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Bill Analysis

Legislative Service Commission

H.B. 2

127th General Assembly
(As Passed by the House)

Reps. Webster, Garrison, Luckie, Lundy, Dyer, Heard, Brady, Celeste, Adams, B. Williams, Sykes, Okey, Bacon, Beatty, Blessing, Bolon, Book, Boyd, Brown, Budish, Carano, Combs, DeBose, DeGeeter, Distel, Domenick, Driehaus, Fende, Flowers, Foley, Gibbs, R. Hagan, Harwood, Hughes, Koziura, Letson, Mallory, J. McGregor, Miller, Oelslager, Otterman, Sayre, Schindel, D. Stewart, Uecker, Ujvagi, White, S. Williams, Wolpert, Yates, Yuko

BILL SUMMARY

- Makes the Chancellor of the Ohio Board of Regents an appointee of the Governor with the advice and consent of the Senate, instead of an appointee of the Board of Regents.
- Transfers the current powers and duties of the Board of Regents to the Chancellor.
- Makes the Board of Regents an advisory board to the Chancellor.
- Requires the Chancellor to make recommendations to the General Assembly and the Governor for improvements in higher education.

CONTENT AND OPERATION

Transfer of Chancellor's appointment

The bill makes the Chancellor of the Ohio Board of Regents no longer subject to appointment by the Board. Instead, under the bill, the Chancellor is appointed by the Governor, with the advice and consent of the Senate, and is added to the statutory list of state officers so appointed who are members of the Governor's cabinet.¹ The bill further specifies that the Chancellor serves at the

¹ R.C. 121.03. This list, while not statutorily named the "Governor's cabinet," is the group of officers that by tradition functions as the Governor's cabinet. The list does not contain constitutional officers; however, a separate statute specifies that the Lieutenant

pleasure of the Governor, who prescribes the Chancellor's duties in addition to the Chancellor's duties prescribed by law, and fixes the Chancellor's compensation.²

Transfer of Board's powers and duties

The bill transfers the current powers and duties prescribed by statute for the Board of Regents to the Chancellor. While it does not affect the appointment, terms, or organization of the Board, the bill specifies that the Board is an advisory board to the Chancellor.³ Thus, unless a separate statute prescribes a specific duty for the Board of Regents, its only duty under the bill is to provide advice to the Chancellor, presumably upon request of the Chancellor. Accordingly, the Chancellor, rather than the Board of Regents, would be responsible for deciding how to guide and coordinate higher education policy within the parameters set by law.

The bill amends several sections in R.C. Chapter 3333. that pertain to the current powers of the Board. It also states that "whenever the term 'Ohio Board of Regents' is used, referred to, or designated in any statute, rule, contract, grant, or other document, the use, reference, or designation shall be construed to mean the 'Chancellor of the Ohio Board of Regents'" unless it relates to the Board's advisory duties or unless another section of law expressly provides otherwise.⁴ See **APPENDIX 1** for a list of many of the current statutory powers and duties of the Board of Regents.

The bill does not affect the current powers and duties prescribed by separate statutes for the Chancellor. See **APPENDIX 2** for a list of many of the current statutory powers and duties of the Chancellor.

Recommendations

The bill also requires the Chancellor, by September 28, 2007, to report to the General Assembly and the Governor with recommendations for improvements in higher education. Specifically, the Chancellor's recommendations must address (1) making college more affordable and accessible, (2) encouraging graduates to

Governor is "a member of the Governor's cabinet" and presides at its meetings in absence of the Governor (R.C. 108.05, not in the bill). There does not appear to be any law that prevents the Governor from including other officers in the cabinet.

² R.C. 3333.03.

³ R.C. 3333.01.

⁴ R.C. 3333.031. See also Section 3, where the bill prescribes transferring to the Chancellor the assets and liabilities currently held in the name of the Board of Regents.

remain in the state after earning their degrees, and (3) maximizing higher education as a driver of the state's economy. In addition, the report must include a plan as to how the Board of Regents may be "fully utilized to enhance higher education in Ohio."⁵

Background

Board of Regents

The Board of Regents consists of nine members appointed to nine-year terms by the Governor with the advice and consent of the Senate. In addition, the chairpersons of the House and Senate Education committees serve as ex officio, nonvoting members of the Board.⁶ Currently, the Board guides the development of higher education policy and coordinates policy implementation, but it does not exercise direct managerial control over institutions of higher education. Management of the institutions is left to their separate boards of trustees, which generally have the power to make all decisions necessary to carry out their respective educational missions.

Among the Board's primary responsibilities are making policy recommendations, collecting data, providing fiscal oversight of public institutions of higher education, approving changes to institutional programs, and administering student financial aid programs. In distributing state funds to institutions of higher education, the Board of Regents establishes procedures for calculating the key components of the State Share of Instruction, based on a formula that is enacted by the General Assembly in each biennial budget act. See **APPENDIX 1** for a list of many of the current statutory powers and duties of the Board of Regents.

Chancellor

The Board of Regents currently is required to appoint and prescribe the duties for a Chancellor who, as the administrative officer of the Board, serves at the Board's pleasure.⁷ Current law also states that the Chancellor is responsible for hiring and fixing the compensation of all professional, administrative, and clerical employees and staff necessary to assist the Board and the Chancellor in the

⁵ Section 4 of the bill.

⁶ R.C. 3333.01.

⁷ The bill removes statutory language that currently designates the Chancellor as the administrative officer of the Board of Regents.

performance of their duties.⁸ Law not changed by the bill specifies that the Chancellor must be a person qualified by training and experience to understand the problems and needs of the state in the field of higher education and to devise programs, plans, and methods of solving the problems and meeting the needs. It also specifies that neither the Chancellor nor any staff member or employee simultaneously may be a trustee, officer, or employee of any public or private college or university.⁹

See **APPENDIX 2** for a list of many of the current statutory powers and duties of the Chancellor.

HISTORY

ACTION	DATE
Introduced	02-20-07
Reported, H. Education	03-21-07
Passed House (96-2)	03-21-07

APPENDICES

APPENDIX 1

CURRENT POWERS AND DUTIES OF THE OHIO BOARD OF REGENTS	
Citation	Power or Duty
R.C. 122.33	Operate (in conjunction with the Director of Development) the Industrial Technology and Enterprise Resources Program
R.C. 154.21	Lease capital facilities from the Ohio Public Facilities Commission for the use of institutions of higher education and make agreements for the use, sale, or sublease of those facilities
R.C. 307.091	Approve the lease, sale, or transfer of a county health care facility to a state-supported medical school
R.C. 1713.02, 1713.03, and 1713.04	Establish standards for, issue, and revoke certificates of authorization for private, nonprofit institutions of higher education specifying the degrees, diplomas, and courses that the institutions are allowed to offer

⁸ Under the bill, the Chancellor continues to be responsible for hiring and fixing the compensation of all necessary employees and staff.

⁹ R.C. 3333.03.

CURRENT POWERS AND DUTIES OF THE OHIO BOARD OF REGENTS	
Citation	Power or Duty
R.C. 2950.11	Maintain list of contact information for institutions of higher education for county sheriffs to use in providing notice of sexual offender residing in area
R.C. 3301.42	(1) Consult in developing the Partnership for Continued Learning's recommended legislative changes to improve the Post-Secondary Enrollment Options program and other dual enrollment programs (2) Consult in developing the Partnership's recommendations for waivers of the requirement to complete the Ohio Core curriculum to be admitted to a state university without further coursework
R.C. 3301.43	Collaborate with the State Board of Education and the Partnership for Continued Learning in recommending a means of assessing high school students' college and work readiness
R.C. 3301.46	Propose, in cooperation with the Department of Education, by April 30, 2009, a standard method and form for documenting high school credit on high school transcripts
R.C. 3302.032	Consult with the State Board of Education in the State Board's selection of a measure, to be placed on school district report cards, of high school graduates' preparedness for higher education and the workforce
R.C. 3313.603	(1) Develop policies, in cooperation with the State Board of Education and the Partnership for Continued Learning, to ensure that only in rare instances will students who complete the Ohio Core curriculum require academic remediation after high school; (2) Collaborate with the Partnership for Continued Learning and the State Board of Education in analyzing data to determine if mitigating circumstances warrant extending the Ohio Core opt-out procedure beyond the Class of 2017; and (3) Consult with the State Board and the Partnership to develop a statewide plan for awarding high school credit based on demonstrations of subject area competencies instead of or in combination with hours of classroom instruction
R.C. 3319.112	Consult with the State Board of Education in establishing guidelines for the evaluation of elementary and secondary teachers and principals
R.C. 3319.233	Consult in the State Board of Education's annual report on the quality of colleges and universities that prepare teachers
R.C. 3319.61	Consult with the Educator Standards Board in developing standards for educator licensure and professional development

CURRENT POWERS AND DUTIES OF THE OHIO BOARD OF REGENTS	
Citation	Power or Duty
R.C. 3333.04	(1) Make studies of state policy in higher education; (2) Formulate a master plan for higher education for the state; (3) Report annually to the Governor and General Assembly on study findings and the master plan; (4) Report semiannually to the Governor and General Assembly on enrollment figures at state-assisted institutions of higher education; (5) Approve the establishment of state institutions of higher education; (6) Approve the establishment of new branches or academic centers of state colleges and universities; (7) Approve new degrees and degree programs at state-assisted institutions of higher education; (8) Recommend programs, research, and public services to be offered by state-assisted institutions of higher education in order to best utilize their facilities and personnel; (9) Recommend to state-assisted institutions of higher education graduate or professional programs that could be eliminated because of duplication or other cause and recommend programs that should be added to existing offerings; (10) Exclude students enrolled in programs recommended for elimination when determining instructional subsidies for state-assisted institutions of higher education; (11) Conduct studies for state-assisted institutions of higher education to assist them in making efficient use of their facilities and personnel; (12) Make recommendations to the Governor and General Assembly about (a) the development of state-funded capital plans for higher education, (b) the establishment of new state-assisted institutions of higher education and new programs at existing institutions, and (c) the design and funding of student financial aid programs; (13) Review appropriation requests of state colleges and universities, community colleges, and technical colleges and submit budget recommendations to the Office of Budget and Management; (14) Define "full-time equivalent student" for state subsidy purposes; (15) Appoint advisory committees to assist the Board in its duties; (16) Establish goals and timetables for programs under the Board's supervision that deal with increased access to higher education, job training, adult literacy, research, excellence in higher education, or reductions in similar graduate programs and submit the goals,

CURRENT POWERS AND DUTIES OF THE OHIO BOARD OF REGENTS	
Citation	Power or Duty
	timetables, and regular progress reports to the Governor and General Assembly; (17) Administer student financial aid programs; (18) Conduct enrollment audits of state-assisted institutions of higher education; and (19) Appoint consortiums of higher education personnel to participate in the development and operation of statewide collaborative efforts and appoint a fiscal agent for each consortium
R.C. 3333.041	Report annually to the General Assembly, State Board of Education, and school districts on the status of district graduates at state-assisted institutions of higher education, including the number who take remedial courses
R.C. 3333.042	Operate a grant program for aerospace research, education, and technology
R.C. 3333.043	Encourage the development of community service programs at institutions of higher education
R.C. 3333.044	Contract with consultants and purchase liability insurance for consultants or advisory committee members
R.C. 3333.045	Work with specified state officials to develop a model for training boards of trustees of public institutions of higher education and members of the Board regarding their duties, fiscal issues, and ethics
R.C. 3333.047	Conduct audits of student financial aid programs
R.C. 3333.05, 3354.07, 3357.021, 3357.07, 3357.18, 3358.02, and 3358.07	(1) Approve plans drawn up by the board of trustees for the establishment of a community college, technical college, or state community college; and (2) Issue a charter for the institution's operation and approve charter amendments
R.C. 3333.06	Prepare a state plan for participation in federal programs that provide funds for higher education capital facilities and prioritize eligible projects
R.C. 3333.07	Prescribe procedures for institutions of higher education to account for their expenditure of state funds
R.C. 3333.071	Approve (in conjunction with the Controlling Board) expenditures for land by public institutions of higher education

CURRENT POWERS AND DUTIES OF THE OHIO BOARD OF REGENTS	
Citation	Power or Duty
R.C. 3333.072	Adopt rules governing allocation of state capital appropriations to state colleges and universities
R.C. 3333.08	Approve applications from private institutions of higher education to appropriate property for educational purposes through eminent domain
R.C. 3333.09	(1) Accept land conveyances from a public college or university and lease the land and its buildings to the college or university for use as an educational facility; (2) Construct, equip, or remodel buildings on the land; and (3) Consent to the sale of the land to the lessee
R.C. 3333.10	Enter into agreements with private colleges or universities for the operation of state-subsidized medical or dental schools
R.C. 3333.15	Undertake construction of a university branch if the board of trustees of a state university fails to do so within one year after a state appropriation for the construction
R.C. 3333.16	Develop an articulation and transfer policy and a universal course equivalency classification system for state colleges and universities
R.C. 3333.161	Establish a statewide system for articulation agreements among state institutions of higher education for transfer students pursuing teacher education programs
R.C. 3333.162	Develop an articulation and transfer policy for technical courses
R.C. 3333.163	Adopt standard scores on Advanced Placement exams that qualify for college credit from all public institutions of higher education
R.C. 3333.17, 3333.18, and 3333.19	Enter into reciprocity contracts with states/countries to permit students to attend state-assisted institutions of higher education in either state/country at in-state/country tuition rates and approve similar contracts entered into by individual institutions
R.C. 3333.20	Adopt educational service standards that address range of programs, course delivery, fees, and student access for state community colleges, community colleges, technical colleges, and university branches
R.C. 3333.31	Define Ohio residency for state subsidy and tuition purposes
R.C. 3333.33	Publish, in collaboration with the State Board, an annual report describing dual enrollment programs offered by school districts, community schools, and chartered nonpublic schools. ¹⁰

¹⁰ This provision was enacted as R.C. 3333.34 by Am. Sub. S.B. 311 of the 126th General Assembly, and was recodified as R.C. 3333.33 by the Director of LSC pursuant to the Director's authority under R.C. 103.131.

CURRENT POWERS AND DUTIES OF THE OHIO BOARD OF REGENTS	
Citation	Power or Duty
R.C. 3333.34	Create, in cooperation with the State Board of Education, a system of pre-college stackable certificates to provide clear and accessible paths for adults seeking to advance their education. ¹¹
R.C. 3345.32	Specify the form of statements of selective service status
R.C. 3345.45	Develop standards for instructional workloads for faculty
R.C. 3345.50 and 3345.51	Adopt rules establishing criteria for the local administration by a state university or state community college of a capital facilities project requiring state funds and approve requests to locally administer projects
R.C. 3345.72 and 3345.74	(1) Establish a financial tracking system to monitor public institutions of higher education; (2) Declare an institution to be in a state of fiscal watch and terminate a fiscal watch upon satisfactory performance; and (3) Determine when the fiscal problems of an institution in fiscal watch warrant appointing a conservator
R.C. 3349.29	Approve agreements transferring educational functions and/or assets of a municipal university to a state university
R.C. 3354.02, 3357.02, and 3357.18	Undertake or contract for studies relative to the establishment of a community college or technical college
R.C. 3354.18	Determine whether a municipal university is eligible for state aid because it offers instructional programs equivalent to those of a community college
R.C. 3354.23	Evaluate pilot programs for displaced homemakers
R.C. 3355.091	Approve a resolution of a university branch board of trustees providing for borrowing money and issuing bonds for auxiliary or education facilities
R.C. 3357.09	Approve the offering of technical college programs outside of the technical college district
R.C. 3357.19	(1) Adopt rules regarding instructional content and the qualifications of teaching personnel at technical colleges; and (2) Revoke or suspend the charter of a technical college for violations of law or its approved plan

¹¹ This provision was enacted by Am. Sub. H.B. 699 of the 126th General Assembly.

CURRENT POWERS AND DUTIES OF THE OHIO BOARD OF REGENTS	
Citation	Power or Duty
R.C. 3702.74, 3702.75, 3702.85, and 3702.91	Repay student loans for physicians and dentists that practice in shortage areas under the Physician Loan Repayment Program and the Dentist Loan Repayment Program
R.C. 4757.01, 4758.01, 4760.031, and 4763.01	Recognize accrediting organizations for purposes of state licensing boards
Section 3 of Am. Sub. S.B. 311 of the 126th General Assembly	Consult with the State Board of Education in the State Board's appointments to the Foreign Language Advisory Council

APPENDIX 2

CURRENT POWERS AND DUTIES OF THE CHANCELLOR OF THE OHIO BOARD OF REGENTS	
Citation	Power or Duty
R.C. 121.40	Serve, or appoint a designee, as a member of the Community Service Council
R.C. 184.01	Serve as a member of the Third Frontier Commission
R.C. 3301.41	Serve as a member of the Partnership for Continued Learning
R.C. 3319.60	(1) Submit two slates of nominees for appointments to the Educator Standards Board of representatives of colleges and universities that prepare teachers; and (2) Serve as a nonvoting member of the Educator Standards Board
R.C. 3332.03	Serve, or appoint a vice-chancellor, as a member of the State Board of Career Colleges and Schools
R.C. 3333.03	Serve as administrative officer of the Ohio Board of Regents; appoint and fix the compensation of all employees necessary to assist the Board
R.C. 3333.36	Allocate up to \$70,000 each fiscal year to make payments to the Columbus Program in Intergovernmental Issues (an Ohio internship program at Kent State University) for scholarships

CURRENT POWERS AND DUTIES OF THE CHANCELLOR OF THE OHIO BOARD OF REGENTS	
Citation	Power or Duty
R.C. 3333.373	Serve, or appoint a designee, as a member of the Rules Advisory Committee (for the Outstanding Scholarship and Priority Needs Fellowship programs)
R.C. 3334.03	Serve as a member of the Ohio Tuition Trust Authority
R.C. 3345.28	Report to the chairpersons of the Education committees of the House and Senate on the status of faculty improvement programs
R.C. 3353.02	Serve, or appoint a designee, as a member of the eTech Ohio Commission
R.C. 3354.16, 3355.12, and 3357.16	Biennially adjust the dollar threshold in excess of which contracts for capital improvements at community colleges, university branches, and technical colleges must be competitively bid
R.C. 3377.03	Serve, or appoint a designee, as a member of the Ohio Higher Educational Facility Commission
R.C. 4112.12	Serve, or appoint a designee, as a member of the Commission on African-American Males
R.C. 5910.02	Serve, or appoint a designee, as a member of the War Orphans Scholarship Board
R.C. 5919.34	Adopt rules, along with the Adjutant General, governing the administration and fiscal management of the Ohio National Guard Scholarship Program

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