



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Carol Napp

### **H.B. 512**

132nd General Assembly  
(As Introduced)

**Reps.** Reineke, Blessing, Carfagna, Pelanda, Brenner, Riedel, Hoops, Koehler

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### **BILL SUMMARY**

- Creates the Department of Learning and Achievement to oversee primary, secondary, and postsecondary education.
- Specifies that the Department is administered by the Director of Learning and Achievement, who is appointed by the Governor with the advice and consent of the Senate.
- Requires the Director to appoint an assistant director to oversee higher education and an assistant director to oversee the Office of Workforce Transformation within the Department, and permits the Director to appoint other assistant directors as the Director determines necessary.
- Transfers to the Department (1) most of the powers and duties of the State Board of Education, Superintendent of Public Instruction, and Department of Education and (2) all of the powers and duties of the Chancellor of Higher Education, Department of Higher Education, and Governor's Office of Workforce Transformation.
- Abolishes the Department of Higher Education and the Ohio Board of Regents, and eliminates the position of Chancellor of Higher Education.
- Specifies that the State Board of Education, Superintendent of Public Instruction, and Department of Education continue to exist for prescribed purposes.
- Retains some of the existing powers and duties of the State Board, Superintendent, and Department of Education, but transfers rule-making authority regarding those powers and duties to the Department of Learning and Achievement.

- Transfers specified responsibilities of the State Board and the Department of Education to the Superintendent of Public Instruction.
- Transfers the responsibility to adopt rules pertaining to comprehensive emergency management plans to the Department of Public Safety.

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## **CONTENT AND OPERATION**

### **Creation of the Department of Learning and Achievement**

The bill creates the Department of Learning and Achievement to oversee primary, secondary, and postsecondary education.<sup>1</sup> The Department is administered by the Director of Learning and Achievement, who is appointed by the Governor with the advice and consent of the Senate.<sup>2</sup> The Director must appoint an assistant director to oversee higher education and an assistant director to oversee the Office of Workforce Transformation within the Department and may appoint other assistant directors as the Director determines necessary.<sup>3</sup>

The bill transfers the following responsibilities to the Department of Learning and Achievement or, where applicable, to the Director of Learning and Achievement:

--Most of the powers and duties of the State Board of Education,<sup>4</sup> the Superintendent of Public Instruction,<sup>5</sup> and the Department of Education,<sup>6</sup> except for those outlined below. The powers and duties transferred to the new Department include issuing school report cards, establishing the statewide program for assessing student achievement through standardized assessments, adopting the teacher evaluation system, calculating and distributing all foundation funding payments, and developing specified policies regarding school operations.

--All of the powers and duties of the Chancellor of Higher Education and the Department of Higher Education, including administering state payments to colleges

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<sup>1</sup> R.C. 121.02 and 3301.07.

<sup>2</sup> R.C. 121.03.

<sup>3</sup> R.C. 3301.07(R).

<sup>4</sup> R.C. 3301.061, 3301.062, 3301.07, and 3301.0730 and repealed R.C. 3301.12; conforming changes in numerous R.C. sections.

<sup>5</sup> R.C. 3301.07 and 3301.123; conforming changes in numerous R.C. sections.

<sup>6</sup> R.C. 3301.07 and 3301.0731; conforming changes in numerous R.C. sections.

and universities and the operation of the College Credit Plus Program, the Ohio College Opportunity Grant Program, and other student assistance programs.<sup>7</sup>

--All of the powers and duties of the Governor's Office of Workforce Transformation.<sup>8</sup>

As part of transferring these responsibilities, the bill abolishes the Department of Higher Education and eliminates the position of Chancellor of Higher Education, a position which is currently appointed by the Governor.<sup>9</sup> Additionally, it abolishes the Ohio Board of Regents, which is an advisory board to the Chancellor that consists of nine gubernatorial appointees.<sup>10</sup>

### **Powers and duties of the State Board of Education, Superintendent of Public Instruction, and Department of Education**

The Ohio Constitution provides that there must be a State Board of Education and a Superintendent of Public Instruction appointed by the State Board. The selection and terms of members of the State Board, as well as the powers and duties of the State Board and the Superintendent, must be prescribed by law.<sup>11</sup> Currently, the voting membership of the State Board is 19 members, 11 of whom are elected from specified electoral districts (each consisting of three state Senate districts) and 8 of whom are appointed by the Governor. The chairpersons of the Senate and House Education committees serve as nonvoting ex officio members.<sup>12</sup> The Department of Education is created in statute as the administrative unit and organization through which the "policies, directives, and powers" of the State Board and the duties of the Superintendent are administered.<sup>13</sup>

Under the bill's provisions, the State Board, Superintendent, and Department of Education continue to exist, but, as discussed above, most of their current powers and duties are transferred to the Department of Learning and Achievement or, where applicable, to the Director of Learning and Achievement. However, some powers are

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<sup>7</sup> R.C. 3301.07 and 3333.012; conforming changes in numerous R.C. sections.

<sup>8</sup> R.C. 3301.0732; conforming changes in numerous R.C. sections.

<sup>9</sup> R.C. 3333.012 and repealed R.C. 3333.03, 3333.35, and 3357.19; conforming changes in numerous R.C. sections.

<sup>10</sup> Repealed R.C. 3333.01, 3333.011, 3333.02, and 3333.032; conforming changes in numerous R.C. sections.

<sup>11</sup> Article VI, Section 4, Ohio Constitution.

<sup>12</sup> R.C. 3301.01, not in the bill.

<sup>13</sup> R.C. 3301.13.



not transferred to the new Department and, instead, either remain with the entity that currently has those powers or are transferred to the Superintendent, as described below.

### **Powers and duties retained by the State Board, Superintendent, and Department of Education**

The following powers and duties are not transferred to the Department of Learning and Achievement and are, instead, retained by the entity that has those powers and duties under existing law:

#### **Educator licenses**

The State Board retains its responsibility to issue educator licenses and take disciplinary actions regarding those licenses, and the Superintendent retains related powers and duties, including the responsibility to appoint a referee for teacher contract termination hearings. However, the bill requires the Department of Learning and Achievement, rather than the State Board, to adopt all rules related to educator licenses, including the standards and qualifications for those licenses.<sup>14</sup>

#### **Territorial transfer**

The bill retains the State Board's authority and the Superintendent's role with regard to the existing methods by which city, local, and exempted village school districts may change their boundaries, but it transfers similar responsibilities with respect to joint vocational school districts to the Department of Learning and Achievement.<sup>15</sup>

#### **Appeals of requests to change community school sponsorship**

The State Board continues to have the authority to receive and hear appeals of requests by community schools to change sponsors that are denied. However, the bill requires the Department of Learning and Achievement, rather than the Department of Education, to make the initial decision whether to grant or deny the request to change sponsors.<sup>16</sup>

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<sup>14</sup> R.C. 3319.22, 3319.161, and other sections in R.C. Chapter 3319. (some of which are not in the bill); conforming changes in numerous R.C. sections.

<sup>15</sup> Numerous sections in R.C. Chapter 3311. (some of which are not in the bill).

<sup>16</sup> R.C. 3314.034.



### **Appointment of fiscal officers for unauditible schools**

The Superintendent retains the authority to approve an individual's appointment as a community school's, STEM school's, or college-preparatory boarding school's fiscal officer while that school is considered unauditible, if that appointee is not licensed as a treasurer.<sup>17</sup>

### **Appeals of requests by parents of students who are determined impractical to transport and reject payment in lieu of transportation**

The State Board continues to have the authority to receive and hear appeals of requests by parents of students who are determined impractical to transport by a district board or community school governing authority who reject the district's or board's payment in lieu of transportation and do not successfully resolve the dispute through mediation. However, the bill requires the Department of Learning and Achievement, rather than the Department of Education, to conduct the initial mediation in this situation.<sup>18</sup>

### **Permanent exclusion from school**

The bill retains the Superintendent's authority to issue an adjudication order that permanently excludes a student from attending any of the public schools of the state.<sup>19</sup>

### **Districts of residence and districts responsible to pay tuition**

The Superintendent continues to have the authority to determine, in the event of a disagreement, (1) the school district in which a child's parent resides and (2) which school district is responsible to pay tuition for a child whose parent is in a juvenile residential placement, correctional facility, or residential facility.<sup>20</sup>

### **Student textbooks**

The State Board retains the responsibility to investigate claims that publishers have failed to provide textbooks to school districts at the lowest list wholesale price available to school districts in other states and, if true, to notify publishers and school districts that those textbooks are not to be purchased by school districts in the future.<sup>21</sup>

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<sup>17</sup> R.C. 3314.51, not in the bill, 3326.211, and 3328.37.

<sup>18</sup> R.C. 3327.02.

<sup>19</sup> R.C. 3301.121 and 3313.662.

<sup>20</sup> R.C. 3313.64(K) and 3313.65(D)(4), not in the bill.

<sup>21</sup> R.C. 3329.03.

## **State Schools for the Deaf and Blind**

The State Board continues to have control and supervision of the State School for the Deaf and the State School for the Blind. However, the bill requires the Department of Learning and Achievement, rather than the State Board as under current law, to adopt regulations related to those schools.<sup>22</sup>

### **Miscellaneous provisions**

The Superintendent also retains the following powers and duties:

--The responsibility to establish an advisory board to assist and advise the Franklin County Educational Service Center in the operation of the Ohio Center for Autism and Low Incidence and to assist and advise the Superintendent in selecting an entity to administer programs and coordinate services for individuals with autism and low incidence disabilities;<sup>23</sup>

--The ability to make nonbinding recommendations to the Governor regarding the Governor's five appointees to each college-preparatory boarding school's board of trustees;<sup>24</sup>

--The responsibility to approve the courses of study for the instruction and training of all persons in institutions under the control of the Department of Mental Health and Addiction Services and the Department of Rehabilitation and Correction.<sup>25</sup>

### **Powers and duties transferred to the Superintendent**

The bill transfers the following powers and duties to the Superintendent:

#### **Certificates of high school equivalence**

Under the bill, the Superintendent, rather than the Department of Education, is responsible to award certificates of high school equivalence to those persons who achieve the equivalent of a high school education.<sup>26</sup> (However, the Department of Learning and Achievement must select the equivalency tests for awarding these certificates.)

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<sup>22</sup> R.C. 3325.01, not in the bill, 3325.011, 3325.02, and other sections in R.C. Chapter 3325.

<sup>23</sup> R.C. 3323.33, not in the bill.

<sup>24</sup> R.C. 3328.15, not in the bill.

<sup>25</sup> R.C. 5119.187 and 5120.41, not in the bill.

<sup>26</sup> R.C. 3301.80; conforming changes in numerous R.C. sections.



## **Direct authorization of community schools**

The bill permits the Superintendent to directly authorize community schools through the Office of Ohio School Sponsorship, which is the role of the Department of Education under current law. However, the bill requires that the Department of Learning and Achievement, rather than the Department of Education, to establish that office.<sup>27</sup>

## **Duties related to educator licensing**

The bill transfers all of the following duties related to educator licensing from the State Board to the Superintendent:

--The responsibility to require individuals to undergo criminal records checks for purposes of educator licensing;<sup>28</sup>

--The responsibility to receive an affidavit signed by the chief administrative officer of a chartered nonpublic school stating that the person meets certain conditions for teacher certification;<sup>29</sup>

--The authority to take action to suspend, revoke, or limit the license of a STEM school treasurer who has been suspended while the STEM school is unauditabile.<sup>30</sup> (In comparable situations for community schools and college-preparatory boarding schools, this authority remains with the State Board.<sup>31</sup>)

The bill also gives the Superintendent the authority to question, along with the State Board, an applicant for issuance or renewal of any educator license with respect to any criminal offense committed or alleged to have been committed, which is the authority of the Department of Education, along with the State Board, under current law.<sup>32</sup>

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<sup>27</sup> R.C. 3314.029.

<sup>28</sup> R.C. 3319.291.

<sup>29</sup> R.C. 3301.071.

<sup>30</sup> R.C. 3326.211.

<sup>31</sup> R.C. 3314.51, not in the bill, and 3328.37.

<sup>32</sup> R.C. 3319.292.



## **College-preparatory boarding schools**

The bill grants the Superintendent, rather than the State Board, the authority to select private nonprofit corporations to operate college-preparatory boarding schools, enter into contracts with those corporations regarding the schools' operations, and take other actions related to these schools. However, the bill requires the Department of Learning and Achievement, rather than the State Board, to adopt rules regarding college-preparatory boarding schools.<sup>33</sup> (Currently, there are no public college-preparatory boarding schools organized under R.C. Chapter 3328. operating anywhere in the state.)

## **Emergency management duties transferred to the Department of Public Safety**

The bill requires the Department of Public Safety, rather than the State Board of Education, to adopt rules pertaining to comprehensive emergency management plans for schools. Under current law, comprehensive emergency management plans are developed by school administrators in accordance with these rules to identify potential hazards to student and staff safety, propose changes to prevent dangerous problems and circumstances, and develop protocols for addressing threats and emergency situations.<sup>34</sup>

## **Eliminated duty of the State Board of Education**

The bill repeals a provision of existing law that requires the State Board of Education, upon a request by the Governor on or before October 1 of any year, to prepare and submit a report not later than July 1 of the following year providing detailed information on the State Board's efforts to focus its attention on major policy issues and to delegate administrative responsibilities to the Superintendent of Public Instruction. This report must be submitted to the Governor and the chairpersons of the House and Senate Education committees.<sup>35</sup>

## **Miscellaneous provisions**

The bill makes numerous conforming changes throughout the Revised Code to accomplish its purposes. It also provides for the transfer to the Department of Learning and Achievement of all employees, assets, equipment, records, documents, files, and

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<sup>33</sup> R.C. 3328.11, 3328.12, and other sections in R.C. Chapter 3328.

<sup>34</sup> R.C. 3313.536, renumbered as R.C. 5502.262 by the bill.

<sup>35</sup> Repealed R.C. 3301.111.





other materials of the Department of Higher Education and, where applicable, those of the Department of Education.<sup>36</sup>

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## HISTORY

| ACTION     | DATE     |
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| Introduced | 02-14-18 |

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<sup>36</sup> Section 4.

