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S.B. 83
(I_135_0330-11)
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 83's Bill Analysis](#)

Version: In House Higher Education

Primary Sponsor: Sen. Cirino

Local Impact Statement Procedure Required: No

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Highlights

Diversity, equity, and inclusion (DEI) provisions

- State institutions of higher education may experience potentially significant increases in administrative costs to implement the bill's policies related to DEI, depending on each institution's current policies and practices. These costs may be related to the adoption of new or redrafting of existing policies, retraining employees, and redesigning courses.
- Institutions may also experience administrative cost savings through the elimination of current DEI activities. In particular, personnel costs may be lowered if faculty and staff positions primarily dedicated to DEI are eliminated, rather than redirected to other departments or positions.

Other higher education provisions

- Any state institution that does not currently offer enough courses in American government or American history to instruct every student, as a prerequisite for a bachelor's degree, may need to develop those courses and hire additional faculty to teach them. The costs to develop courses and hire new faculty would be offset somewhat by additional tuition and State Share of Instruction (SSI) revenue from students who enroll and complete those classes.
- Some state institutions may incur costs to have a syllabus for each undergraduate course ready to post publicly by the time each class starts.
- To the extent that a state institution is currently receiving gifts, donations, or contributions from an organization that may be acting on behalf of the government of China, it will forego such revenue. A state institution also may forego revenue associated

with an agreement between it and an academic or research institution located in China, if it is unable to maintain sufficient structural safeguards.

Ohio Department of Higher Education (ODHE) responsibilities

- The bill will increase the administrative costs for ODHE to provide education programs for the board of trustees of each state institution and to conduct a feasibility study regarding the implementation of bachelor's degree programs in the state that require three years to complete.

Detailed Analysis

Overview

The bill makes numerous changes to the laws governing higher education. These changes include: reducing, from nine years to six years, the length of terms of office for state university board of trustee members who are appointed on or after July 1, 2024, authorizing certain individuals to submit complaints to the Office of the Attorney General for violations of certain qualified endowment agreements with state institutions of higher education or their foundations, and new requirements for state institutions regarding diversity, equity, and inclusion (DEI) policies and training, intellectual diversity, and faculty evaluations. The bill requires each state institution to: (1) prepare and submit to the Chancellor of Higher Education, prior to each operating and capital appropriations bill, a rolling five-year summary of its institutional costs according to guidelines established by the Chancellor, (2) update and submit to the Chancellor at least once every five years, its faculty workload policy, (3) conduct an annual evaluation for each full-time faculty member it directly compensates, (4) adopt and develop policies on post-tenure review and tenure and retrenchment, respectively,¹ (5) develop and implement a three credit hour American government or history course requirement for certain students beginning with students who graduate in the spring of 2029, and (6) submit and post on its website various reports required by the bill. Some of these provisions may marginally increase administrative costs for state institutions, while others will increase administrative costs more substantially. When taken as a whole, however, administrative costs may increase significantly, potentially resulting in the need to hire additional staff to handle the increased workload. The bill may also result in administrative cost savings. Additionally, some provisions may affect one sector type of state institution more than the other. The Ohio Department of Higher Education (ODHE) will also incur increased administrative costs for fulfilling several new responsibilities required under the bill. Provisions with the most notable fiscal effects are discussed below. For more information on all of the provisions in the bill, please see the bill analysis.

¹ The bill prohibits collective bargaining with respect to a state institution's faculty workload policies, faculty performance evaluation systems, tenure and most retrenchment policies, and post-tenure review policies and requires them to prevail over any conflicting provision of a collective bargaining agreement entered into on or after the bill's effective date.

DEI-related provisions

Segregation prohibition

The bill requires state institutions of higher education to prohibit all policies explicitly designed to segregate faculty, staff, or students based on those individuals' race, ethnicity, religion, or sex in credit-earning classroom settings, formal orientation ceremonies, and formal graduation ceremonies. Each state institution must also establish a process to investigate and resolve alleged violations of this provision. Costs for state institutions to implement this provision will depend on the extent to which they are currently segregating students based upon these specified identities.

Prohibition on support and training for certain concepts

The bill prohibits state institutions from using race, ethnicity, religion, or sex to do either of the following in relation to faculty, staff, and students: (1) provide disparate treatment, or (2) provide any advantage, or disadvantage in admissions, hiring, promotion, tenuring, or workplace conditions. It also prohibits state institutions from providing or requiring training for any administrator, teacher, staff member, or employee that advocates or promotes certain listed concepts regarding race or sex and requires them to implement a range of disciplinary sanctions for any administrator, teacher, staff member, or employee who authorize or engage in a prohibited training. Similar to the provision above, each state institution must also establish a process to investigate and resolve alleged violations of this provision.

Administrative costs for state institutions will increase to adopt policies that align with this provision and, to the extent that these provisions diverge from current policy, to develop and provide retraining for faculty and staff. For example, according to the Ohio Association of Community Colleges (OACC), these provisions could lead to the re-opening and re-negotiating of collective bargaining agreements, which could result in significant cost increases. On the other hand, state institutions may experience a reduction in operating expenditures depending on how they decide to respond to these provisions. For example, to the extent that a state institution is currently funding anything that is based on the identities specified above, the state institution may decide to eliminate certain faculty and staff positions which may result in significant cost savings.

DEI and intellectual diversity

The bill requires state institutions to adopt and enforce a policy that requires the institution to prohibit, affirm and declare, or demonstrate a series of 13 prescribed requirements related to DEI, intellectual diversity, and other concepts. Some of these provisions require the state institution to prohibit any mandatory orientations or training courses regarding DEI;² affirm and declare that the institution will not encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express a given ideology, political stance, or view of a social policy; and to demonstrate intellectual diversity for course approval,

² The bill permits institutions to exempt orientations and courses that are required for compliance with state or federal law or regulations or professional licensure requirements, to obtain or retain accreditation, to secure grants or cooperative agreements, or that apply institutions' policies regarding employee or student discipline.

approval of courses to satisfy general education requirements, student course evaluations, common reading programs, annual reviews, strategic goals for each department, and student learning outcomes. Each state institution must also investigate and resolve any complaint against any administrator, faculty member, staff, or student who interferes with the intellectual diversity rights of another individual.

State institutions will incur costs to adopt and enforce this policy. According to OACC, costs may include additional compensation to faculty to redesign courses to ensure that each course is in compliance with these provisions, as the process of a course redesign is often detailed in collective bargaining agreements. Additionally, according to the Inter-University Council of Ohio (IUC), investigating and adjudicating violations of intellectual diversity rights may result in costs similar to addressing violations of Title IX, which varies by institution based on how many cases they have each year.

American government or history requirement

Beginning with students who graduate in the spring of 2029, the bill prohibits each state institution of higher education from granting a bachelor's degree to any student who has not completed a course with at least three credit hours in the subject area of American government or American history. The bill authorizes a state institution to exempt a student from this requirement if it determines the student has either completed at least three credit hours, or the equivalent, in a course in one of those subject areas or passed an ODHE-developed examination that assesses the student's competency in a list of specified documents and concepts. A state institution may incur additional costs to develop a course, if necessary, and to hire additional faculty to teach these courses if it does not currently offer enough courses in American government or American history to instruct every student. Any new costs may be offset somewhat by additional tuition revenue received from students enrolling in those courses and subsidy received from ODHE under the State Share of Instruction (SSI) formula for students who complete those courses.

Syllabus posting

The bill generally requires each state institution of higher education to make a syllabus for each undergraduate course it offers for college credit publicly available by doing one of the following: (1) ensuring that each instructor posts a course syllabus on a publicly accessible website, (2) posting a course syllabus for each course on its publicly accessible website, or (3) if the institution is a community college, posting a general syllabus for a course on its publicly available website. All institutions, no matter the method they select, must make a syllabus available no later than the first day of classes for the semester or academic term in which the course is offered. Some state institutions may already post a syllabus for each course on its website in a similar manner as prescribed by the bill. For these state institutions, there may be minimal administrative costs to meet the requirements of the bill. However, other state institutions may experience administrative costs likely exceeding minimal to make and post their course syllabi in the timeframe and manner prescribed by the bill. The bill exempts College Credit Plus Program courses delivered in a high school by a high school teacher from these requirements.

Faculty evaluations

The bill requires each state institution of higher education to establish written systems of faculty evaluations completed by students and peers that focus on teaching effectiveness and student learning and on the faculty member's professional development related to the faculty member's teaching responsibilities, respectively. The bill also requires each state institution to conduct an annual evaluation for each full-time faculty member it directly compensates that must meet a series of prescribed requirements. Each institution must review and update its policy every five years. Overall, administrative costs are likely to increase for state institutions, mostly dependent upon how close any evaluation system each state institution has in place is to meeting the bill's requirement. According to IUC and OACC, these costs could be significant, especially if it requires state institutions to create new evaluation systems from scratch or to renegotiate existing, or negotiate new, employment contracts or collective bargaining agreements.

Interactions with the government of China

The bill prohibits state institutions of higher education from accepting gifts, donations, or contributions from the government of China or any organization that the institution reasonably suspects is acting on its behalf. However, payments from Chinese citizens related to instructional fees, general fees, special fees, cost of instruction, or educational expenses or donations from the institution's alumni are expressly allowed, as are philanthropic or unrestricted grants so long as the state institution maintains sufficient structural safeguards to protect intellectual property and state and national security. State institutions are also prohibited from entering into a new or renewed academic partnership with an academic or research institution located in China unless the state institution notifies the Chancellor and maintains the same prescribed structural safeguards. The bill requires the Auditor of State to audit the safeguards implemented by a state institution under the course of a normal audit.

To the extent that a state institution is currently receiving gifts, donations, or contributions from the government of China or an organization that may be acting on behalf of the government of China, it will forego such revenue. A state institution also may forego revenue associated with an agreement between it and an academic or research institution located in China if it is unable to maintain sufficient structural safeguards.

ODHE administrative costs

The bill contains several provisions that will increase administrative costs for ODHE. Among the several ODHE-related requirements, the bill requires ODHE to do the following:

1. Develop and annually provide educational programs for the board of trustees of each state institution of higher education;
2. Prepare and report on several of the provisions in the bill, including a report that includes all state institutions' five-year institutional cost summaries and another one that relates to state institution compliance with the bill's syllabus posting requirements;
3. Conduct a feasibility study regarding the implementation of bachelor's degree programs in the state that require three years to complete;
4. Develop an examination that assesses a student's competence in a series of historical documents and concepts that a student may take and pass to be exempted from the American government or American history course requirement for graduation beginning

with students who graduate in spring of 2029. ODHE must also review and approve a plan submitted by each state institution offering such a course; and

5. Post on its website each policy or report that state institutions of higher education are required to submit under the bill.

Synopsis of Fiscal Effect Changes

- The substitute bill (I_135_0330-11) may increase or decrease the Senate-passed (previous) bill's administrative workload or costs for the Ohio Department of Higher Education (ODHE) and state institutions of higher education by (1) requiring each state institution to establish a process to investigate and resolve alleged violations of the prohibitions and requirements included in the diversity, equity, and inclusion-related provisions in the same or similar manner in which it currently handles violations of its free speech policy, (2) requiring state institutions, rather than ODHE as under the previous bill, to develop a course that meets the requirements for a course on American government or American history, (3) eliminating the requirement that the Chancellor approve any new or renewed academic partnership between a state institution and an academic or research institution located in China and, instead, requiring a state institution to notify the Chancellor of any new or renewed partnership, and (4) requiring ODHE to post on its website each policy or report that state institutions are required to submit under the bill.
- The substitute bill may accelerate the timing of certain costs for state institutions by removing the bill's delayed effective date of July 1, 2024, for provisions on faculty workload policies, student and faculty peer evaluations, annual faculty performance reviews, post-tenure reviews, and policies on tenure and retrenchment.
- The substitute bill may reduce the amount of revenue that a state institution may forego from the government of China or an organization that may be acting on behalf of the government of China, as it exempts any philanthropic or unrestricted grants received from China from the general prohibition on accepting gifts, donations, or contributions from China so long as the state institution maintains sufficient structural safeguards to protect intellectual property and state and national security.
- The substitute bill may decrease the previous bill's administrative workload for community colleges by permitting them to make and post on their websites a "general" syllabus, which does not contain specific information on the course's instructor. According to the Ohio Association of Community Colleges (OACC), faculty teaching contracts often start a day or two before the start of classes, so the previous bill's requirement to include each instructor's information in the syllabus may have created additional costs.