



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 2 of the 131st G.A.

**Date:** June 26, 2015

**Status:** As Passed by the Senate

**Sponsor:** Reps. Dovilla and Roegner

**Local Impact Statement Procedure Required:** No

**Contents:** Management and sponsorship of community schools

### State Fiscal Highlights

- The Department of Education and the State Board of Education are required to provide certain types of administrative review and reporting for community schools, which will result in minimal administrative costs.

### Local Fiscal Highlights

- The bill makes adjustments to contracts between community schools, sponsors, and governing authorities. It also increases the responsibility of community school sponsors to report on oversight of certain community school operations. The bill's requirements may result in minimal costs to community schools, their governing boards, and their sponsoring entities.

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## Detailed Fiscal Analysis

The bill modifies the laws governing the management and sponsorship of community schools. These modifications may affect the administrative burden of community schools and the Ohio Department of Education (ODE).

### Switching sponsors

The bill prohibits low-performing community schools, based on student growth measures and graduation rates of dropout prevention and recovery programs or the performance index and value-added progress dimension scores of all other community schools, from switching sponsors unless certain conditions are met, which include a public hearing conducted by ODE on the school's request for a new sponsor. Based on the report card for the 2013-2014 school year, there are 56 regular community schools and five drop out recovery community schools that qualify as low-performing under this provision. This provision may minimally increase ODE's administrative burden.

### Reporting requirements

The bill includes a number of reporting requirements for community schools and their sponsors. These requirements may increase the administrative burden of the schools and their sponsors, but will not increase costs substantially. The bill's reporting requirements for community schools include: an addendum to the school's contract with its sponsor detailing the school's facilities, including associated costs; monthly financial and enrollment records to be furnished to the sponsor, members of the governing board, and fiscal officer; policies and procedures for internal financial controls to be filed with the sponsor; criteria for early termination, notification procedures, and a stipulation of facilities and property ownership to be included in contracts with an operator; a report of students residing in a children's residential center to be submitted to ODE and the Auditor of State; attendance and participation policies to be available for public inspection; the name of each member of the school's governing authority to be posted on the school's website; the name and address of each member to be provided, upon request, to ODE and the sponsor; and annual verification that there are no findings for recovery against any member of the governing authority, community school employee, operator, or community school creator.

The bill's reporting requirements for ODE require the following information for each year since the 2001-2002 school year to be posted on its website: (1) the name of each community school that closed and reason for closure, (2) sponsor evaluation data, (3) designation of approval or denial for all sponsor applications, including all documentation used for determination, (4) sponsor ratings, and (5) a list of all sponsors that are prohibited from sponsoring new schools or that have sponsored a school that was or is subject to closure. ODE's administrative burden will increase minimally to comply with the bill's reporting requirements.

## **Governing authority members**

Under the bill, a person engaging in an act that would otherwise disqualify them from receiving a license to teach, being charged with or pleading guilty to theft in office, or not submitting to a criminal records check would be prohibited from serving as a member of a governing authority. The bill also prohibits employees of school districts or educational service centers (ESC), as well as school district board members from serving on the governing authority of any community school sponsored by that district or ESC, and likewise prohibits community school governing authority members from serving as a member of a school district board of education.

Additionally, the bill limits compensation per meeting to \$125 for members, rather than \$425 as under current law. However, it does provide for governing authority members to receive compensation for attendance at approved training programs, similar to school district board member compensation. The bill also requires governing authority members to annually file a disclosure statement that includes the names of any immediate relative or business associate employed by the sponsor or operator of the community school, school district or ESC in contract with the school, or vendor engaged in business with the school in the previous three years. Governing authority members will receive less compensation as a result of the bill, in addition to a minimal administrative burden.

### **Annual budget**

The bill also requires the governing authority of each community school to set an annual budget by October 31 of each year and include the costs of various components, including administrative costs, instructional services, and support services. Under the bill, governing authorities are prohibited from delegating that responsibility to any operator. This will also increase the administrative burden of the governing authority.

### **Sponsor oversight**

The bill requires the community school sponsor to provide monitoring, oversight, and technical assistance to each school. Specifically, this involves monitoring compliance with laws, evaluation of academic and fiscal performance, reporting on an annual basis the results of the sponsor evaluation to ODE and to the parents of enrolled students, providing technical assistance to the school to comply with applicable laws, taking steps to intervene and correct problems in the school's overall performance, and making a plan of action in the case of financial difficulties or early closure of a school. The bill also stipulates that payments made to sponsors only be used for the above purposes. Under current law, payments cannot exceed 3% of the total amount of payments received from the state for operating expenses.

Under the bill, community school sponsors are required to include certain information related to blended learning models in the contract with a governing authority of a school, if that school operates using a blended learning method. Sponsors are also required to communicate with the Auditor of State regarding audits and financial and enrollment records. The bill requires the Auditor to provide written notice

to the sponsor regarding any action taken against or upcoming audits of a community school. The above provisions may increase costs minimally for community school sponsors.

### **Sponsor evaluation system**

ODE is required, under the bill, to annually rate all sponsors with regards to school performance and compliance with applicable laws and rules. Additionally, ODE must rate every third year a sponsor's adherence to quality practices. Since ODE currently evaluates community schools based on adherence to these criteria and publishes reports annually, no additional costs are likely.

Community school sponsors with exemplary ratings, under the bill, may take advantage of certain incentives, which may result in some administrative cost savings. These incentives include: (1) contract extension (between the sponsor and governing authority), (2) exemption from preliminary agreement and execution deadline requirements, (3) exemption from the automatic contract expiration requirement, (4) exemption from limitation on the number of schools the entity may sponsor, (5) removal of territorial restrictions on sponsorship, and (6) additional incentives that ODE may offer.

Additionally, the bill establishes a new sponsor rating of "poor" and requires the revocation of sponsorship authority for a sponsor receiving that rating, subject to a hearing by an officer appointed by the Superintendent of Public Instruction. The number of sponsors this provision is likely to affect is unknown but may increase the administrative costs of the Office of School Sponsorship in the event that it assumes sponsorship of an affected school. The bill allows the Office to take over sponsorship for a school having a sponsor rated as "poor" and also exempts the Office from counting such a school for the purposes of the current limit on directly authorized community schools. The bill also prohibits a sponsor with an overall rating of "ineffective" from sponsoring any new or additional community schools.

### **Fiscal officers and attorneys**

The bill requires community school fiscal officers to be employed by or engaged under a contract with the governing authority of the community school, but also provides authorization for the governing authority to waive responsibility for employing or contracting with the designated fiscal officer, so long as the school's sponsor approves such a waiver. Current law already requires fiscal officers for all community schools; therefore, this provision will likely not cause any additional costs.

Under the bill, the Auditor of State must require the school's fiscal officer to execute a bond conditioned on the faithful performance of all official duties. In the event of a fiscal officer failing to perform their duties, the school's sponsor has the right of action to compel delivery of all financial and enrollment records and must, if necessary, seek recovery of any funds owed as a result of a finding for recovery against the fiscal officer. Fiscal officers not currently covered by a public officers' bond may experience an increase in costs related to obtaining it.

The bill also requires the governing authority of a community school to employ an attorney, independent from the school's sponsor or operator, for services related to the negotiation of the school's contract with the sponsor or operator. It also requires each contract between a sponsor and governing authority to contain a provision requiring, if the governing authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity to be independent from the operator. This may increase costs minimally for community schools.

### **Training on Public Records and Open Meetings Laws**

Governing authority members, as well as the designated fiscal officer, the chief administrative officer, and other school administrative employees or individuals performing administrative services under contract with the school's operator must complete an annual training on the Public Records and Open Meetings Laws. The three-hour training is offered through the Ohio Attorney General's Office throughout the year at various locations in Ohio at no cost.

### **School operators**

The bill eliminates a procedure in current law by which an operator may appeal when a community school notifies it of its intent to terminate or not renew the operator's contract. This may give the school more flexibility in determining how to operate the school and negotiate any contracts with operators.

The bill also requires an operator or management company that receives more than 20% of the gross annual revenues of a community school (rather than provides services to a community school that amounts to more than 20% of the gross annual revenues of the school) to provide a detailed accounting including the nature and costs of the goods and services it provides to the school, according to specified categories. Since this is similar to current law, the provision creates only a minimal increase in administrative burden.

### **Additional provisions affecting school sponsors**

The bill prohibits sponsors from selling goods or services to any community school they sponsor, with the exception of services or goods under contracts existing prior to the bill's effective date. This provision may decrease revenues for certain sponsors that provide goods and services to schools. Under the bill, school districts that sponsor a community school are permitted to sell goods or services to that school at no profit to the sponsor.

Sponsors of Internet or computer-based community schools are required to monitor and ensure compliance with online learning standards. Currently, there are 24 Internet or computer-based schools sponsored by 19 school districts, educational service centers (ESCs), and other entities. The bill's requirement creates a minimal additional administrative burden for the school sponsors.

## **Sponsor approval**

The bill requires that any ESCs that sponsor a community school receive approval and enter into an agreement with ODE regarding the manner in which the entity will conduct its business. It also subjects previously grandfathered sponsors to the same process, if that entity receives a sponsor rating below "effective" for two or more consecutive years. Agreements must contain parameters under which ODE can intervene or revoke sponsorship authority, provide for an annual evaluation process, and permit modification in instances of low academic progress or poor fiscal management. Additionally, the initial term of a sponsor's agreement with ODE is reduced under the bill from seven to five years. The bill also removes a provision in current law allowing a continuous one-year extension of a sponsor's agreement for sponsors that are not in the lowest 20% of sponsors statewide or are rated "exemplary" or "effective." It establishes a renewal process, up to 12 years, based on the academic performance of students and the sponsor's adherence to quality practices. These requirements minimally increase the administrative burden of both ODE and community schools to provide these approvals.

## **Civil immunity for sponsors**

Under the bill, the types of civil liability from which a sponsor or its officers, directors, or employees are exempt, is expanded to include harm allegedly rising from failure of the school to meet obligations of any contract or other obligation entered into on behalf of the community school and another party. The bill permits a sponsor who prevails in an action for a failure to meet contractual obligations, as described above, to recover reasonable fees and other expenses. The bill's provisions may increase costs for governing authorities members required to pay attorney's fees and other expenses in litigation.

## **Internet- or computer-based schools**

Under the bill, Internet- or computer-based community schools are required to do the following: (1) keep a record of each student's participation in learning opportunities on a daily basis, and make it available, upon request, to ODE and the Auditor of State, (2) conduct a student orientation course as a condition of enrollment, and (3) confer with a student's parents and teachers concerning the enrollment of a student whose academic performance declines. The bill's requirement creates a minimal additional administrative burden for these schools.

## **Attendance**

The bill requires school districts that file a truancy complaint with regard to a student who subsequently withdraws from a school district to proceed with the complaint, and specifies that the court's determination of truancy must follow the child if they later enroll in a community school. This provision has a negligible impact on the administrative burden of a community school.

## **Dropout recovery school committee**

The bill creates a committee consisting of members of the General Assembly, a business leader, designees from a community college and university, representatives from the Board of Regents and the Department of Education, and superintendents from a dropout recovery school, career-technical school, and "Big Eight" school district to make recommendations regarding the definition of "quality" for dropout recovery community schools and to study the efficacy of completion or competency-based funding structures for those schools. A report of recommendations must be submitted not later than six months after the effective date of the bill. This provision creates a negligible administrative burden for the institutions of appointed committee members.

## **Student counts**

For purposes of the student counts used for funding, the bill permits (rather than requires as under current law) a student in any of grades nine through twelve to be considered a full-time equivalent student if the student is enrolled in at least five units of instruction per school year. Depending on ODE's policies, this may affect school ADM for funding purposes.

## **Additional ODE requirements**

The bill requires that the State Board of Education make two recommendations to the General Assembly and Governor regarding community schools in which a majority of enrolled students are children with disabilities who receive special education and related services. The recommendations pertain to school performance standards and the feasibility of removal of the exemption from permanent closure. The recommendations, due by December 31, 2015, create a minimal administrative burden for ODE.

The bill requires that ODE develop and publish an annual report on operator performance of community schools in the state. ODE must also, beginning December 31, 2015, maintain records and information regarding all community school operators, post each operator contract on its website, and publish a directory of names. Additionally, ODE must provide guidance to Internet- or computer-based community schools for developing and delivering the orientation course required above.

## **Student academic progress study**

The bill requires ODE to conduct a study and evaluate the validity and usefulness of using the "similar students measure" to calculate student academic progress, and submit reports at the request of the State Board of Education or General Assembly. Beginning in the 2016-2017 school year, the bill requires ODE to use the "similar students measure" to produce a measure of student academic progress, in consultation with the State Board and standing committees of the House of Representatives and the Senate. The bill's requirements pose a minimal cost for ODE in studying the measure and implementing the findings.

## **Direct authorization**

The bill permits ODE to establish a guide and deadlines for application for direct authorization of community schools. The State Board is also required to adopt rules to establish criteria and deadlines for processing applications for direct authorization of community schools in an alliance municipal district (Cleveland) that require ODE to follow certain prescribed rules. ODE is prohibited from approving a direct authorization application for a community school or proposed community school in an alliance municipal district from an applicant that does not comply with rules adopted by the State Board of Education. The bill requires all direct authorization agreements to be for a period of time not to exceed two years and prohibits further renewals. The Department is permitted to approve up to 20 applications each school year, of which only five may be establishing new schools. ODE is required to annually publish on its website the criteria it uses to approve or deny an application. These provisions create a minimal administrative burden for ODE, but may lead to fewer schools receiving direct authorization, which will decrease ODE's expenditures.

## **Conversion school report card data**

The bill prohibits the Department from combining data from any conversion community school that a district sponsors if a majority of the students enrolled in the conversion community school are enrolled in a dropout prevention and recovery program that is operated by the school and instead requires the Department to include as an addendum to the district's report card the ratings and performance measures of that community school. This provision creates an additional minimal administrative burden for ODE. In FY 2014, 33 conversion community schools were granted waivers from rolling the academic accountability data into the authorizing district's report card.