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# OHIO LEGISLATIVE SERVICE COMMISSION

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Legislative Budget  
Office

H.B. 554  
134<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 554's Bill Analysis](#)

**Version:** As Reported by Senate Primary and Secondary Education

**Primary Sponsors:** Reps. Lightbody and Bird

**Local Impact Statement Procedure Required:** No

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### Highlights

#### Special education for children with developmental delay

- State foundation aid to school districts and other public schools as well as district and school expenditures may increase if the bill's expanded definition of "a child with a disability" to include children with developmental delay ages 3-9, instead of ages 3-5 under current law, leads to an increase in school-age children receiving special education and related services.
- The magnitude of these effects are uncertain. Some preschool children with developmental delay, upon reaching school age, already may receive special education and related services under a separate disability condition when appropriate. In addition, federal law makes it permissive for school districts and other public schools to identify and serve children using the developmental delay category.
- School district administrative costs or workload may decrease with respect to reclassifying preschool children with developmental delay into another appropriate disability condition upon reaching school age.

#### Temporary educator licenses

- The bill may provide school districts and other public schools with a greater pool of teachers to meet staffing needs by requiring the State Board of Education to, upon application, issue a temporary two-year educator license to individuals with an expired teacher's certificate or professional educator license. The bill requires the State Board to issue a professional educator license to a temporary license holder who goes on to complete specified continuing education coursework.

- The bill may increase Ohio Department of Education (ODE) administrative costs paid from the State Board of Education Licensure Fund (Fund 4L20) to process any additional license applications as a result. These costs will be more or less offset by a gain in license fee revenue paid by applicants.
- The annual cost of performing the Bureau of Criminal Investigation's background check activities and services may increase to some degree. These costs will be more or less offset by the fees charged to conduct a background check.

## **College Credit Plus (CCP) Program**

- Permitting children of military families participating in CCP who must withdraw from school without academic or financial penalty because of a parent or guardian's permanent change of station order out of the state may result in districts and schools or the GRF foregoing some reimbursement revenue, to the extent these circumstances occur, if the student is unable to complete the course in an online format.

## **Detailed Analysis**

The bill makes changes to a variety of education laws in regard to special education for children experiencing developmental delay, temporary educator licenses, and College Credit Plus, among other topics. Provisions with fiscal effects are discussed below.

### **Special education for children with developmental delay**

#### **Background and overview**

Federal law permits states to include in the definition of a "child with a disability" children ages 3-9, or any subset of that age range (including ages 3-5), experiencing developmental delay who need special education and related services. However, federal law prohibits a state from requiring a school district or other public school to identify and serve children within its jurisdiction using the developmental delay category. In other words, a district or school may choose whether or not to identify and serve students using that category. If a district or school opts to do so, federal law requires the district or school to conform to both the state's definition of the term and to the age range that has been adopted by the state. Under current law, Ohio has opted to apply the developmental delay category to only preschool children.<sup>1</sup> The Ohio Department of Education (ODE) reported a statewide total of 4,610 preschool students identified with a developmental delay in FY 2022.<sup>2</sup> These students represent 1.7% of the 271,000 students with disabilities statewide.

The bill expands Ohio's definition of a "child with a disability" to include children ages 3-9 who are experiencing developmental delay, which aligns Ohio to the maximum age range permitted under federal law. The bill includes all school-age children with such a designation in Category 2 of the special education funding mechanism of the school funding formula. The bill

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<sup>1</sup> The term "developmental delay" is defined in division (D)(1) of rule [3301-51-11](#) and the requirements for identification, should a district opt to do so, are specified in division (B)(2) of rule [3301-51-03](#).

<sup>2</sup> School districts receive state funding for preschool children with developmental delay and other preschool children with disabilities through a per-pupil based preschool special education formula that is separate from the state foundation aid formula supporting students in grades K-12.

also prohibits preschool children diagnosed with a developmental delay from being removed from preschool if they turn six years old before the end of the 2022-2023 school year.

### **Fiscal effects**

State foundation aid payments to school districts and other public schools may increase to the extent that additional school-age children are identified and served by districts and schools and, thus, included in the special education enrollment used for school funding purposes. Likewise, district and school expenditures may increase to serve newly identified and served children.

The amount of any increases and the number of additional children that may be identified are uncertain for several reasons. Some preschool children with developmental delay, upon reaching school age, already may receive special education and related services if the student's district identifies the student under a separate disability condition when appropriate. In these cases, the bill may decrease district and school administrative costs or workload associated with identifying and reclassifying them. Further, federal law makes it permissive for districts and schools to identify and serve children using the developmental delay category. However, if a district or school currently identifies and serves preschool children with developmental delay, it must either adopt the developmental delay category for ages 3-9 as a result of the bill or not identify and serve children with developmental delay. A district or school may not use its own developmental delay definition or age range in place of the state policy. ODE data indicate that, in FY 2022, the vast majority of traditional districts opted to identify and serve preschool children with developmental delay. According to the Department's Federal Child Count data for that year, 563 (92%) school districts identified and served such children.

In general, the state foundation aid formula provides categorical funding, in addition to the base cost, to support districts and schools with the higher cost associated with special education and related services. Funding for special education is divided into six categories based on a student's disability condition. Children identified with developmental delay are placed in Category 2, which is a "high incidence" category that also includes students with a specific learning disability, a developmental disability, and other minor health impairments. Each category is assigned a multiple or "weight" that determines how much additional funding is paid to a district or other public school for each enrolled student receiving special education or related services. The weight for Category 2 is 0.6179. The weight is multiplied by the statewide average base cost per pupil (\$7,352 for FY 2022 and FY 2023). Therefore, the formula for FY 2022 and FY 2023 funds each full-time equivalent student in Category 2 with an effective per-pupil amount of \$4,543 annually ( $\$7,352 \times 0.6179$ ). For traditional districts, this amount is equalized according to the district's state share percentage so that lower wealth districts receive more state aid on a per-pupil basis than higher wealth districts. Calculated Category 2 state funding for traditional districts averaged \$2,088 per pupil on a statewide weighted average basis in FY 2022. Special education and other components of the formula are subject to a phase-in during FY 2022 and FY 2023.

### **Temporary educator licenses**

The bill instructs the State Board of Education to issue, upon application, a two-year temporary educator license to an individual with an expired teacher's certification or educator license. To qualify for a temporary license, an individual must not have any disciplinary sanctions

on their expired certification or license. Further, an individual who receives a temporary educator license must complete any training required by the district or school prior to providing instruction. The temporary license is nonrenewable. An individual who receives this temporary license will be issued a professional educator license should they fulfill certain continuing education requirements during the duration of the temporary license.

The bill's provisions are somewhat similar to a recently revised administrative rule, effective November 4, 2021, that allows for the issuance of a one-year, nonrenewable "reinstatement license" valid in the same grade levels and curriculum areas as an individual's expired license, at the request of an employing school district. The reinstatement license, which costs \$40, is available to an individual whose professional educator license has been expired for at least one year from the effective date of the reinstatement license. The reinstatement license holder must complete certain continuing education requirements to renew the expired license. As a point of reference, the Ohio Department of Education (ODE) has issued 158 active reinstatement licenses statewide.

### **Fiscal effects**

The bill may provide school districts and other public schools a greater pool of individuals to fill teaching positions, as the temporary license under the bill carries less stringent requirements than the current reinstatement license regarding prior license expiration and continuing education (see the bill analysis for the continuing education requirements for each license). The bill's temporary license is also valid for one year longer. Therefore, the bill may lead to an increase in ODE's administrative costs to process additional license applications. However, any additional cost will be more or less offset by a gain in license fee revenue paid by applicants. Educator license fees are deposited into the State Board of Education Licensure Fund (Fund 4L20). Typically, the fee for an educator license equates to \$40 per year (e.g., the fee for a two-year license likely would be \$80). These fees will cover the costs of processing applications, technical assistance related to licensure, administering the educator disciplinary process, as well as other functions.

An applicant for a temporary license under the bill will need to have current state and federal background checks on file with ODE. According to ODE, the checks can be no older than one year at the time ODE issues the credential. Background checks filed with ODE are valid for five years. The bill may temporarily affect the workload of the Attorney General's Bureau of Criminal Investigation (BCI) if the number of background checks requested each year increases as a result of the bill. Any associated increase in BCI's annual operating expenses will be more or less offset by the fees charged to conduct a check. BCI performs state-only background checks by comparing an individual's fingerprints against a database of criminal fingerprints to determine if there is a criminal record. BCI also administers federal background checks through the Federal Bureau of Investigation (FBI), which uses a national database to search for criminal history records. The base fees of the state-only and FBI background checks are \$22 and \$25.25, respectively. All of the fees are credited to the General Reimbursement Fund (Fund 1060),<sup>3</sup> with \$23.25 of the FBI background check fee subsequently disbursed to the FBI.

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<sup>3</sup> The Attorney General uses the money credited to Fund 1060 to pay for operating expenses incurred in the provision of law enforcement services, legal representation, and overall office administration.

## **College Credit Plus Program**

The CCP Program allows qualified students in grades 7-12 to take college courses at state expense for both college and high school credit. Under CCP, the tuition for a participating public school student is paid to the college through a deduction from the state aid allocated to the school district, community school, or STEM school that the student attends. Students attending nonpublic schools are funded through a set-aside of \$2.6 million in FY 2023 in GRF line item 200511, Auxiliary Services. Under current law, a secondary school may seek reimbursement from a CCP participant or the student's parent for the amount of state funds paid to the college for any CCP course for which the student did not attain a passing final grade or withdrew from the course after the college's required date (per the Department of Higher Education, usually after the 14<sup>th</sup> calendar day of the term), unless the student is considered economically disadvantaged.

The bill requires any participating secondary school or college to permit children of military families participating in CCP who must withdraw from school because of a parent or guardian's permanent change of station order out of the state to either (1) be given the opportunity to complete the CCP course in an online format, if possible, or (2) withdraw from the course without academic or financial penalty. As a result, school districts and other public schools and the GRF may forego some reimbursement revenue from families in these circumstances, to the extent they occur, if the student is unable to complete the course in an online format. CCP payments generally range from \$42 to \$167 per credit hour, depending on the location and method of instruction. A high school and college may negotiate alternative payment amounts under certain conditions.

## **Provisions related to community and STEM schools**

### **FTE reporting for certain community schools based on credits earned**

The bill permits certain community schools to choose to report their full-time equivalent (FTE) enrollment to ODE as the lesser of (1) the maximum full-time equivalency for the portion of the school year for which a student is enrolled, or (2) the sum of one-sixth FTE based on attendance for the portion of the school year for which a student is enrolled and one-sixth FTE for each credit of instruction earned during the enrollment period, up to five credits. Under the bill, ODE must review each community school that chooses to report its FTE under one of these options and, if it determines a school has been overpaid, requires the school to submit a repayment of its overpaid funds and allows ODE to require a plan for the school to improve its reporting of enrollment.

Based on the criteria in the bill, this provision would apply to two community schools: Buckeye Community School at London and Buckeye Community School at Marion. Any fiscal effect of this provision would depend on whether either of the applicable schools choose to report their enrollment using one of the two methods, which method they use, their enrollment, and student credits earned.

### **Community schools operating multiple facilities**

Continuing law requires community schools to enter into a contract with their sponsor. These contracts, in part, must specify the facilities to be used for the community school and the method of acquisition. Under current law, a community school may operate multiple facilities

under the same contract as long as the facilities are all located in the same county and other conditions are met. The bill expands, from the same county to any county adjacent to the county in which the school's primary facility is located, where multiple community school facilities may be located under the same contract. This provision may decrease community school administrative costs.

### **STEM school facilities projects**

Since FY 2012, the Ohio Facilities Construction Commission (OFCC) has provided school facilities construction assistance to science, technology, engineering, and mathematics (STEM) schools that are governed independently from a school district. Under the program, these independent STEM schools are required to secure at least 50% of the total project cost. Furthermore, OFCC policy specifies that there is to be no additional funding or budget adjustment during the project unless a situation where the health and safety of the students, as determined by OFCC staff, are compromised. Under this situation, OFCC will support 50% of the additional cost.<sup>4</sup>

The bill specifies that if OFCC approves an increase in the basic project cost above the amount budgeted plus interest, the state and the STEM school must share the increased cost in proportion to their respective contributions to the school's project construction fund. Therefore, the shares of both the state and the STEM school for any additional costs will be equal to their proportions of the basic project cost plus interest, with any additional costs to the state not exceeding 50% of the total additional cost per continuing law. Through FY 2022, OFCC has served four of seven STEM schools and disbursed \$31.5 million under the program. In each of the four projects, OFCC and the school have split the total projects costs equally.

### **Graduation requirements**

The bill requires the Department of Education to prescribe standards by which students who transfer into an Ohio public or chartered nonpublic high school from another state, home school, or nonchartered nontax school may apply the score from a nationally standardized exam (such as the ACT or SAT), end-of-course exam, or other permitted alternative assessment taken prior to their transfer toward graduation requirements at their new school. According to ODE, the standards will prevent transfer students from having to start over in their progress toward meeting assessment requirements for a diploma. The cost for ODE to develop such standards would likely be minimal at most.

The bill also provides a pathway to high school graduation for chartered nonpublic high school students who take nationally standardized assessments in place of end-of-course exams or other alternative assessments. According to ODE, this provision permits a few chartered nonpublic schools who only give the ACT or SAT, as is permitted under continuing law, to continue the graduation pathway they used before the current law graduation requirements were enacted. The current requirements no longer qualify a student for a diploma by only taking the ACT or SAT. This provision has no fiscal effect on ODE or public schools.

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<sup>4</sup> See OFCC's [STEM Program Guidelines \(PDF\)](#), which may be accessed by conducting a keyword "STEM" search on the OFCC website: [ofcc.ohio.gov](http://ofcc.ohio.gov).

## **Educator Standards Board**

The Educator Standards Board (ESB) is responsible for the development and implementation of statewide standards for Ohio's teachers, administrators, treasurers, and school counselors. The bill makes changes to the membership of the Board but does not change the number of board members. Board members are not compensated for their service. The bill also removes the requirement that the ESB maintain a standing subcommittee on higher education and eliminates the ESB subcommittee on standards for teacher preparation. The fiscal effect of eliminating the subcommittees appears to be minimal at most. While ODE oversees ESB and funds its operations, it has no authority over teacher preparation programs. Therefore, ODE reports that the subcommittees focused on higher education typically have little work.