



Ohio Legislative Service Commission

Bill Analysis

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Sen. Lehner

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* This analysis was prepared before introduction of the bill appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

BILL SUMMARY

Department of Education approval of all sponsors

- Requires every entity to obtain approval from and enter into a written agreement with the Department of Education prior to entering into a preliminary agreement or renewing an existing contract to sponsor a community school. (R.C. 3314.015.)
- Specifies that previously grandfathered sponsors are subject to the same reapplication, evaluation, and approval processes as all other sponsors. Under current law the following entities are exempt from the requirement to obtain initial approval of the Department of Education: (1) any entity that was already sponsoring community schools as of April 8, 2003, as part of the original community school pilot project area (Lucas County), (2) the successor of the University of Toledo Board of Trustees, or its designee (as part of the original pilot project area), and (3) an educational service center sponsoring a conversion community school located within its service territory or in a contiguous county. (R.C. 3314.015(B)(1)); repealed R.C. 3314.021 and 3314.027.)
- Requires all new and renewed agreements between the Department and a sponsor to address the parameters under which the Department can intervene or revoke sponsorship authority and specifies that each agreement must provide for an annual evaluation process and contain a clause permitting modification in instances of poor fiscal management and lack of academic progress. (R.C. 3314.015(B)(1).)
- Decreases the length of the initial term of a sponsor's agreement with the Department from seven years to five years. (R.C. 3314.015(B)(2).)
- Removes the current provision for 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 as "exemplary" or "effective." (R.C. 3314.015(B)(2).)
- Establishes a new renewal process, for a term of up to 12 years, based upon the academic performance of students enrolled in the sponsor's schools and the sponsor's adherence to quality practices. (R.C. 3314.015(B)(2)(a).)

Limitation on switching sponsors

- Requires any community school to which either of the following conditions applies to first receive approval from the Department of Education before entering into a contract with a new sponsor: (1) the community school has received a grade of "D" or "F" for the performance index score and an overall grade of "D" or "F" for the value-added progress dimension, or another measure of student academic progress



if adopted by the State Board, on the most recent state report card issued for the school or (2) the community school primarily operates a dropout prevention and recovery program, and it has received a rating of "does not meet standards" for the annual student growth measure and combined graduation rates on the most recent state report card issued for the school. (R.C. 3314.034.)

Sponsor contract with a community school governing authority

- Clarifies that each contract entered into between a sponsor and the governing authority must specify performance standards, including but not limited to all applicable report card measures. (R.C. 3314.03(A)(4).)
- Expands the requirement that the school's facilities must be described in the contract, by requiring an addendum to the contract containing at least a detailed description of each facility used for instructional purposes, the annual costs associated with leasing each facility that are paid on behalf of the school, the annual mortgage principal and interest payments that are paid by the school, and the name of the lender identified as such, and the lender's relationship to the operator, if any. (R.C. 3314.03(A)(9).)
- Requires that each contract contain a provision requiring that, if the governing authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity shall be independent from the operator with which the school has contracted. (R.C. 3314.03(A)(27).)
- Specifies that nothing in the automatic closure provisions or other provisions of the Revised Code prohibits the sponsor of a community school 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 continuing law. (R.C. 3314.35(D) and 3314.351(E).)

Governing authority members

- Prohibits any person who has engaged in an act that would otherwise result in refusal, limitation, or revocation of a license to teach from serving as a member of a community school governing authority. (R.C. 3314.02(E)(2)(a)(ii).)
- Prohibits any person who has been charged with or pleaded guilty to theft in office (or who has been charged with a substantially similar offense in another state) from serving as a member of a community school governing authority. (R.C. 3314.02(E)(2)(a)(iii).)

- Prohibits any person who has not submitted to a criminal records check from serving as a member of a community school governing authority or engaging in the financial day-to-day management of the community school under contract with the governing authority. (R.C. 3314.02(E)(2)(b).)
- Requires each community school to post on the school's website the name of each member of the school's governing authority and requires each community school to provide, upon request, the name and address of each governing authority member to the school's sponsor and the Department of Education. (R.C. 3314.038.)
- Requires each community school sponsor to annually verify that a finding for recovery has not been issued by the Auditor of State against any member of the governing authority of that community school. (R.C. 3314.02(E)(2)(c).)
- Limits the compensation per meeting to \$125 (rather than \$425 as under current law) for governing authority members, but permits each member to be paid compensation for attendance at an approved training program in the same manner as school district board members. (R.C. 3314.02(E)(5).)
- Requires each governing authority member to annually file a disclosure statement setting forth the names of any immediate relatives or business associates employed by any of the following within the previous three years: (1) the sponsor or operator of that community school, (2) a school district or ESC that has contracted with that community school, or (3) a vendor that is currently engaged in business or has previously engaged in business with that community school. (R.C. 3314.02(E)(6).)

Annual budget to be set by governing authority members

- Requires the governing authority of a community school to adopt an annual budget by the October 31 of each year, that includes the following information: (1) administrative costs for the community school as a whole, (2) instructional services costs for each category of service provided directly to students, compiled and reported in terms of average expenditure per pupil receiving the service, (3) the cost of instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia aide, or librarian, provided directly to students, (4) the cost of administrative support services, such as the cost of personnel that develop the curriculum and the cost of personnel supervising or coordinating the delivery of the instructional services, (5) the cost of support or extracurricular services costs for services directly provided to students, (6) the cost of services provided directly to students by a nonlicensed employee related to support or extracurricular services, such as janitorial services, cafeteria services, or services of a sports trainer, and (7) the cost of administrative services related to

support or extracurricular services, such as the cost of any licensed or unlicensed employees that develop, supervise, coordinate, or otherwise are involved in administrating or aiding the delivery of services. (R.C. 3314.032(B).)

- Prohibits the governing authority of a community school from delegating to any operator the drafting and establishment of the annual budget. (R.C. 3314.032(C).)

Designated fiscal officer

- Requires that the statutorily designated fiscal officer must be employed by the governing authority of the community school, unless the governing authority adopts an annual resolution waiving the requirement and provided that the sponsor also approves the resolution. (R.C. 3314.011(A).)
- In the event that a resolution is adopted, requires the fiscal officer to annually meet with the governing authority to review the school's financial status. (R.C. 3314.011(D).)
- Requires (rather than permits as under current law) the Auditor of State to require the fiscal officer to execute a bond conditioned on the faithful performance of all official duties required of the fiscal officer. (R.C. 3314.011(B)(1).)
- Specifies that in the event the fiscal officer fails to faithfully perform the fiscal officer's official duties, the sponsor of the community school has the right of action against the fiscal officer to compel delivery of all financial and enrollment records of the school, and must, if necessary, seek recovery of any funds owed as a result of a finding for recovery against the fiscal officer. (R.C. 3313.011(B)(2).)

Sponsor oversight and monitoring

- Specifies that a sponsor must provide "monitoring, oversight, and technical assistance" to each school that it sponsors. Defines "monitoring, oversight, and technical assistance" as (1) monitoring the community school's compliance with all laws applicable to the school and with the terms of the contract, (2) monitoring and evaluating the academic and fiscal performance and the organization and operation of the community school on at least an annual basis, (3) reporting on an annual basis the results of the sponsor evaluation to the Department of Education and to the parents of students enrolled in the community school, (4) providing technical assistance to the community school in complying with laws applicable to the school and terms of the contract, (5) taking steps to intervene in the school's operation to correct problems in the school's overall performance, declaring the school to be on probationary status, suspending the operation of the school, or terminating the contract of the school as determined necessary by the sponsor, and (6) having in

place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year. (R.C. 3314.023.)

- Specifies that a community school's sponsor is responsible for communicating and meeting with the Auditor of State regarding any audits and the condition of financial and enrollment records of the school, regardless of whether the sponsor has contracted with another entity to perform all or part of the sponsor's oversight duties. (R.C. 3314.019.)
- Requires that payments made to a sponsor must only be used for monitoring, oversight, and technical assistance. Under continuing law, the total amount of such payments may not exceed 3% of the total amount of payments for operating expenses that the school receives from the state. (R.C. 3314.03(C).)

Sponsor selling of goods and services

- Prohibits the sponsor of a community school from selling any goods or services to that school. However, the sponsor is not required to comply with this requirement with respect to any contract for involving the sale of goods or services entered into prior to the bill's effective date until the expiration of the contract. (R.C. 3314.46.)

Sponsor evaluation system

Timeline for ratings components

- Requires the Department of Education to annually rate all sponsors based on compliance with applicable laws and administrative rules and academic performance of students enrolled in community schools sponsored by the same entity. (R.C. 3314.016(B)(1)(a) and (c).)
- Requires the Department to rate every third year a sponsor's adherence to quality practices. (R.C. 3314.016(B)(1)(b).)
- Removes the requirement that compliance with applicable laws and rules, academic performance of students, and sponsor's adherence to quality practice be weighted equally and instead requires that both an overall rating and separate rating be given for each component according to the timelines described above. (R.C. 3314.016(B)(6).)

Incentives and restrictions based on rating

- Requires the Department to establish an incentive and restriction system based upon overall ratings given to sponsors and specifies the following incentives for



exemplary sponsors: (1) renewal of the written agreement with the Department, not to exceed 12 years, provided the sponsor continues to meet the requirements of continuing law, (2) the ability to extend the term of the contract between the sponsor and the community school beyond the term described in the written agreement the sponsor has with the Department, (3) an exemption from the preliminary agreement and contract adoption and execution deadline requirements, (4) an exemption from the automatic contract expiration requirement, should a new community school fail to open by September 30 of the calendar year in which the community school contract is executed, (5) no limit on the number of community schools the entity may sponsor, (6) no territorial restrictions on sponsorship, and (7) any other incentives determined necessary or appropriate by the Department. (R.C. 3314.016(B)(7)(a).)

- Prohibits a sponsor with an overall rating of "ineffective" from sponsoring any new or additional community schools. However, continuing law already prohibits an ineffective sponsor from sponsoring additional schools until its rating improves. (R.C. 3314.016(B)(7)(b).)
- Establishes a new sponsor rating of "poor" and requires the revocation of sponsorship authority for any sponsor that receives an overall rating of "poor," subject to a hearing by an officer appointed by the Superintendent of Public Instruction. (R.C. 3314.016(B)(7)(c).)

Office of School Sponsorship may assume sponsorship

- Permits the Office of School Sponsorship to assume sponsorship of any schools with which a "poor" sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor is secured by the governing authority. (R.C. 3314.016(D).)
- Specifies that any community school sponsored as a result of their sponsor receiving a rating of "poor" will not be counted for purposes of the current limit on directly authorized community schools. (R.C. 3314.016(D).)

Operator oversight

- Specifies that the Department of Education is responsible for the oversight of any and all operators of community schools and requires, that in carrying out those duties, the Department (1) maintain and annually publish a directory of the names and identifying information of all operators and (2) receive from the governing authority of each community school a copy of the contract between the governing authority and its operator. (R.C. 3314.031(A).)

Operator evaluation system

- Requires that the Department of Education monitor and evaluate the effectiveness of any and all community school operators. (R.C. 3314.015(A)(4).)
- Requires the Department to develop and implement an evaluation system, substantially similar to the sponsor evaluation system that rates each sponsor, that evaluates each operator that manages the academic programs of a community school based on the academic performance of each student enrolled in any community school managed by that operator. (R.C. 3314.031(B)(1).)
- Requires the Department to annually rank community school operators from highest to lowest using the scores calculated as a result of the evaluation process and to publish the ratings between October 1 and 15 each year. (R.C. 3314.031(B)(2).)

Operator contracts

- Requires that each new or renewed contract between the governing authority of a community school and an operator to contain at least the following: (1) criteria to be used for early termination of the operator contract, (2) required notification procedures and timeline for early termination or nonrenewal of the operator contract, and (3) a stipulation of which entity owns all community school facilities and property including, but not limited to, equipment, furniture, fixtures, instructional materials and supplies, computers, printers, and other digital devices purchased by the governing authority or operator. (R.C. 3314.032(A).)

Lease of property to community schools by operators

- Prohibits a community school operator from leasing any parcel of real property to that community school for an amount that exceeds the fair market rental value of that property by more than 5%, as verified by the school's sponsor. (R.C. 3314.032(B).)

Accounting of costs and services

- Requires a management company (or operator) that receives more than 20% of the gross annual revenues of a community school to provide a detailed accounting including the nature and costs of the goods and services it provides to the school. Under current law a management company that provides services that amounts to more than 20% of a school's gross revenues must provide a detailed accounting that is included in footnotes in the school's financial statement. (R.C. 3314.024.)

- Specifies that the accounting must be reported using the accounting principles and standards set forth in all applicable pronouncements of the Governmental Accounting Standards Board. (R.C. 3314.024.)

Elimination of appeal procedures for termination of operator contract

- Eliminates a prescribed appeal procedure when the governing authority of a community school has notified the operator of its intent to terminate or not renew the operator's contract (repealed R.C. 3314.026). Under that procedure, the operator may appeal the decision to the school's sponsor, except that if the sponsor has sponsored the school for less than 12 months, the appeal must be made to the State Board of Education. If the sponsor or State Board decides that the operator should continue to manage the school, the sponsor must remove the existing governing authority, and the operator must appoint a new one for the school.

Internet- or computer-based community schools

- Requires the sponsor of each Internet- or computer-based community school (e-school) to monitor and ensure compliance with the online learning standards for those schools. The sponsor of an e-school must report a school's failure to comply with the standards to the Department of Education. Under continuing law, each e-school must comply with the standards developed by the International Association for K-12 Online Learning. (R.C. 3314.23.)
- Permits each e-school to provide its students with a location within a 50-mile radius of the student's residence at which the student may receive counseling, instructional coaching, and testing assistance. (R.C. 3314.251.)
- Requires each e-school to keep an accurate record of and report the number of hours each individual student is actively participating in learning opportunities in each period of 24 consecutive hours. The report must be made to the Department, in the form and manner prescribed by the Department, on a monthly basis. Under continuing law, if an e-school student participates in more than ten hours of learning opportunities in any period of 24 consecutive hours, the additional time does not count toward the annual minimum hours required to be provided to that student. (R.C. 3314.27.)
- Requires each e-school to conduct a student orientation course, participation in which, must be a condition of enrollment. (R.C. 3314.271.)
- Requires a student's parents, the student's teachers, and the principal or lead teacher of the e-school to confer to evaluate the student's continued enrollment in the school in the event that the student's academic performance declines. (R.C. 3314.271.)

Combining conversion school report card data with that of its sponsoring district

- Removes the exception from combining with a school district's state report card data the performance data of a conversion community school that primarily serves dropout students sponsored by the district. (R.C. 3302.03(I)(1).)

School district agreement to lease facilities to a high-performing community school

- Permits a school district to offer for annual lease "part" of any parcel of real property to a "high-performing community" school for an amount not to exceed \$10 per square foot and directs the Department to 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 facility leased to the community school. (R.C. 3313.413.)
- Specifies that for purposes of this provision, "high-performing community school" means a community school that meets the following conditions: (1) the school received a grade of "A," "B," or "C" for the performance index score or has increased its performance index score for the previous three years, and received a grade of "A" or "B" for the value-added progress dimension on its most recent report card rating, (2) if the school serves only grades K through 3, the school received a grade of "A" or "B" for making progress in literacy on its most recent report card, and (3) if the school is a drop out recovery school, the school received a rating of "exceeds standards" on its most recent report card. (R.C. 3313.413.)

Direct authorization of community schools

- Requires all new or renewed direct authorization agreements to be for a term of not more than two years and prohibits further renewals. (R.C. 3314.029(A)(1).) (That is, the bill sunsets the direct authorization provision by phasing out agreements.) Current law specifies that the length of the initial contract of a directly authorized school may be for a term up to five years and permits it to be renewed. Furthermore, under current law the Department of Education's Office of Ohio School Sponsorship is permitted to directly authorize the operation of a limited number of both new and existing community schools, rather than those schools being subject to the oversight of other public or private sponsors. The Office is also authorized to assume the sponsorship of a community school whose contract has been voided due to its sponsor being prohibited from sponsoring additional schools. Any individual, group, or entity may apply directly to the Department for authorization to establish a new community school. In addition, the governing authority of an existing community school may apply to the Department, upon the expiration or termination

of the current contract with its sponsor, for direct authorization to continue operating the school.

- Eliminates the current provision requiring the Department to approve each application to establish a community school unless within 30 days after receipt of the application, the Department determines the application does not satisfy the initial requirements of sponsorship. (R.C. 3314.029.)
- Permits the Department to approve up to 20 applications for community schools to be established or to continue operation each school year (only five of the 20 may be establishing new schools) taking into consideration standards of quality authorizing, capacity, financial constraints, or other reasons. (R.C. 3314.029(B)(2).)

Department reporting requirements

- Requires the Department to compile and publish for each year since the 2001-2002 school year, the following information in a simple, easily accessible location on its website: (1) a single document identifying each community school that has closed during each school year and the reason for the closure of each school, (2) a single document for each entity that submitted an application to sponsor schools that contains the following, where applicable: (a) the entity's application and most recent evaluation, (b) a designation of whether the entity's application was approved or denied, (c) all documentation used in determining whether to approve or deny the entity's application, (d) a short statement describing the rationale used in approving or denying the entity's application, (3) a single document containing the following information: (a) a list of all sponsor ratings for each school year for which ratings are available, (b) a list of each sponsor that is prohibited, as of July 1 of each school year, from sponsoring new schools, (c) a list of each sponsor that sponsors or has sponsored a school that is or was subject to closure, and the reason for that closure. (R.C. 3314.035.)

Report of students in children's residential centers

- Requires each community school to annually submit to the Department a list detailing each circumstance where a student who is enrolled in that community school is being educated in a facility in which eleven or more children, including the children of any staff residing at the facility, are given nonsecure care and supervision 24 hours a day. (R.C. 3314.037.) A children's residential center is a facility that is operated by a private child placing agency, private noncustodial agency, or public children services agency, that has been certified by the Department of Job and Family Services to operate a children's residential center, and in which eleven or more children, including the children of any staff residing at the facility,

are given nonsecure care and supervision 24 hours a day. (R.C. 5103.05(A)(1), not in the bill.)

Community school mergers and consolidation

- Exempts a community school that merges or consolidates into a single public benefit corporation from the requirement to distribute assets as if it were a permanently closed community school, provided that the governing authority of the community school created by the merger or consolidation enters into a sponsor contract with an entity rated as "exemplary." (R.C. 3314.074(D).)

Classroom facilities assistance funding

- 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. (R.C. 3318.53(B).)
- Requires the governing authority of an eligible community school to submit a written proposal to the School Facilities Commission, in the form and manner prescribed by the Commission, for funding. Once the Commission determines that a proposal meets the guidelines established by the Commission and approves the funding, the Commission must enter into an agreement with the governing authority for the acquisition of the classroom facilities and encumber the approved funding from the amounts appropriated to the Commission for classroom facilities assistance projects. (R.C. 3318.53(C).)
- Specifies that an agreement between an eligible community school and the School Facilities Commission must include the following stipulations: (1) in the event the community school closes at any time, the ownership of the classroom facilities must vest in the Commission to be used for only an alternative public purpose, including, but not limited to, primary, secondary, vocational, or higher education services, (2) in the event the community school ceases operations due to the failure of the school to comply with any requirements under continuing law, the governing authority must return to the Commission the unamortized portion of the state funds provided to the governing authority under this provision, based on a straight-line depreciation over the first 18 years of occupancy. (R.C. 3318.53(C).)
- Requires the Commission to adopt rules regarding implementation of the program and establish guidelines for assisting community schools in the acquisition of classroom facilities. (R.C. 3318.53(D).)
- 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. (R.C. 3318.53(A)(2).)
- 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 the Department of Education. (R.C. 3318.53(A)(2).)
 - Requires the State Board of Education to adopt rules establishing standards for high quality community school models for new community schools. The models must rely on student performance on state or national standardized tests and high school graduation rates. (R.C. 3318.53(E).)

Requirements related to attendance

- Specifies that in the event a student withdraws from a school district after a complaint is filed to determine whether the student is a habitual or chronic truant, the school district must proceed with the complaint until the court has reached its determination and specifies that a designation by a court that a student is a habitual or chronic truant must follow the child if the child later enrolls in a community school. (R.C. 3321.19.)
- Removes the requirement that a contract between the sponsor and governing authority contain assurance that the governing authority will adopt an attendance policy that automatically withdraws a student if the student without legitimate excuse fails to participate in 105 consecutive hours of learning opportunities and instead requires the school to comply with all the attendance requirements and standards established by rule of the State Board as if it were a school district. (R.C. 3314.03(A)(6) and (A)(ii)(j) and 3314.08.)

Committee on "quality" for drop out recovery schools

- Creates a committee to make recommendations to the General Assembly regarding the definition of "quality" for community schools that primarily enroll students between 16 and 22 years of age who dropped out of high school or are at risk of dropping out of high school due to poor attendance, disciplinary problems, or suspensions. The committee also must study the efficacy of a completion or competency-based funding structure for those schools. (Section 3.)
- Specifies that the committee must consist of the following members: (1) a business leader appointed by the Governor or the Governor's designee, (2) the president of a community college or the president's designee, appointed by the Governor or the Governor's designee, (3) the superintendent of a dropout recovery community school, appointed by the Governor or the Governor's designee, (4) the superintendent of a career-technical school appointed by the Speaker of the House of Representatives, (5) an individual representing the House of Representatives, appointed by the Speaker of the House, (6) an individual representing the Senate, appointed by the President of the Senate, (7) the president of a four-year university, or the president's designee, appointed by the President of the Senate, (8) a representative of the Board of Regents, appointed by the Chancellor of the Board of Regents, and (9) a representative of the Department of Education, appointed by the Superintendent of Public Instruction. (Section 3.)
- Requires that the committee, which serves under guidance of the Governor's Office for Workforce Development, prepare a report of its recommendations and submit the report to the chairpersons of the House and Senate Education committees, not later than six months after the effective date of the bill. (Section 3.)

Appropriation for audits

- Makes an appropriation of \$200,000 and directs those funds to be used to pay the fees associated with independent hearing officers appointed during the closing of a community school when performing a final audit. (Section 4.)

HISTORY

ACTION

DATE

Introduced
