has the lowest relative wealth of the two districts.<sup>3</sup> Under the bill, the consolidated district, if it were to be established before the effective date of the bill, would only pay 68% of the basic project cost and the state share would increase from 7% to 32%. If the consolidated district qualifies for the additional 10% reduction, it would only pay 58% and the state share would increase to 42%.

As a result of the bill, state expenditures for classroom facilities assistance projects for consolidated or transferred districts may increase. Additionally, depending on the size of the project, the requirement to offer first priority for funding to such districts may delay the execution of projects for school districts that are at or near the top of the funding priority list for CFAP. Increased state assistance in these circumstances may also incentivize more districts to consolidate or transfer territory than would have otherwise been the case.

### **Sale of property by school districts**

The bill modifies the timelines for the sale or lease of real property or unused facilities by a school district. Under current law, a district board must offer the property for sale or lease to the governing authorities of high-performing community schools located within the territory of the district for 60 days. If no high-performing community school notifies the board with its intent to purchase/lease the property in that time, the board must offer it to start-up community schools and college-preparatory boarding schools for an additional 60 days. The bill combines these two timelines into a single 60-day period, while still giving priority to any high-performing community schools. This change may reduce the cost for school districts to maintain unused properties.

The bill also requires the Ohio Department of Education (ODE) to post a list of schools that qualify as high-performing community schools on its website. This provision has no fiscal effect, as ODE already posts this information online.<sup>4</sup>

### **Instruction on organ and tissue donation**

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. This provision will have a negligible effect on the administrative responsibilities of districts and schools.

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<sup>3</sup> For FY 2017, Berkshire Local has a local share percentage of 93% and Newbury Local has one of 98%, according to SFC.

<sup>4</sup> <http://education.ohio.gov/getattachment/Topics/Community-Schools/Sections/Public-Documents-and-Reports/2016-High-Performing-Community-Schools-List.xlsx.aspx>.

The bill requires the Second Chance Trust Fund Advisory Committee<sup>5</sup> to submit recommendations for instruction in the process of making an anatomical gift to ODE by July 1, 2017. Upon receiving the recommendations, ODE must publish them in a prominent location on its website for use by school districts in developing their health curricula. These requirements will have negligible effects on the administrative responsibilities of both the Advisory Committee and ODE.

### **School counselor evaluation exemption**

Current law requires all school counselors to be evaluated annually, unless the counselor is "high performing." Beginning with the 2017-2018 school year, the bill provides a school district or school with the option not to evaluate a school counselor who was either on leave from the school for more than 50% of the school year, or who has submitted a notice of retirement by December 1 of the school year in which the evaluation is otherwise scheduled to be conducted. The same option currently applies to teacher evaluations. The provision may minimally reduce a school district's administrative responsibilities associated with conducting counselor evaluations.

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

The bill also designates the week prior to the week in which Thanksgiving Day occurs as "Ohio Public Education Appreciation Week." This provision has no effect on public revenues or expenditures.

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<sup>5</sup> 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.