



OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 181 of the 132nd G.A.

Status: As Introduced

Sponsor: Reps. Hood and Brinkman

Local Impact Statement Procedure Required: Yes

Subject: Makes changes to a variety of education laws, including state assessments and academic content standards

State Fiscal Highlights

- The bill requires, beginning in FY 2019, new "norm-referenced" state achievement tests selected through a prescribed process involving various entities that will identify, review, recommend, and approve the tests. The overall cost of administering the new tests is uncertain, as it will depend on the proposals received from testing companies and negotiations with the selected vendor based on factors such as testing volume and scoring, reporting, and training needs. State assessment system costs are primarily funded through the GRF.
- The bill eliminates the statewide administration of the ACT or SAT that is part of the current high school testing system, reducing GRF expenditures by up to \$5.3 million annually beginning in FY 2019. It also eliminates, beginning with the 2017-2018 school year, the fall administration of the third grade English language arts (ELA) test, which may decrease GRF expenditures by \$2.4 million annually.
- The bill's elimination of the Ohio Teacher Evaluation System (OTES) and the Ohio Principal Evaluation System (OPES) and related guidelines and requirements for all but municipal school districts (i.e., Cleveland) will result in a reduction in GRF expenditures of around \$2.2 million each year.
- The bill appears to lead to the replacement of the state's current academic content standards with new standards that are aligned to the norm-referenced achievement tests described above and modifies the process by which the standards are adopted.
- In doing so, the bill creates the Legislative Office of Education Oversight (LOEO) to serve as a resource on education issues for the General Assembly and to evaluate and propose academic content standards. Given that the proposed system differs significantly from the current process used to develop the standards, the overall operating costs of LOEO are uncertain. Nevertheless, the amount of work could be substantial, though it will ultimately depend on the tests identified through the request for proposals process contemplated by the bill.

Local Fiscal Highlights

- Changes in state standards and assessments may result in increased district and school spending on lesson plans, instructional materials, and professional development. Any such costs will depend in part upon how much the revised standards vary from the current standards and on implementation decisions made by districts and schools.
- Under the bill, each of the students in the lowest 20% of achievement on the third grade ELA assessment will be retained under the third grade reading guarantee unless, as under continuing law, a student in that group demonstrates an acceptable level of performance on an alternative assessment. While additional students may be subject to retention, more students may opt to take the district-paid alternative assessments to qualify for promotion. As a result, the cost for districts to offer these tests, which are optional for districts to administer, may increase.
- The bill eliminates OTES and OPES and the guidelines and requirements related to those systems and requires public districts and schools to establish local teacher and administrator evaluation policies. The fiscal effect of this provision will depend on how these entities react to the flexibility provided by the bill. Some schools may experience administrative savings. However, eliminating the statewide system also may result in an increase in public district and school expenditures to establish their own internal systems to document and track evaluations.
- Under the bill's extension of safe harbor provisions through the 2018-2019 school year, districts and schools would not bear the expense of potentially costly sanctions or penalties to which they may otherwise have been subject.

Detailed Fiscal Analysis

Overview

The bill makes changes to a variety of education laws. Among other provisions, the bill requires new state elementary and high school achievement assessments that are "norm-referenced" beginning in the 2018-2019 school year, makes changes with respect to the state's academic content standards and the procedures by which they are adopted, generally eliminates state guidelines and requirements with respect to teacher and administrator evaluations and instead requires a district or school to conduct its own evaluations according to locally developed policies, and extends safe harbor provisions that prevent districts and schools from beginning to be subject to state sanctions for poor academic performance. Provisions in the bill with notable fiscal effects are discussed below.

Provisions related to assessments

Selection of new "norm-referenced" elementary and high school assessments

The bill makes a number of changes to the elementary and high school state achievement assessment system. Among them, the bill replaces the state's current assessments beginning in the 2018-2019 school year with "norm-referenced" assessments selected through a specified process involving a number of state entities. Current state tests gauge student achievement against a certain set of expectations or criteria, i.e., the state's academic content standards. In contrast, norm-referenced tests are designed to rank students relative to their performance within a peer group. That is, norm-referenced assessments are not necessarily linked to academic content standards. Accordingly, the bill assigns percentiles to each of the five score levels (ranging from "limited" to "advanced") currently used to describe performance on the elementary achievement assessments. For example, the highest score level, "advanced," will consist of the 81st through 100th percentile while the lowest score level, "limited," will consist of the first through the 20th percentile.

Selection process

The bill prescribes a system under which several entities identify, review, recommend, and approve the state achievement assessments that will be used. The bill's prescribed process includes the Ohio Department of Education (ODE), the State Board of Education, and the Joint Education Oversight Committee (JEOC). The bill will increase the administrative workload of these entities to carry out the process prescribed by the bill and described below. The bill also establishes the Legislative Office of Education Oversight (LOEO) to carry out certain functions with respect to standards and assessments. Fiscal effects associated with LOEO are discussed separately below.

Request for proposals. The bill requires ODE to issue a request for proposals (RFP) within 30 days after the bill's effective date to provide the elementary and high school achievement assessments and requires that ODE consider only elementary assessments that were developed prior to 2010 and that have specific attributes, which include validity, reliability, percentile scores, identified stanine ranges, and useful diagnostic information when reviewing the elementary assessments. When reviewing the high school assessments, the bill requires that preference be given to nationally norm-referenced assessments and assessments that were developed prior to 2010. The bill also requires ODE to solicit input from teachers and administrators when reviewing proposals in conducting its RFP and prohibits consortia, subsidiary of multistate consortia, or affiliates acting on behalf of multistate consortia from submitting a proposal.

Evaluation of academic content standards, recommendations, and approval. Next, the bill requires ODE to submit the proposals that meet the bill's conditions to JEOC and LOEO. Under the bill, LOEO will evaluate the academic content standards aligned to the assessments that are submitted by ODE and present its findings to JEOC.

Using these findings, the bill requires JEOC to submit to the State Board its recommended assessments. The State Board must select assessments from the list provided by JEOC. No assessment can be adopted by the State Board until the assessments are approved via concurrent resolution by both houses of the General Assembly. The entity that ultimately provides the state achievement assessments must ensure that the assessments are aligned with the statewide academic content standards.

The overall cost of administering the new achievement assessments under the bill is uncertain, as it will depend on the proposals from the testing companies responding to the RFP and negotiations with the entity selected to provide the tests based on factors such as testing volume and scoring, reporting, and training needs. The cost will also be influenced by other changes the bill makes to that system, which are discussed below. State assessment system costs are primarily funded through GRF line item 200437, Student Assessment. In FY 2017, the amount appropriated to this line item is about \$60 million. Federal funds also provide some support for state assessments, at about \$10.3 million.

High school assessment system

Current law requires high school students to take a nationally standardized assessment that measures college and career readiness (either the ACT or the SAT) in their junior year and seven end-of-course exams in English language arts (ELA) I, ELA II, science, Algebra I, geometry, American history, and American government. The bill replaces the current statewide testing system with a series of nationally norm-referenced, standardized assessments in the areas of ELA, mathematics, science, American history, and American government for use beginning with the 2018-2019 school year. Based on the amount budgeted for the statewide administration of the ACT or SAT in FY 2017, the bill's elimination of that administration will reduce GRF expenditures by about \$5.3 million each fiscal year starting in FY 2019. Apart from eliminating the statewide administration of the ACT or SAT, there may be fewer high school assessments to administer under the bill. If so, the state's cost in administering those high school assessments may decrease, though any fiscal effect would depend on the outcome of the new assessment selection process described above.

Elimination of the fall administration of the third grade ELA assessment

The bill eliminates, beginning with the 2017-2018 school year, the fall administration of the third grade ELA assessment, and instead requires only the spring administration of that assessment. According to ODE estimates of the cost to develop additional questions for and administer the fall third grade ELA assessment in FY 2017, GRF expenditures may decrease by approximately \$2.4 million each fiscal year starting in FY 2018 as a result of this provision.

Other assessment-related provisions

Third grade reading guarantee

Current law generally requires a student to be retained in the third grade if the student scores at either the "basic" or "limited" levels on the third grade ELA assessment. The bill, instead, requires a student to be retained if the student receives a score that is in the 20th percentile or lower, corresponding to the lowest ("limited") score level. However, the bill also qualifies the parent of a student who receives the next highest score level of "basic" to choose to have the student retained and receive remediation services.

While the bill lowers the score level required for retention, it may increase the number of students subject to retention. Under the bill, each of the students in the lowest 20% of achievement on the third grade ELA assessment will be retained unless, as under continuing law, a student in that group demonstrates an acceptable level of performance on an alternative standardized reading assessment. In contrast, 6.6% of third graders were retained in the 2015-2016 school year. Specifically, ODE reports that 93.4% of third grade students subject to the third grade reading promotion threshold met that threshold in the 2015-2016 school year, including 8.3% that met a comparable minimum score on an alternative assessment. As a result, additional students may take an alternative assessment to qualify for promotion. School district expenditures may increase as a result, as districts pay the cost of these tests, though they are optional to administer. The bill continues to require school districts to provide intervention services to students in grades K-3 reading below grade level, including those retained in the third grade.

Release of test questions

The bill eliminates the requirement for ODE to make the questions on state high school assessments a public record. As a result, there will be a decrease in state assessment system costs from having to develop or purchase fewer test questions to replace those released as public records.

Excusal from tests for special education students

The bill revises a provision regarding excusal from state assessments for students receiving special education services and for whom an individualized education program (IEP) has been developed. Under continuing law, an IEP may excuse a student from taking any particular assessment otherwise required to be administered if it instead specifies an alternate assessment method approved by ODE as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. However, current law specifies that, to the extent possible, a student's IEP does not excuse the student from taking a state assessment unless no reasonable accommodation can be made to enable the student to take the assessment. In contrast, the bill revises this provision to state that, to the extent possible, the student's IEP must provide the student with an opportunity to take an assessment that is determined to approximate the student's grade level capacity, with reasonable accommodations.

It is unclear how this provision may comport with a recent change in federal law. According to the U.S. Department of Education, the federal Every Student Succeeds Act generally limits the number of students who may take an alternative assessment to 1% of all tested students in a given subject on a statewide basis. There is no cap on individual schools or districts, though schools and districts must justify the need to surpass the 1% cap locally. Under prior federal law, there was no limit on the number of students with disabilities that could take an alternative assessment, though a state was only permitted to count as proficient for federal accountability purposes up to 1% of the students taking such an assessment.

Equivalent tests for e-school students that missed a state achievement test

The bill requires an e-school student who does not take a state achievement assessment for any reason, to take an assessment equivalent to the assessment for which the student was absent. Each e-school must report to ODE (1) which assessment a student did not take, (2) proof that the student took an equivalent assessment, and (3) the results of that equivalent assessment. The bill does not indicate what assessments qualify as "equivalent" assessments. Nevertheless, e-school expenditures would increase if the e-school was made responsible for the costs of the equivalent assessment. An e-school's administrative workload would also increase to report the required information to ODE.

Provisions related to academic content standards and model curricula

Academic content standards describe what students should know and be able to do in each grade level. It appears that the bill's provisions that (1) replace the state's current assessments with norm-referenced assessments beginning in the 2018-2019 school year and (2) require the assessments to be aligned with standards will lead to the replacement of the state's current academic content standards. In addition, the bill revises the process by which state academic content standards are adopted and become effective. Under current law, the State Board of Education adopts standards for grades K-12 in ELA, mathematics, science, and social studies. Under the bill, new or revised standards are no longer effective simply by decision of the State Board. New or revised standards may be proposed by the State Board or LOEO but, in either case, are effective only if approved by both houses of the General Assembly by concurrent resolution. The bill requires that standards proposed by LOEO be based on general content areas, aligned with norm-referenced assessments that were developed prior to 2010, and are not based on specific course subject areas. In addition, the State Board is specifically prohibited from adopting content standards that are developed at the national level or by a multistate consortium.

Prior to a vote on a concurrent resolution, the House and Senate education committees must conduct at least one public hearing on the proposed standards. Standards proposed by the State Board must be approved or rejected by the General Assembly within 30 days of the proposal while standards proposed by LOEO must be either approved or rejected within 210 days after the standards are proposed.

Legislative Office of Education Oversight

As described above, the bill creates LOEO and requires the office to (1) serve as a resource on education issues for the members of the General Assembly and (2) propose for adoption by the General Assembly revised academic content standards for each of grades K-12 in ELA, mathematics, science, and social studies that are aligned with nationally norm-referenced assessments that were developed prior to 2010. In addition, when new state achievement assessments are solicited from vendors by ODE, LOEO will evaluate the academic content standards aligned to those assessments before making recommendations for adoption of the assessments.

The proposed system differs from the current process used to develop academic content standards, which often involves lengthy periods of review and revision by content experts and educator writing teams. It also differs with respect to the basis on which performance on state achievement tests is currently evaluated, as described above. Since norm-referenced assessments are not necessarily linked to academic content standards, it is unclear how much work the process of evaluating or proposing any standards used in the norm-referenced assessments offered by vendors would entail for LOEO. The work could involve converting the content of and performance of students on norm-referenced assessment questions into expectations for student learning, which could be a substantial undertaking. The work and number of staff necessary will ultimately depend on the tests identified through the RFP process outlined above. Therefore, LSC is uncertain of the overall number of employees that would be necessary for LOEO to carry out its responsibilities.

LSC will appoint and fix the compensation of a director of LOEO and such other employees and services necessary to carry out the powers and duties of the office. Based on the experiences of the Joint Education Oversight and Joint Medicaid Oversight committees, the payroll cost (including both salary and fringe benefits) for the Executive Director of LOEO likely ranges from \$125,000 to \$150,000 per year. According to the classification of most positions used by ODE in its standards and assessments office, the payroll cost for an individual who may be hired by LOEO likely ranges from \$70,000 to \$100,000.

Department of Education

In addition to any costs incurred to establish and operate LOEO, the bill may also affect ODE's costs regarding the development and communication of standards. For example, standards-related costs for ODE may decrease if LOEO takes the lead role in developing the state's standards moving forward. On the other hand, new standards may result in several additional administrative duties for ODE, including stakeholder review meetings to introduce the standards to the field and a reworking of all materials on the ODE website to share the new standards. The bill removes the requirement for the State Board to adopt model curricula and further prohibits the State Board from adopting any model curricula for any of the new standards, which may provide ODE some additional savings. Revised academic content standards may also require review

and revision of Ohio's early learning standards and the Ohio Department of Higher Education's remediation-free standards. In FY 2017, about \$3.9 million in GRF funding is specifically appropriated to ODE in line item 200427, Academic Standards, for developing, revising, and communicating academic content standards and curriculum models to school districts, and for developing professional development programs and other tools on content standards and model curricula.

Local fiscal effects

In response to any future changes in state standards and assessments, school districts and community schools may change curricula, lesson plans, and professional development to implement any new standards and assessments that the General Assembly approves under the bill. School districts and community schools may also need to purchase new instructional materials aligned to the new standards and assessments. Costs in these areas are generally regarded as a cost of doing business and are routinely funded in school district budgets. It may be possible for schools to redirect current funds budgeted for curriculum, instructional materials, professional development, and so on under the current standards to implement the standards approved by the General Assembly. Nevertheless, it is also possible that schools will incur new monetary costs and additional staff time to realign their curricula and teaching strategies to the revised standards. These costs will depend in part upon how much the revised standards vary from the current standards and on implementation decisions made by districts and schools.

Teacher and principal evaluations

The bill eliminates the Ohio Teacher Evaluation System (OTES) and the Ohio Principal Evaluation System (OPES) and the guidelines and requirements related to those systems for all but municipal school districts (i.e., Cleveland) and requires a district or school to conduct its own evaluations of its teachers and administrators according to its own policies.¹ In addition, the bill permits a teacher to appeal the result of the evaluation to the educational service center (ESC) with which the district has an agreement, the ESC of an adjacent district, or an ESC selected by the teacher if the teacher's district does not have an agreement with an ESC.

The bill appears to eliminate the state's expenditures associated with teacher and principal evaluation systems. Currently, these expenses amount to about \$2.2 million per year, paid through an earmark of about \$1.0 million per year in GRF line item 200448, Educator Preparation, and \$1.2 million per year from GRF line item 200439, Accountability/Report Cards, for the roster verification student-teacher linkage system.

¹ Due to recent changes in federal law, the elimination of OTES and OPES are unlikely to result in federal consequences, as long as the state implements plans to ensure that disadvantaged and minority students are not disproportionately served by ineffective, out-of-field, or inexperienced educators. The federal Every Student Succeeds Act (ESSA), the successor to No Child Left Behind (NCLB), eliminates the federal requirement for educator evaluations.

The fiscal effect of this provision on public districts and schools will depend on how these entities react to the flexibility provided by the bill. It could be that some schools experience administrative savings, depending on how they restructure their evaluation systems. Currently, school administrators, principals, and school-designated evaluators determine teacher evaluation ratings at certain prescribed intervals of time from teacher-submitted professional growth plans, two half-hour classroom observations, informal observations, and student academic growth ratings. The framework for evaluating principals is similar. Currently, public districts and schools may also choose to implement an alternative teacher evaluation framework that incorporates student surveys, teacher self-evaluations, peer review evaluations, student portfolios, or other components determined appropriate by the district or school. On the other hand, many districts across Ohio, because of existing law, have switched to the state-funded Electronic Teacher and Principal Evaluation System to document and track their evaluations. By eliminating a statewide process and rubric, districts may experience an increase in costs to establish their own systems for this purpose. Additionally, ESCs will experience an additional administrative burden to review teacher evaluations when a teacher chooses to appeal the result of an evaluation.

Safe harbor provisions

District and school report card ratings

The bill extends through the 2018-2019 school year the safe harbor provisions for students, school districts, and other public schools related to achievement assessment score results and state report card ratings currently in effect through the 2016-2017 school year and specifies that the 2019-2020 school year will be the first school year for which an overall report card grade will be issued. Thus, the bill extends provisions that prevent districts and schools from beginning to be subject to potentially costly state sanctions that they otherwise may have been without the safe harbor provision, including provisions with respect to school restructuring, academic distress commissions, buildings whose students are eligible for EdChoice scholarships, districts in which a new community school may be established, community school closure, and so on.

Community school sponsor evaluations

The bill temporarily revises the community school sponsor evaluation system. Under current law, an entity that sponsors a community school receives an annual overall rating from ODE based on three prescribed areas: (1) the academic performance of students enrolled in community schools sponsored by the same entity, (2) the sponsor's adherence to quality practices, and (3) the sponsor's compliance with laws and administrative rules. Each component receives an individual rating, and the overall rating is derived from an equally weighted calculation of those individual ratings. The ratings are exemplary, effective, ineffective, and poor. Community school sponsors rated ineffective or poor may have sponsorship authority revoked.

The bill prohibits ODE from using the academic performance component of the community school sponsor evaluation system when calculating the overall ratings of community school sponsors for the 2016-2017, 2017-2018, and 2018-2019 school years and delays until the 2019-2020 school year the consequences that may be applied to a sponsor that receives an overall rating of ineffective or poor. The number of community school sponsors these provisions are likely to affect is unknown but the bill may decrease the administrative costs of the Office of School Sponsorship in the event that fewer community school sponsors lose sponsorship authority. In general, current law authorizes the Office to take over sponsorship for a school having a sponsor rated as poor or ineffective for three consecutive years until the school finds a new sponsor. The Office's operations are financed by a sponsorship fee of up to 3% of each sponsored school's operating revenue.

Miscellaneous provisions

Student enrollment calculation

The bill eliminates a school funding formula provision regarding a student's nonparticipation in state-required assessments. The provision allows nonparticipating students to count toward the state aid calculation for school districts and public schools, which is based on student enrollment. Under current law, a district's or school's enrollment count may not include a student who was enrolled in the district or school during the previous school year and did not take one or more of the state-required assessments, unless the student was specifically excused as a special education student or a limited English proficient student. The bill repeals this provision.

In addition, a similar but separate provision of the bill temporarily suspends through the 2019-2020 school year the current law provision that requires an Internet- or computer-based community school (e-school) to withdraw a student from enrollment if a student fails for two consecutive school years to take any state achievement assessment, unless the student was specifically excused as a special education student or a limited English proficient student.

Since state foundation aid is generally based on enrollment, these provisions ensure that a district or school retains per-pupil funding for students who do not take a state assessment during the school year. Its effect may be a minimal increase in state foundation aid paid by the state to school districts and the amounts transferred on behalf of students educated in community and STEM schools.² In addition, community and STEM schools currently receive per-pupil funding for costs associated with facilities. This funding, currently supported by lottery profits, is based on per-pupil amounts of \$25 for e-schools and \$200 for all other community and STEM schools. Thus,

² A 95% participation rate on state assessments is still required for a district or school to maintain compliance with federal education law. States not meeting this threshold must develop a plan to address the issue and could be subject to various state or federal enforcement actions.

facilities funding for these schools may be minimally higher than otherwise as a result of this provision.

Intervention services for high school students

The bill requires school districts with a three-year average graduation rate of less than 75% to determine for each of its high schools whether the school should provide intervention services to students who took the high school state assessments and requires school districts to consider each school's graduation rate and scores on any practice assessments in making the determination. Schools selected to provide intervention services are required to provide services to any student whose results indicate that the student is failing to make satisfactory progress toward attaining a proficient-level score on the high school state assessments. Under current law, these intervention services are provided to students who fail to attain specified scores on practice versions of the Ohio Graduation Tests (OGT), which have been practically phased out (the class of 2017 was the last class required to take and pass the OGT to graduate).

By continuing this requirement based on the new high school assessments, the cost for intervention services provided by school districts with high schools that have an average graduation rate of less than 75% may be higher than otherwise. The cost would depend on how the intervention services are implemented in each school. Based on data included in the three most recent local report cards, 15 districts have an average four-year graduation rate of less than 75%.

Score of zero on missed assessments

Under current law, the performance index (PI) score, ranging from zero to 120, is a weighted measure of student performance on the state achievement assessments and is one component of district and school report cards. This score takes into account students that did not take an assessment but should have (i.e., students that have opted out of the assessments) by assigning such students a weight of zero. The bill eliminates the provision in current law requiring ODE to assign a weight of zero to the assessment score of a student who does not take a state achievement assessment. The result may be higher PI scores and letter grades for some schools and districts than under the current calculation. The effect of this provision on the number of districts that would qualify for incentives or, conversely, state sanctions for accountability purposes once safe harbor provisions expire is likely small. According to data reported by ODE, nearly all students participate in state assessments.

Department of Education duties

The bill requires the State Board or ODE to perform a number of duties, which will increase ODE's administrative workload. For example, the bill requires the State Board to make recommendations to the General Assembly by December 31, 2018 on what data generated from student assessments is necessary for purposes of calculating letter grades for the report card ratings, components, and performance measures that

comprise the state report card. It also requires ODE, within 180 days after the bill's effective date, to convene a group of experts in norm-referenced assessments to make recommendations to the State Board on how to incorporate aggregate data from the results of norm-referenced assessments into a format similar to the report card ratings.

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