



Ohio Legislative Service Commission

Merilee Newsham

Fiscal Note & Local Impact Statement

Bill: S.B. 148 of the 131st G.A.

Date: April 22, 2015

Status: As Introduced

Sponsor: Sens. Lehner and Sawyer

Local Impact Statement Procedure Required: No

Contents: Community school provisions

State Fiscal Highlights

- The bill appropriates \$200,000 in GRF funding each fiscal year for the Auditor of State to use to pay for fees associated with independent hearing officers performing a final audit of a closed community school.
- The bill creates a new facilities program that provides 50% of the cost of school facilities projects for certain eligible community schools. A similar program for STEM schools has provided \$4.3 million in state facilities funding for the Dayton Regional STEM School.
- The bill provides a new state payment for school districts that lease property to community schools under certain conditions. The payment is equal to 20% of the formula amount per student enrolled in the community school. In FY 2015, this would have been a per pupil payment of \$1,180.
- 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 increases in administrative costs.

Local Fiscal Highlights

- The bill provides a new state payment for school districts that lease property to community schools under certain conditions. The payment is equal to 20% of the formula amount per student enrolled in the community school. In FY 2015, this would have been a per pupil payment of \$1,180.
- The bill creates a new facilities program that provides 50% of the cost of school facilities projects for certain eligible community schools. A similar program for STEM schools has provided \$4.3 million in state facilities funding for the Dayton Regional STEM School.
- 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 increases in administrative costs to community schools, their governing boards, and their sponsoring entities.

Detailed Fiscal Analysis

The bill includes an appropriation of \$200,000 per year for the Auditor of State. It creates a new facilities program for certain community schools, whereby the state may contribute 50% of the facilities costs. It also creates a new state payment for school districts that lease property to community schools. Finally, the bill modifies the laws governing the management and sponsorship of community schools. These modifications may affect the administrative burden of community schools, the Ohio Department of Education (ODE), and the School Facilities Commission (SFC).

Final audits

A General Revenue Fund appropriation item 070XXX, Hearing Officers – Community Schools, is appropriated \$200,000 in both FY 2016 and FY 2017 from the Auditor of State's budget in the bill. Expenditures are designated to pay fees associated with final audits conducted by independent hearing officers who perform final audits for closed community schools.

Classroom facilities assistance program

The bill creates the community school classroom facilities assistance program, which provides up to 50% of the basic project cost to "eligible community schools" for classroom facilities projects, to be administered by the SFC using amounts appropriated for classroom facilities assistance projects. Current law provides for a similar program for STEM schools that are not governed by a single school district. Under this program, Dayton Regional STEM School received state funding of \$4.3 million for a facilities project. The bill specifies that funding for the program is to be appropriated from Fund 7017 capital appropriation item C23014, Classroom Facilities Assistance Program - Lottery Profits.

The bill defines "eligible community school" as a community school that satisfies the following requirements:

1. The school has not been designated for automatic closure;
2. The school has been open and operational for three school years immediately preceding the school year for which the school submits an application for facilities funding;
3. The school has received a grade of "A," "B," or "C" in performance index or has increased its performance index score in each of the previous three years;
4. The school has received a grade of "A" or "B" for the overall value-added progress dimension in each of the previous three years;

5. For a school that serves grades 9-12, the school received a grade of "A" or "B" for the four-year graduation rate for any of the previous three years of operation.

Based on the most recent performance data available, approximately 35 community schools may be eligible for this funding. The bill also permits a newly established community school to be eligible for assistance under this program if it is implementing a community school model that has a track record of high quality academic performance, as determined by ODE.

The bill requires SFC to adopt rules and guidelines for program implementation and the State Board to adopt rules establishing standards for high quality community school models for new community schools, increasing the administrative burden for both entities.

Lease agreement

Under the bill, school districts may lease a portion of any real property to a high-performing community school, as defined in the bill, not to exceed \$10 per square foot. Under this provision, ODE must pay to the school district an amount equal to 20% of the formula amount for each full-time student attending the community school in the leased facility. In FY 2015, the formula amount is \$5,800, so in that year the per pupil payment would have been \$1,160. Under H.B. 64 as Reported by House Finance Committee, the formula amount is \$5,900 in FY 2016 and \$6,000 in FY 2017, which would result in per pupil payments under this provision of \$1,180 in FY 2016 and \$1,200 in FY 2017. Qualifying school districts that take advantage of this provision will experience an increase in revenue by an amount dependent on the number of students in the community school, as well as the size of property leased to the high-performing school. Based on FY 2014 data, 94 community and dropout recovery schools meet the definition of a high-performing community school under this provision.

Administrative requirements with potential costs

Sponsor approval

The bill requires that sponsors receive approval and a written agreement from ODE prior to entering into a preliminary agreement or renewing an existing contract to sponsor a community school. It also subjects previously grandfathered sponsors to the same process. 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.

Switching sponsors

The bill requires that certain low-performing community schools that have had more than one sponsor in the previous five years receive prior approval from ODE before switching sponsors. Based on the report card for the 2013-2014 school year, there are 56 regular community schools and five dropout recovery community schools that qualify as low performing under this provision. This provision may minimally increase ODE's administrative burden to provide these approvals.

Sponsor contracts

The bill makes several changes regarding the contract between a sponsor and the governing authority of a community school. Specifically, the following is required in a contract: (1) performance standards, including but not limited to all applicable report card measures, (2) a detailed description of the school's facilities in an addendum to the contract that includes leasing costs, mortgage and interest payments, and the name and relationship of a lender to the operator, and (3) a provision requiring the independence from the operator for any contracted attorney, accountant, or entity specializing in audits.

The bill also specifies that no provision in law prohibit the sponsor from exercising its option not to renew a contract for any reason or from terminating a contract prior to its expiration for any reason permitted under law. Sponsors of community schools may experience an increase in administrative burden to meet these 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. 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 educational service centers (ESCs) 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.

Fiscal officers and attorneys

The bill requires community school fiscal officers to be employed by the governing authority of the community school, but also provides authorization for the governing authority to waive responsibility for employing the designated fiscal officer, so long as the school's sponsor approves such a waiver. In that case, the bill requires the fiscal officer to annually meet with the governing authority to review the school's financial status. 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.

Sponsor oversight and monitoring

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, 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. Under the bill, sponsors are required to communicate with the Auditor of State regarding audits and financial and enrollment records. The bill also stipulates that payments made to sponsors only be used for the above purposes and cannot exceed 3% of the total amount of payments received from the state for operating expenses. This may increase costs minimally for community school sponsors.

Sponsor sales to schools

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.

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.

Operator oversight and evaluation

The bill requires ODE to do the following regarding community school operator information and evaluation: (1) maintain records regarding all operators and post each operator name and identifying information on its website, (2) receive a copy of the contract between the governing authority and its operator, (3) monitor and evaluate the effectiveness of all operators, (4) develop and implement an evaluation system for operators based on academic performance of students, and (5) annually rank operators from highest to lowest using scores from the evaluation system and publish results each year. ODE is likely to experience an increase in costs to implement a new evaluation system and a negligible increase in the administrative burden for the other requirements regarding operator oversight.

Operator contracts

Under the bill, community school operators are prohibited from leasing real property to the community school for an amount exceeding 5% above the fair market rental value. The bill also requires sponsors to verify the leasing agreement. Additionally, operator accounting reports must comply with standards set forth in the requirements of the Governmental Accounting Standards Board. These provisions may minimally decrease revenue for operators.

Operator contracts and appeal procedures

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.

Internet- or computer-based community schools

Sponsors of Internet- or computer-based community schools are required to monitor and ensure compliance with online learning standards and report any failure to comply with these standards to ODE. Internet- or computer-based community schools are also required to do the following: (1) keep a record of the number of hours spent in learning opportunities, per pupil, and report data monthly to ODE, (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. Currently, there are 24 Internet- or computer-based schools sponsored by 19 school districts, ESCs, and other entities. The bill's requirement creates a minimal additional administrative burden for the school sponsors.

Conversion school report card data

The exemption from combining the performance data of a conversion community school that primarily serves dropout students sponsored by a district with a school district's state report card data is removed under the bill. In FY 2014, 33 conversion community schools were granted waivers from rolling the academic accountability data into the authorizing district's report card. Authorizing district report cards may be impacted by this provision, depending on conversion school and school district academic performance results.

Direct authorization

The bill changes current law provisions regarding direct authorization and requires all new or renewed agreements to be for a term of not more than two years and prohibits further renewals. ODE's Office of School Sponsorship serves as the authorizer for 21 community schools in the current school year. The bill's provision will reduce administrative costs of the Office.

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: annual results of the sponsor evaluation be given to ODE and to parents of students; 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; 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.

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.

Mergers and consolidation

Under the bill, community schools that merge or consolidate into a single public benefit corporation are exempt from the requirement to distribute assets as if it were a permanently closed community school, as long as the school enters into contract with a sponsor rated as "exemplary." Community schools taking advantage of this exemption are likely to experience a reduction in expenditures.

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. Additionally, the bill removes requirements for the adoption of an attendance policy automatically withdrawing a student in certain circumstances and instead requires the community school to comply with all attendance requirements established by the State Board of Education. These provisions have 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 and career-technical school 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.