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S.B. 34
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the Senate

Primary Sponsor: Sen. Kunze

Local Impact Statement Procedure Required: No

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Highlights

- On balance, the administrative costs of the Ohio Department of Education's (ODE) Office of Professional Conduct may decrease due to the bill. Most provisions are expected to increase the efficiency with which alleged educator misconduct is investigated and disciplinary actions are processed and adjudicated.
- These cost savings may be offset to some degree by a provision that requires the Office, upon request of school appointing or hiring officers, to provide reports of misconduct the Office has received regarding an individual under consideration for employment.
- The administrative workload of school districts and other public schools may increase to obtain verification from contractors employing or retaining an individual providing services to the district that the individual holds an applicable license and to implement the bill's requirements relating to preemployment screening and personnel file review procedures if such procedures are not in place currently.

Detailed Analysis

The bill makes a variety of changes to laws regarding school employment and educator licensure and conduct, the primary goal of which is to prevent individuals who engaged in sexual or other serious misconduct from working in schools. From a fiscal perspective, the bill's provisions principally impact the Ohio Department of Education's (ODE) Office of Professional Conduct, which is responsible for handling cases of educator misconduct. According to ODE, the Office investigates approximately 1,400 cases of educator misconduct annually, with an average of 575 cases per year resulting in disciplinary action. The Office's operations are supported by educator license fees deposited into the Teacher Licensure and Certification Fund (Fund 4L20). Bill provisions with notable fiscal effects are discussed below.

ODE Office of Professional Conduct

Overall, the bill may decrease the administrative costs of ODE's Office of Professional Conduct, as most provisions are expected to increase the efficiency with which alleged educator misconduct is investigated and disciplinary actions are processed and adjudicated. Notable provisions that may result in a savings effect are briefly summarized below. These provisions:

- Expand the circumstances in which a full adjudicatory hearing is not required, which decreases the amount of work hours and costs associated with an investigation. For instance, the bill broadens the list of criminal offenses that will result in automatic revocation or denial of an individual's educator license and requires the Superintendent of Public Instruction to automatically inactivate a resident educator license issued to a Teach for America (TFA) Program participant if the participant resigns or is dismissed prior to program completion.
- Prohibit a court from exempting an individual from the disciplinary consequences with respect to educator licensure (through a certificate of qualification for employment) for certain criminal offenses specified by the bill. As a result, some future cases may be resolved administratively, instead of through litigation.
- Prohibits additional actions associated with assisting students with cheating on state achievement assessments and permits the State Board to take any action, based on the nature and extent of the violation, against a school employee who commits a violation (instead of a one-year suspension for specifically revealing test content). These types of cases may be disposed of more quickly with the greater disciplinary flexibility provided while some future cases may be avoided with the additional clarity regarding prohibited behavior.

However, a few of the bill's provisions may carry additional costs. Notably, the bill requires ODE to provide the contents of any report of misconduct it has received regarding an individual who is under consideration for employment to a school appointing or hiring officer who requests such a report. This will be a new service. According to the Department, ODE may respond by developing an information technology solution to allow school districts to securely access this information automatically. In addition, a provision requiring the licensure of contractors providing services to public schools, discussed in more detail below, may increase licensing revenue to and the administrative costs associated with licensure from Fund 4L20. ODE also may pay more in fees for the Retained Applicant Fingerprint Database (RAPBACK) service if additional individuals become enrolled.¹

¹ The Attorney General's (AGO) Bureau of Criminal Investigation (BCI) charges participating agencies an initial fee for each individual entered in RAPBACK and an ongoing annual fee per individual, both of which are \$5. ODE pays the fees from the Teacher Licensure and Certification Fund (Fund 4L20). Upon receipt, AGO deposits RAPBACK fees into the General Reimbursement Fund (Fund 1060).

Licensure requirement for contracted individuals

As alluded to above, the bill requires a contractor providing services to a school district or other public school to hold any applicable license that the individual would be required to hold if employed directly by the district or school. The district or school is required to obtain licensure verification from the contractor's employer prior to commencing services, which may increase the administrative workload of school districts and other public schools.

Preemployment screening and personnel file review procedures Requirements

The bill requires each public school to implement the following list of preemployment screening and personnel file review procedures, which may increase the administrative workload of school districts and other public schools if they do not already have such procedures in place. Many school districts and other public schools across the state may already comply with some portion of the bill's preemployment screening requirements or carry out the optional activities described further below. The new requirements are in addition to continuing law that requires school employees to undergo criminal records checks from the Bureau of Criminal Investigation within the Ohio Attorney General's Office and the Federal Bureau of Investigation. In general, the bill requires districts and schools to:

- Consult the Educator Profile Database website maintained by ODE before making hiring decisions;²
- Include a false statement penalty notice on all employment applications;
- Review an employee's personnel file to determine if it contains any prior related instances of misconduct or disciplinary actions when a complaint is filed against an employee; and
- Respond to requests for personnel files from another school, to which the current or former employee has applied for employment, within 20 business days of receiving the request.

Optional procedures

The bill also permits each public school to use several optional procedures, the cost for which, if any, will depend on district or school implementation decisions. Under the bill, each public school may:

- After consulting the Educator Profile Database, consult with ODE's Office of Professional Conduct, prior education-related employers of the hiring candidate, or both to further discern the employment, disciplinary, or criminal record of an applicant;
- Require job applicants or volunteers to undergo additional background checks beyond the criminal records checks required under continuing law;
- Conditionally employ an applicant until the screening process is complete; and
- Provide counseling to victims of sexual harassment or sexually related conduct.

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² The database contains demographic information, application status, credentials, and dates of criminal records checks or disciplinary information about each licensed educator.