



Representative John M. Rogers
60th House District

Representative John Patterson
99th House District

Sponsor Testimony on HB 449

Chairman Duffey, Vice Chair Antani, Ranking Member Sweeney, and members of the House Higher Education and Workforce Development Committee. Thank you for allowing me and Rep. Patterson the opportunity to provide sponsor testimony on House Bill 449, legislation that would require all community school sponsors to receive approval from and enter into an agreement with the Department of Education.

This legislation stems from an article published on August 28, 2017 in the Cleveland Plain Dealer titled “Charter school sponsor gets a ‘free’ pass from failing grades with a split from the University of Toledo.”¹ The article states that the Ohio Council of Community Schools or OCCS intends to utilize a “special exception to the law” and formally split from the University of Toledo. Additionally, the article states that a spokesperson for the Ohio Department of Education indicated that by splitting from the university, OCCS would be its own sponsor for the 2017-2018 school year. The same individual also is purportedly to have stated that “state law lets the council ‘succeed’ the university without having to apply as a new sponsor.” The conclusion is that this new sponsorship status would re-set OCCS’s three-year countdown to improve its schools or lose its sponsorship authority.

Our examination of the applicable provision of current law would suggest that OCCS does not appear to be entitled to any exemption from any previously received sponsor ratings, nor does the law provide OCCS an ability to avoid its previous ratings by establishing itself as a new sponsor. In fact, since the implementation of the current sponsor evaluation system, which originated in H.B. 555 of the 129th General Assembly, effective January 1, 2015, the Department of Education appears to be required to evaluate and issue a sponsor rating for OCCS because of its statutory classification as a successor sponsor to the University of Toledo’s Board of Trustees. The difficulty lies in the fact that no specific requirement exists under which the Department must approve OCCS as a new sponsor and allowing it to erase its past sponsor rating – which in this case was inefficient.

The Legislative Service Commission advises that there are two sections of current law that do exempt certain community school sponsors from receiving approval from and entering into an agreement with the Department of Education. R.C. 3314.027 applies to the Educational Service Center of Lake Erie West, and R.C. 3314.021 applies to the University of Toledo/OCCS.

In an effort to provide you with a historical backdrop, prior to the 131st General Assembly, most entities that wished to sponsor community schools had to: (1) receive approval from the Department of Education to sponsor community schools; and (2) enter into a written agreement with the Department regarding the manner in which the entity would conduct such sponsorship.

Three types of entities were specifically exempted from these requirements:

- (1) any entity that was already sponsoring community schools on April 8, 2003 as part of the original community school pilot project (R.C. 3314.027);
- (2) the successor of the University of Toledo Board of Trustees, or its designee (as part of the original pilot project area) (R.C. 3314.021); and
- 3) an educational service center sponsoring a conversion community school located within its service territory or in a contiguous county (3314.02(B)(2)).

The first two types of entities are often referred to as the “grandfathered sponsors,” and they are ESC of Lake Erie West and UT/OCCS. The third exemption was removed by both H.B. 64 and H.B. 2 and S.B. 148, in the 131st General Assembly.

H.B. 64 of the 131st General Assembly

The Executive Proposal of H.B. 64 of the 131st General Assembly, introduced on February 11, 2015, sought to eliminate these exemptions and would have required every entity to obtain approval from and enter into a written agreement with the Department of Education prior to entering into a preliminary agreement to sponsor a community school under the same terms and conditions as all other sponsors.²

Mechanically, the legislation proposed amending (rather than repealing) R.C. 3314.021 and 3314.027 to specify that entities sponsoring schools under either of these sections are subject to approval by the Department in order to continue to sponsor community schools. The bill specified that, after being approved by and entering into an agreement with the Department of Education, these entities could continue to sponsor schools in accordance with the terms of R.C. 3314.021 or 3314.027 respectively, ***but*** that they would be subject to the same reapplication, evaluation, and approval procedures as all other sponsors going forward.

The As Passed by the House version removed these amendments to those sections, thereby maintaining the exemptions for the two “grandfathered sponsors.” Likewise, the As Enacted version contained no treatment of these “grandfathered sponsors.”

H.B. 2 (and S.B. 148) of the 131st General Assembly

When H.B. 2 of the 131st General Assembly was introduced on January 28, 2015, the As Introduced and As Passed by the House versions contained no provision regarding the entities that were at that time exempt from initial approval by the Department. H.B. 2, As Passed by the House, was referred to the Senate Finance Education Subcommittee on April 14, 2015.

On April 15, 2015, S.B. 148 was introduced and referred to the Senate Finance Education Subcommittee. Like H.B. 64, S.B. 148 sought to remove the grandfathered exemptions by ***outright repealing*** R.C. 3314.021 and 3314.027. It also specified that any entity that was exempt from approval according to those repealed sections was not permitted to renew any contracts or enter into any new contracts until it received approval from and entered into an agreement with the Department of Education. Once that approval was granted, the bill provided that such an entity would be permitted to continue to sponsor schools in the same manner, and subject to the same reapplication, evaluation, and approval procedures as all other community school sponsors.

The final version of H.B. 2 essentially combined H.B. 2 as Passed by the House, and S.B. 148 As Introduced. It retained the exemptions for ESC of Lake Erie West and UT/OCCS, with one exception. Under the Act, and current law, a “grandfathered” entity that receives a sponsor rating below “effective” for two or more consecutive years loses its exemption and must receive approval from, and enter into a written agreement with, the Department prior to entering into any further preliminary agreements or renewing any existing sponsorship contracts.

The legislation that is before you today eliminates the aforementioned exemptions and will require all community school sponsors to receive approval from and enter into an agreement with the Department of Education. The shell game outlined in the Plain Dealer article would not have occurred but for the continued existence of the exemptions that were left in place when steps had been take to remove them failed.

We appreciate your time and consideration of this matter and ask you for your support on this legislation, to make our system fair and applicable to all. We are happy to answer any of your questions. Thank you.

http://www.cleveland.com/metro/index.ssf/2017/08/charter_school_sponsor_gets_a_free_pass_from_failing_grades_with_split_from_university_of_toledo.html

² See As Introduced version of H.B. 64 of the 131st General Assembly at pages 809-811.