



# Ohio Legislative Service Commission

## Bill Analysis

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

**Reps.** Driehaus and Brenner, Henne, Kuhns, Fedor, Strahorn, Lepore-Hagan, Phillips, Patterson, Bishoff, Blessing, Reece, Curtin, Antonio, Ramos, R. Smith, Amstutz, Anielski, Baker, Barnes, Boyd, Butler, Celebrezze, Clyde, Craig, Derickson, Gerberry, Green, Grossman, Hackett, Hambley, Hayes, Howse, Huffman, G. Johnson, T. Johnson, Kunze, LaTourette, Leland, McClain, M. O'Brien, S. O'Brien, Perales, Rogers, Ruhl, Schaffer, Scherer, Sheehy, Slaby, Slesnick, K. Smith, Stinziano, Sykes, Terhar, Young, Rosenberger

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## BILL SUMMARY

### Community learning center process

- Authorizes school districts and community schools to transition any of their school buildings into a community learning center to participate in a coordinated, community-based effort with community partners to provide comprehensive educational, developmental, family, and health services to students, families, and community members.
- Requires a school district or community school that initiates the community learning center process for a building to hold public hearings and hold a vote among parents, guardians, teachers, and nonteaching employees on whether to initiate the process.
- Requires a district board or community school governing authority to create a school action team to conduct a performance audit of a community learning center building, review the building's needs with regard to current school restructuring provisions, and create and implement an improvement plan, subject to the approval of parents, guardians, teachers, and nonteaching employees, and the district board or school governing authority.

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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.

- Specifies that the bill's provisions regarding community learning centers prevail over any conflicting provisions of a collective bargaining agreement entered into on or after the bill's effective date.
- Requires a community learning center, prior to providing health services to a student, to obtain the written consent of the student's parent, guardian, or custodian, if the student is less than 18 years old, or the written consent of the student, if the student is at least 18 years old.
- Requires a community learning center and any employee, contractor, or volunteer of a community learning center to maintain, in accordance with all applicable state and federal laws, the confidentiality of patient-identifying information obtained in the course of providing health services.
- Specifies that it is not the intent of the bill to impact or otherwise limit any provisions of state law relating to parental consent for an abortion.

### **Academic distress commissions**

- Replaces the current structure and procedures for academic distress commissions with a new, more detailed system with specific, graduated consequences for prolonged under performance, including possible replacement of a school's principal or a majority of the school's teaching staff, reorganization of a district operated school as a community or STEM school, or permanent closure of a school.
- Requires an academic distress commission to appoint a chief executive officer (CEO), who has complete operational, managerial, and instructional control of the district.
- Qualifies students of a district subject to an academic distress commission for the Ed Choice scholarship.
- Requires reorganization of the board of education of a district that has been subject to an academic distress commission for four or more years and subjects that board to mayoral appointment rather than election.
- Requires a referendum on mayoral appointment of a board of education three years after the district is no longer subject to an academic distress commission.
- Suspends parts of collective bargaining agreements to varying degrees depending on how long a district has been subject to an academic distress commission and grants the chief executive officer power to limit, suspend, or alter contracts.

- Gives the CEO the authority to exempt employees of a conversion community school sponsored by a school district for which an academic distress commission has been established from future collective bargaining.

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## CONTENT AND OPERATION

### COMMUNITY LEARNING CENTERS PROCESS

#### Community learning centers

Beginning with the 2014-2015 school year, the bill authorizes a school district board of education or community school governing authority to initiate the transition of any school building under its control into a community learning center. A "community learning center" is defined under the bill as a school or community school that "participates in a coordinated, community-based effort with community partners to provide comprehensive educational, developmental, family, and health services to students, families, and community members during school hours and hours in which school is not in session."<sup>1</sup>

#### Public hearings

The bill prescribes several procedural steps for a district board or community school governing authority to follow to initiate the community learning center process. First, the board or governing authority must conduct a public information hearing at the subject school building to inform the community of the process and must ensure that information about the hearing is broadly distributed throughout the community. In regard to the hearing, the bill authorizes, but does not require, the board or governing authority to do the following:

- (1) Announce the meeting at least 45 days in advance at the school and on the district's or school's websites, using tools to ensure effective communication with individuals with disabilities;
- (2) Schedule the meeting for an evening or weekend time;
- (3) Provide interpretation services and written materials in all languages spoken by 5% or more of the students enrolled in the school;
- (4) Provide child care services for parents attending the meeting;
- (5) Provide parents, students, teachers, nonteaching employees, and community members with the opportunity to speak at the meeting; and

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<sup>1</sup> R.C. 3302.16(A)(1).



(6) Comply with provisions contained in the Public Records Law.<sup>2</sup>

On the other hand, both school district boards and community schools are subject to the Public Records Law and the Open Meetings Law; thus, any community learning center process initiated by the board or governing authority presumably must comply with those laws anyway.<sup>3</sup>

The district board or community school governing authority must conduct a follow-up hearing at least once annually until action is taken with regard to the community learning center process or until the building no longer meets the conditions that qualify it for the community learning center process.

To support the implementation of the community learning center process, the board or governing authority may enter into an agreement with any civic engagement organizations, community organizations, or employee organizations.

### **Public vote on community learning centers**

At least 45 days after the first public information hearing, the district board or community school governing authority must conduct an election by paper ballot to initiate the process for the building to become a community learning center. The bill restricts those who may vote in the election to (1) parents or guardians of students enrolled in the building, (2) parents or guardians of students who are otherwise entitled to attend school in the building but are enrolled in a different school operated by a joint vocational school district, and (3) teachers and nonteaching employees who are assigned to the building. The ballots must be distributed by mail and made available at the school building and on the building's website. The ballots also may be given directly to teachers and nonteaching employees and sent home with every student enrolled in the school.<sup>4</sup> The district board or community school governing authority must initiate the transition of the building to a community learning center transition, if at least 50% of parents or guardians and at least 50% of the teachers and nonteaching employees cast ballots and, of those ballots, at least 67% from each group are in favor of initiating the process.<sup>5</sup>

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<sup>2</sup> R.C. 3302.17(B).

<sup>3</sup> R.C. 121.22 and 149.43, neither in the bill.

<sup>4</sup> R.C. 3302.17(C).

<sup>5</sup> R.C. 3302.17(D).



## School action teams

If a community learning center process for a building is initiated, the district board or community school governing authority must create a school action team to be responsible for specified duties (see below), including conducting and completing, in consultation with community partners, a performance audit of the school and reviewing, with parental input, the needs of the school with regard to current law school restructuring provisions. (The bill defines a "community partner" as a provider to students, families, or community members of health care services, on-site resource coordinators, and any other services or programs determined appropriate by a school action team.<sup>6</sup>) The team must provide quarterly updates of its work in a public hearing.<sup>7</sup> A school action team must also do the following:

(1) Monitor and assist in the implementation of the community learning center improvement plan (see "**Improvement plans**," below), if adopted;

(2) Meet with candidates for the principal and other administrative positions and make recommendations to the district superintendent and board or community school governing authority;

(3) Advise on school budgets;

(4) Establish ongoing mechanisms that engage students, parents, and community members in the school;

(5) Continue to collect feedback and information from parents using an annual survey;

(6) Develop and approve a written parent involvement policy that outlines the role of parents and guardians in the school;

(7) Monitor school progress related to academic achievement; attendance, suspensions, and expulsions; graduation rates; and reclassifications disaggregated by major racial and ethnic groups, limited English proficient students, economically disadvantaged students, and students with disabilities;

(8) Receive regular updates from the principal on policy matters affecting the school and provide advice on such matters;

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<sup>6</sup> R.C. 3302.16(A)(2).

<sup>7</sup> R.C. 3302.17(E).

(9) Meet regularly with parents and community members to discuss policy matters affecting the school;<sup>8</sup> and

(10) Determine appropriate services or programs, including health care services, and on-site resource coordinators, that may be provided by a community partner to students, families, or community members.<sup>9</sup>

### **Improvement plans**

Upon completion of the performance audit and review of the building, the school action team must create a community learning center improvement plan that designates appropriate interventions. If a federally mandated school improvement planning process exists for the school, the school action team must coordinate its work with that plan. The school action team must approve an improvement plan by a majority vote.<sup>10</sup> Once the plan has been approved by the school action team, the team must submit the plan for approval to the parents or guardians and teachers and nonteaching employees. Ballots must be distributed and an election must be conducted in the same manner as required for the creation of a community learning center specified above.

If at least 30% of parents or guardians and at least 30% of the teachers and nonteaching employees cast ballots and, of those ballots, at least 50% from each group are in favor of the improvement plan, the school action team must submit the improvement plan for approval to the district board or community school governing authority.<sup>11</sup> The board or governing authority must evaluate the plan and determine whether to adopt the plan. The board or governing authority may adopt the plan in full or only portions of it. If the board or governing authority does not adopt the plan in full, it must provide a written explanation of why portions of the plan were rejected.<sup>12</sup>

### **School action team membership**

The bill specifies that a school action team consists of 12 members who must serve as voting members and who may not be compensated for their service. A term of office for a member of a school action team lasts for three years, and vacancies must be filled in the same manner as the original appointment. A school action team consists of the following:

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<sup>8</sup> R.C. 3302.18(C).

<sup>9</sup> R.C. 3302.16(A)(2).

<sup>10</sup> R.C. 3302.17(F).

<sup>11</sup> R.C. 3302.17(G).

<sup>12</sup> R.C. 3302.17(G)(2), second paragraph.

(1) Seven individuals, consisting of parents or guardians of students enrolled in the building and members of the community who are not teachers or nonteaching employees, as elected by their peers;

(2) Five teachers and nonteaching employees who are assigned to the building and are not parents or guardians of students enrolled in the building, as elected by their peers.<sup>13</sup>

The bill does not specify a method by which the elections noted above must be conducted, nor does it specify the procedures to follow in the event of a vote that results in a tie among members of the school action team.

### **Resource coordinator**

To assist the school action team, the bill requires the district board, community school governing authority, or community partner to select an individual to serve as the resource coordinator to assist in the development and coordination of programs and services for the community learning center. The resource coordinator is not a member of the school action team. The school action team must make recommendations to the district board, governing authority, or community partner on potential candidates for resource coordinator.

### **Department of Education duties**

The bill requires the Department of Education to adopt rules regarding the elections required for the community learning center process, to develop appropriate interventions for a community learning center improvement plan that may be used by a school action team, and to publish a menu of programs and services that may be offered by a community learning center. To publish this menu, the Department must solicit input from resource coordinators of existing community learning centers. The menu of programs and services must be posted on the Department's website.<sup>14</sup>

The bill also requires the Department to provide information regarding implementation of comprehensive community-based programs and supportive services, including the community learning center model, to the following categories of schools:

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<sup>13</sup> R.C. 3302.18(A)(1).

<sup>14</sup> R.C. 3302.17(H)(1).





(1) School buildings in improvement status under the federal "No Child Left Behind Act of 2001" or under an agreement between the Ohio Department of Education and the U.S. Secretary of Education;

(2) Secondary school buildings that are among the lowest achieving 15% of secondary schools statewide, as determined by the Department;

(3) Secondary school buildings with graduation rates of 60% or lower for three or more consecutive years; and

(4) School buildings determined by the Department to be persistently low-performing.<sup>15</sup>

Finally, the bill authorizes, but does not require, the Department to do the following:

(1) Provide assistance, facilitation, and training to a school action team in the conducting of the team's audit;

(2) Provide opportunities for members of school action teams from different schools to share school improvement strategies with parents, teachers, and other relevant stakeholders in higher performing schools; and

(3) Provide financial support in a school action team's planning process and create a grant program to assist in the implementation of a qualified community learning center plan.<sup>16</sup>

### **Collective bargaining provision**

The bill specifies that its provisions prevail over any conflicting provisions of a collective bargaining agreement entered into on or after the bill's effective date. However, the bill also authorizes the district board or community school governing authority and the teachers' labor organizations to negotiate additional factors to be considered in the adoption of a community learning center improvement plan.<sup>17</sup>

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<sup>15</sup> R.C. 3302.17(H)(2)(d).

<sup>16</sup> R.C. 3302.17(H)(2).

<sup>17</sup> R.C. 3302.17(I).

## **Consent and confidentiality regarding the provision of health services by a community learning center**

The bill requires that, prior to providing health services to a student, a community learning center must obtain the written consent of the student's parent, guardian, or custodian, if the student is less than 18 years old, or the written consent of the student, if the student is at least 18 years old.<sup>18</sup>

The bill also requires a community learning center and any employee, contractor, or volunteer of a community learning center to maintain, in accordance with all applicable state and federal laws, the confidentiality of patient-identifying information obtained in the course of providing health services.<sup>19</sup>

### **Intent language**

The bill specifies that it is not the intent of the bill to impact or otherwise limit any provisions of state law relating to parental consent for an abortion.<sup>20</sup>

## **ACADEMIC DISTRESS COMMISSIONS**

Current law provides for the appointment of an academic distress commission for a school district with a prescribed level of persistent low academic performance. The bill substantially revises the law regarding academic distress commissions. It revises the membership of a commission and gives each commission more of an advisory role in the improvement of a district's performance. Instead, the bill requires that each commission appoint a chief executive officer (CEO) who has full operational, managerial, and instructional control of the district. The bill creates progressive consequences for districts that remain subject to an academic distress commission, including possible changes to collective bargaining agreements and mayoral appointment of the district board of education.

### **Establishment of an academic distress commission**

The bill requires the Superintendent of Public Instruction to establish an academic distress commission for any school district that has received an overall grade of "F" on the state report card for three consecutive years. This is similar to current law that subjects a district to an academic distress commission, if it meets any combination of the following conditions for three or more consecutive school years: (1) the district

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<sup>18</sup> R.C. 3302.16(B).

<sup>19</sup> R.C. 3302.16(C).

<sup>20</sup> Section 3.



has been in a state of academic emergency (under the former school rating system) and failed to make adequate yearly progress, (2) the district has received for the 2012-2013 or 2013-2014 school years, a grade of "F" for the performance index score and a grade of "D" or "F" for the overall value-added progress dimension, and (3) the district has received an overall grade of "F."<sup>21</sup> The bill also continues to subject districts that were subject to an academic distress commission prior to the bill's effective date for at least four years.<sup>22</sup>

However, the bill continues to subject a school district with an academic distress commission established before the bill's effective date that is still in existence on that date, even if it would not be subject to one under the changes made by the bill to the academic distress commission law as it existed prior to the bill's effective date.<sup>23</sup>

### **Commission membership**

The number of members on a commission remains the same as current law, at five, but the bill makes a slight change in membership makeup. It requires three members to be appointed by the Superintendent of Public Instruction (as under current law), one teacher to be appointed by the president of the district board of education, and one member to be appointed by the mayor of the municipality in which the majority of the district is located.<sup>24</sup> Under current law, two residents of the districts are appointed by the district superintendent.

Appointments to the commission must be made within 30 days after the district is notified that it is subject to an academic distress commission. The state Superintendent must designate a chairperson, who is responsible for calling and conducting meetings and acting as a liaison between the commission and the chief executive officer.<sup>25</sup>

If a district already has an academic distress commission in place on the bill's effective date, that commission must be abolished and a new one must be appointed under the new provision.

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<sup>21</sup> R.C. 3302.10(A)(1).

<sup>22</sup> R.C. 3302.10(A)(2).

<sup>23</sup> Section 4.

<sup>24</sup> R.C. 3302.10(B).

<sup>25</sup> R.C. 3302.10(B).

## Duties and powers of the commission

Though the mission of the academic distress commission appears to remain the same, to help poorly performing districts improve the academic performance of its students, the bill changes the role of the commission from the direct actor to a more advisory role. Instead of the academic distress commission acting as the body that creates a plan for a failing district and that may appoint, reassign, and terminate contracts of administrators and administrative personnel and create a budget for a district, as under current law, the commission appoints a chief executive officer to execute the actions required under the bill. The commission must appoint a chief executive officer within 60 days after the state Superintendent has designated a chairperson for the commission.<sup>26</sup>

The bill also requires an academic distress commission, in consultation with the state Superintendent and the chief executive officer, to be responsible for expanding "high-quality" school choice options in the district. In doing so, the commission, in consultation with the state Superintendent, may create an entity to act as a "high-quality school accelerator" for schools not operated by the district. This accelerator must be an independent entity, over which the chief executive officer has no authority. The accelerator's role is to promote "high-quality" schools in the district, lead improvement efforts for underperforming schools not operated by the district, recruit "high-quality" sponsors for community school, attract new "high-quality" schools to the district, and increase the overall capacity of schools to deliver a "high-quality" education for students.<sup>27</sup>

### Chief executive officer

The bill requires an academic distress commission to appoint a CEO to make the decisions in improving a district's performance. The CEO must have high-level management experience in the public or private sector. The CEO must be paid by the Department of Education and has complete operational, managerial, and instructional control of the district. The bill allows the CEO to delegate specific powers or duties to the district board or district superintendent, but must do so in writing. Under the bill, the powers and duties of the CEO include, but are not limited to, the following:

- (1) Replacing school administrators and central office staff;
- (2) Assigning employees to schools and approving transfers;

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<sup>26</sup> R.C. 3302.10(C).

<sup>27</sup> R.C. 3302.10(D).



- (3) Hiring new employees;
- (4) Defining employee responsibilities and job descriptions;
- (5) Establishing employee compensation;
- (6) Allocating teacher class loads;
- (7) Conducting employee evaluations;
- (8) Making reductions in staff;
- (9) Setting the school calendar;
- (10) Creating a budget for the district;
- (11) Contracting for services for the district;
- (12) Modifying policies and procedures established by the district board;
- (13) Establishing grade configurations of schools;
- (14) Determining the school curriculum;
- (15) Selecting instructional materials and assessments;
- (16) Setting class sizes; and
- (17) Providing for staff professional development.<sup>28</sup>

### **Academic improvement plan**

The bill requires the CEO to create a plan to improve the academic performance of the district for which an academic distress commission has been established. In doing so, the CEO must convene a group of community stakeholders with which the CEO must consult in creating the plan. The CEO must convene the group of stakeholders within 30 days after the CEO's appointment. The purpose of the group is to develop expectations for academic improvement in the district and to assist the district in building relationships with organizations in the community that can provide needed services to students. The members of the group must include at least educators, civic and business leaders, and representatives of institutions of higher education and government service agencies. The bill also requires the CEO, within 90 days after the CEO's appointment, to convene a smaller group of community stakeholders for each

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<sup>28</sup> R.C. 3302.10(C)(1).

school operated by the district to develop expectations for academic improvement in that school. That smaller group must include teachers employed in the school and parents of students enrolled in that school.<sup>29</sup>

The improvement plan must establish clear, measurable goals for the district and for each school operated by the district, which must include the performance measures under the state report card.<sup>30</sup> In creating the plan, the CEO also must consider the availability of funding to ensure sustainability of the plan.

The CEO must submit the plan to the academic distress commission within 90 days after the CEO's appointment. Within 30 days after the submission of the plan, the commission must either approve the plan or suggest modifications to the plan to make it acceptable. If the commission suggests modifications, the CEO may revise the plan before resubmitting it. However, regardless of whether the CEO revises the plan or not, the CEO must resubmit a plan for which the commission suggests modifications within 15 days of such suggestions. The commission must approve the plan within 30 days after the plan is resubmitted, and the CEO then must implement it. It appears then, that the commission must approve a plan regardless of whether the CEO revises it based on the commission's recommendations or not.<sup>31</sup> The CEO must review the plan annually to determine if changes are needed. The CEO may modify the plan accordingly upon the approval of the modifications by the academic distress commission.<sup>32</sup>

### **Innovative education programs**

The bill authorizes the CEO to implement "innovative education programs" that do any of the following:

- (1) Address the physical and mental well-being of students and their families;
- (2) Provide mentoring;
- (3) Provide job resources;
- (4) Disseminate higher education information;
- (5) Offer recreational or cultural activities; and

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<sup>29</sup> R.C. 3302.10(E)(1).

<sup>30</sup> See R.C. 3302.03, not in the bill.

<sup>31</sup> R.C. 3302.10(E)(2).

<sup>32</sup> R.C. 3302.10(G)(1).



(6) Provide any other services that will contribute to a successful learning environment.

The CEO must establish a separate fund to support such programs into which the CEO must deposit any moneys appropriated by the General Assembly and over which the CEO has sole authority to disburse moneys. All disbursements must support the improvement plan.<sup>33</sup>

### **Collective bargaining**

The bill nullifies any part of a collective bargaining agreement in which a school district relinquishes one or more rights or responsibilities having to do with the management and direction of a district.<sup>34</sup> Under the bill, the CEO and the district board retain those duties until the academic distress commission ceases to exist and the district board agrees to relinquish those rights in a new collective bargaining agreement. This applies to all contracts entered into before, on, or after the bill's effective date.<sup>35</sup>

The bill does not require subjects reserved to the management and directions of the school district to be negotiated under collective bargaining or effects bargaining. Further, the bill exempts those subjects' effects on wages, hours, terms and continuation of employment, or the deletion of an existing provision of a collective bargaining agreement from collective bargaining or effects bargaining.<sup>36</sup>

In any year that a school district is subject to an academic distress commission, the CEO may limit, suspend, or alter any contract with an administrator that is entered into on or after the bill's effective date. However, the CEO may not reduce any salary or base hourly rate of pay or insurance benefits unless the reductions are part of a uniform plan that affects all district employees.<sup>37</sup> The bill provides for other powers granted to the CEO related to collective bargaining agreements which are discussed below in the year such powers are bestowed on the CEO.

Finally, the bill gives the CEO the authority to exempt employees of a conversion community school sponsored by a school district for which an academic distress

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<sup>33</sup> R.C. 3302.10(G)(2).

<sup>34</sup> See R.C. 4117.08(C), not in the bill.

<sup>35</sup> R.C. 3302.10(F).

<sup>36</sup> R.C. 3302.10(F).

<sup>37</sup> R.C. 3302.10(G)(4).

commission has been established from future collective bargaining. Under the bill, the CEO may submit to the district board and the State Employment Relations Board a statement requesting that the employees be removed from their collective bargaining units. If the CEO submits such a request, the employees remain subject to their current collective bargaining agreements until the agreements expire on their own terms. But once the agreements expire, the employees are no longer covered by the state Collective Bargaining Law.<sup>38</sup>

### **Ed Choice scholarships for the district's students**

The bill qualifies students entitled to attend any school district (other than the Cleveland municipal school district) that is subject to an academic distress commission, to the Educational Choice Scholarship Program. In order to qualify, the student must either (1) be enrolled in a school building operated by the resident district or in a community school or (2) be enrolling in any of grades K through 12 in the state for the first time and be at least five years old by January 1 of the school year for which a scholarship is sought.<sup>39</sup>

### **Failure to improve**

Each year a school district subject to an academic distress commission fails to improve, the bill expands the actions the CEO may take to aid in improving the academic performance of the school district and other consequences.

#### **End of year 1**

If the report card for the district has been issued for the first school year that the district is subject to an academic distress commission and the district does not receive an overall grade of "C" or higher, the CEO may reconstitute any school operated by the district. To do so, the CEO must present the academic distress commission with a plan that lists each school designated for reconstitution and explains how the CEO plans to reconstitute each school, which may include any of the following actions:

- (1) Change the mission of the school or the focus of its curriculum;
- (2) Replace the school's principal and/or administrative staff;
- (3) Replace a majority of the school's staff, including teaching and nonteaching employees;

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<sup>38</sup> R.C. 3314.102.

<sup>39</sup> R.C. 3302.10(G)(3), 3310.02, and 3310.03.



(4) Contract with a nonprofit or for-profit entity to manage the operations of the school. The contract may provide for the entity to supply all or some of the staff for the school.

(5) Reopen the school as a community school or a STEM (science, technology, engineering, and mathematics) school;

(6) Permanently close the school.

If the CEO plans to reconstitute a school by reopening it as a community or STEM school or permanently close a school, the commission must review the plan for that school and either approve or reject the plan by June 30 of the school year. If the commission approves the plan, the CEO must reconstitute the school as outlined in the plan. (Presumably, the CEO may do (1) through (4), above, without commission approval.)<sup>40</sup>

In addition, the CEO may reopen, in consultation with the chair of the commission, any collective bargaining agreement entered into, modified, renewed, or extended after the bill's effective date to renegotiate the terms of the agreement to reconstitute a school. The bill grants the CEO sole discretion to designate any provisions of a collective bargaining agreement as subject to reopening by providing written notice to the bargaining representative. Any provision that the CEO designates for reopening is subject to the Collective Bargaining Law. Any changes to the agreement take effect the following first day of July or another date agreed to by the parties.<sup>41</sup>

## **End of year 2**

If a school district remains subject to an academic distress commission after report cards have been issued for the second year, the CEO may do any of the actions listed in "**End of year 1.**"<sup>42</sup> In addition, the bill allows the CEO to limit, suspend, or alter any provision of a collective bargaining agreement entered into, modified, renewed, or extended on or after the bill's effective date to reconstitute a school. The CEO may not reduce any base hourly rate of pay. Further, the CEO may not reduce any insurance benefits. The bill exempts the CEO's decision to limit, suspend, or alter any provision of a collective bargaining agreement from the Collective Bargaining Law.<sup>43</sup>

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<sup>40</sup> R.C. 3302.10(H)(1).

<sup>41</sup> R.C. 3302.10(H)(2).

<sup>42</sup> R.C. 3302.10(I)(1).

<sup>43</sup> R.C. 3302.10(I)(2).



### **End of year 3**

If a school district remains subject to an academic distress commission after report cards have been issued for the third year, the CEO may do any of the actions listed in "**End of year 1**," and "**End of year 2**."<sup>44</sup> Further, the CEO may continue in effect a limitation, suspension, or alteration of a provision of collective bargaining agreement.<sup>45</sup>

### **End of year 4; mayoral appointment of district board**

If a school district remains subject to an academic distress commission after report cards have been issued for the fourth year, the CEO may do any of the actions listed in "**End of year 1**," "**End of year 2**," and "**End of year 3**."<sup>46</sup> Further, the bill requires that a new board of education be appointed for the district by the mayor of the municipality in which a majority of the territory of a school district subject to an academic distress commission is located. If no such municipality exists, the Superintendent of Public Instruction must select a mayor of a municipality in which the district has some territory to appoint members. The mayor must appoint a new five-member board of education on January 1 following the fourth year the district is subject to an academic distress commission. The mayor must select the members based on a slate of candidates nominated by a separate panel, described below. However, the CEO retains complete operational, managerial, and instructional control of the district until the CEO relinquishes that control once a district transitions out of being subject to an academic distress commission.<sup>47</sup>

Under the bill, the state Superintendent must convene a nominating panel not later than 30 days after the state report cards have been released for a district in the fourth year of an academic distress commission. The panel must consist of the following members:

- (1) Two persons appointed by the mayor, one of whom shall be a representative of the business community or an institution of higher education located in the district;
- (2) One principal employed by the district, who shall be selected by a vote of the district's principals conducted by the state Superintendent;

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<sup>44</sup> R.C. 3302.10(J)(1).

<sup>45</sup> R.C. 3302.10(J)(2).

<sup>46</sup> R.C. 3302.10(K)(1).

<sup>47</sup> R.C. 3302.11(B) and (C).

(3) One teacher appointed by the bargaining representative for teachers employed by the district;

(4) One parent of a student enrolled in the district appointed by the parent-teacher association, or a similar organization selected by the state Superintendent; and

(5) The chairperson of the academic distress commission established for the district and the CEO, until such time as the commission ceases to exist.<sup>48</sup>

The state Superintendent is a nonvoting member of the panel and must serve as the chairperson of the panel for the first two years of the panel's existence. After that time, the panel must select a chairperson from its membership. The panel will meet as necessary to make nominations at the call of the chairperson.<sup>49</sup>

Not later than 30 days upon convening, the panel must nominate a slate of at least 10 candidates for possible appointment to the district board. Candidates must be residents of the districts and hold no elected public office. At least two of the candidates must reside outside of the municipal corporation served by the mayor, if that municipal corporation does not contain all of the district's territory.<sup>50</sup>

The appointing mayor must select five members from the slate for appointment to the district board of education within 30 days of receiving the slate of candidates. Initial members of the board take office on the January 1 following appointment, and terms of office for initial members expire on June 30 following the referendum election required by the bill.<sup>51</sup>

### **Referendum**

The bill requires that a referendum election be held to approve mayoral appointment of the board of education at the general election held in the first even-numbered year occurring at least three years after the date on which the district's academic distress commission ceases to exist due to the district's improved academic performance. The question to be submitted to the voters is: "Shall the mayor continue to appoint the members of the board of education?"

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<sup>48</sup> R.C. 3302.11(D)(1).

<sup>49</sup> R.C. 3302.11(D)(2).

<sup>50</sup> R.C. 3302.11(E).

<sup>51</sup> R.C. 3302.11(F).

If the majority of electors approve mayoral appointment of the board of education, the mayor must appoint a new board of education on the immediately following July 1 from a slate of candidates from the nominating panel. Three of the members will be appointed to four-year terms, and two members will be appointed for two-year terms. Thereafter, terms of office will be for four years. The nominating panel must provide the mayor a slate of candidates that is twice the number to be appointed to the board, including two candidates who reside outside the municipal corporation served by the mayor if that municipal corporation does not contain all of the district's territory.<sup>52</sup>

If a majority of the electors disapprove mayoral appointment, a new board of education will be elected at the next general election of an odd-numbered year.<sup>53</sup>

The bill requires that a mayoral appointed district board membership include, at any given time, at least two members who have significant expertise in education, finance, or business management and at least one member who resides outside of the municipal corporation served by the mayor, if the municipal corporation does not contain all of the district's territory. Members must designate one of its members as chairperson, who has all the rights, authorities, and duties conferred upon the president of a board of education under law. The mayor may remove any member of the board with the advice and consent of the nominating panel.<sup>54</sup>

### **End of year 5 and subsequent years**

If a school district remains subject to an academic distress commission after report cards have been issued for the fifth year, or any subsequent year, the CEO may do any of the actions listed in "**End of year 1**," "**End of year 2**," "**End of year 3**," and "**End of year 4**."<sup>55</sup>

### **Transitioning out of academic distress commission control**

Once a school district receives an overall grade of "C" or higher on the state report card, it begins the transition period to move out of being subject to an academic distress commission. This period continues until the district has received an overall grade higher than "F" on the state report card for two consecutive school years. This does not include the year that initiates the transition. During the transition period, the

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<sup>52</sup> R.C. 3302.11(G)(2).

<sup>53</sup> R.C. 3302.11(G)(3).

<sup>54</sup> R.C. 3302.11(H).

<sup>55</sup> R.C. 3302.11(L).

CEO retains all powers granted by the bill and must work closely with the district board and district superintendent to increase their ability to resume control of the district and to sustain the district's academic improvement over time. The bill requires the CEO to relinquish all control of the district to the district board and superintendent upon completion of the transition and dissolves the academic distress commission.<sup>56</sup> The transition period ends at any time the district receives an overall grade of "F" and the district returns to full subjection to the academic distress commission.

### **Academic performance bonus**

Once a district has been subject to an academic distress commission for two or more consecutive school years, other public schools and nonpublic schools that enroll the district's students may be eligible for an academic performance bonus in each fiscal year for which the General Assembly appropriates funds for it. This bonus is intended to give students residing in the district access to a "high-quality" education by encouraging "high-quality" schools to enroll those students.<sup>57</sup>

### **Improvement coordinator**

Current law requires the Department of Education to establish a system of intensive, ongoing support for the improvement of school districts and school buildings, with priority given to low-performing schools and districts. The bill permits the system to include the appointment of an improvement coordinator to coordinate a low-performing district's improvement efforts and to build support among the community for those efforts.<sup>58</sup> However, under the bill, if an improvement coordinator was previously appointed for the district as a part of an improvement system, the bill terminates that position as a part of the new academic distress commission. The CEO may employ the person who served in that position or other staff to perform duties of functions previously performed by that coordinator.<sup>59</sup>

### **Grade equivalencies in lieu of overall report card grade**

In the event that the release of state report card overall letter grades for school districts is delayed beyond the report card issued for the 2015-2016 school year, the bill provides the Department of Education with equivalencies to use to determine if a

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<sup>56</sup> R.C. 3302.11(N)(1).

<sup>57</sup> R.C. 3302.10(M).

<sup>58</sup> R.C. 3302.04(A).

<sup>59</sup> R.C. 3302.10(C)(2).

district is subject to an academic distress commission. These equivalencies, as follows, are to be used until the Department is authorized to assign an overall grade:

(1) A combination of a "C" or higher for performance index and a "C" or higher for the overall value-added progress dimension grades are the equivalent of an overall grade of "C" or higher.

(2) A combination of an "F" for performance index and an "F" for the overall value-added progress dimension grades are the equivalent of an overall grade of "F."<sup>60</sup>

### **Miscellaneous provisions**

The bill exempts school districts subject to an academic distress commission that have had a majority of its schools reconstituted or closed from the requirement that all school districts maintain grades K through 12.<sup>61</sup>

An academic distress commission and the powers of the chief executive officer cease to exist if there are no longer any schools operated by the district<sup>62</sup> or once the district transitions through improved academic performance.

The bill states that the CEO, members of the academic distress commission, the Superintendent of Public Instruction, and any person authorized to act on behalf of any of those persons are not personally liable or subject to any suit, judgment, or claim for damages resulting from the exercise of or failure to exercise the powers, duties, and functions granted to them by the bill. However, those persons are subject to mandamus proceedings to compel performance of their duties.<sup>63</sup>

The bill requires all collective bargaining agreements entered into after the bill's effective date to incorporate the provisions enacted by the bill regarding academic distress commissions.<sup>64</sup> Further, the bill does not include academic distress commission provisions enacted by the bill in the safe harbor exemptions for schools and districts.<sup>65</sup>

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<sup>60</sup> Section 6.

<sup>61</sup> R.C. 3311.29(D).

<sup>62</sup> R.C. 3302.10(O).

<sup>63</sup> R.C. 3302.10(Q).

<sup>64</sup> R.C. 3302.10(P).

<sup>65</sup> R.C. 3302.036(B)(3).

Finally, the bill prohibits the state Superintendent from exempting a district from an academic distress commission by approving that district for an innovative education pilot program.<sup>66</sup>

## Recommendations regarding academic payment bonuses

The bill requires the state Superintendent to submit to the General Assembly recommendations, by January 15, 2016, regarding academic performance bonus payments to school districts, community schools, STEM schools, and chartered nonpublic schools as permitted by the bill. The recommendations must address the amount, a method for distributing bonus payments in conjunction with other payments to such schools (such as for open enrollment, EdChoice scholarships, and funding), and measures and expectations of academic accountability required for districts and schools to receive the bonus payment.<sup>67</sup>

## Background on academic distress commissions

An academic distress commission is directed to "assist the district for which it was established in improving the district's academic performance." In doing so, the commission may appoint, reassign, and terminate the contracts of district administrative personnel; contract with a private entity to perform school or district management functions; and establish a budget for the district and approve school district expenditures.

Under current law, the commission ceases to exist when the district, for two of the three prior school years, either (1) is rated in need of continuous improvement or better (under the former report card and rating system), or (2) receives a grade of "C" or better for both the performance index score and overall value-added progress dimension, unless the state Superintendent sooner determines that the district can perform adequately without the commission.

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## HISTORY

ACTION	DATE
Introduced	02-18-15
Reported, H. Education	05-06-15
Passed House (92-6)	05-19-15
Reported, S. Education	---

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<sup>66</sup> R.C. 3302.10(R); see 3302.07, not in the bill.

<sup>67</sup> Section 5.

