



Ohio Legislative Service Commission

Final Analysis

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Am. Sub. H.B. 30 129th General Assembly (As Passed by the General Assembly)

Reps. Gardner, Wachtmann, Stautberg, Sears, Derickson, Brenner, Maag, J. Adams, Carey, Beck, Blair, Burke, Combs, Hottinger, Snitchler, Kozlowski, Grossman, Bupp, Stebelton, Ruhl, Blessing, Huffman, Baker, Hackett, McClain, Amstutz, Roegner, Henne, Young, Anielski, Boose, Buchy, Coley, Dovilla, Duffey, Gonzales, Goodwin, Hall, Hayes, Martin, Mecklenborg, Newbold, Peterson, Rosenberger, Schuring, Slaby, Thompson, Uecker, Batchelder

Sens. Hite, Bacon, Beagle, Daniels, Grendell, Hughes, Jones, Jordan, LaRose, Lehner, Patton, Schaffer, Seitz, Wagoner, Widener, Cates, Niehaus, Manning

Effective date: July 1, 2011; Sections 4 and 5 effective June 29, 2011

ACT SUMMARY

- Eliminates the authority of the Superintendent of Public Instruction to adopt rules imposing spending and reporting requirements associated with the "Evidence-Based Model" (EBM) school funding system and eliminates the authority to impose graduated sanctions for noncompliance with those rules.
- Eliminates the requirements that school districts account separately for most components of the EBM and submit annual spending plans.
- Retains the requirement for spending rules governing state gifted education funding, but postpones the effective date for the rules from July 1, 2011, to July 1, 2013.
- Modifies school districts' "maintenance of effort" spending requirements for gifted education services, requires districts to account for their maintenance of effort spending to the Department of Education, and directs the Department to monitor and enforce districts' compliance with the maintenance of effort requirements.
- Eliminates the prohibition against payment of state unit funding for gifted education after fiscal year 2011.

- Eliminates the requirement that school districts offer all-day kindergarten, and reinstates the permanent authority for most districts and community schools to charge tuition for all-day kindergarten.
- Eliminates the requirement that school districts establish family and civic engagement teams, except as required for the federal Race to the Top grant.
- Eliminates the requirement that school districts annually set aside an amount per pupil into a textbook and instructional materials fund.

CONTENT AND OPERATION

Reporting, spending, and enforcement requirements under the EBM

The general operating budget act for the 2009-2011 fiscal biennium (H.B. 1 of the 128th General Assembly) enacted a new funding system for school districts, unofficially known as the "Evidence-Based Model" or "EBM." While the act does not change the way the EBM computes funding, it eliminates most of the EBM's reporting, spending, and enforcement requirements. Specifically, the act:

(1) Repeals the authorization for the Superintendent of Public Instruction to adopt reporting and expenditure rules related to most EBM components, and the requirement that each district submit an annual spending plan;¹

(2) Repeals the provisions that required graduated sanctions for noncompliance with, and authorizing waivers from, the spending and reporting rules.² Prescribed sanctions ranged from (a) state technical assistance and development of an operations improvement plan for the first year of noncompliance, (b) appointment of a state team to evaluate the district's operations, for the second consecutive year of noncompliance, (c) appointment of a trustee or commission essentially to take over the district's management, for the third consecutive year of noncompliance, to (d) forced closure for the fourth consecutive year of noncompliance. The state Superintendent could waive compliance for up to five years at a time, upon application of a district, based on standards of the State Board of Education.

(3) Repeals the support services spending provisions for districts with low graduation rates, but requires districts to continue to comply with them to the extent required by the agreement for a federal Race to the Top grant. (See also "**Family and civic engagement teams**" below.) Those former provisions required school districts

¹ Repealed R.C. 3306.25 and 3306.30. Conforming changes in R.C. 3301.07, 3301.16, 3302.05, and 3302.07.

² Repealed R.C. 3306.33, 3306.34, and 3306.40. Conforming changes in R.C. 3301.07 and 3301.16.

with graduation rates of 80% or less (a) to obtain approval of certain components of their spending plans from the Department and the Governor's Closing the Achievement Gap Initiative and (b) to create and staff the position of "linkage coordinator" to serve as mentor and service coordinator for students at risk of not graduating.³

(4) Eliminates language that required districts to account for each EBM component separately, except for funding components for special education, career-technical education, and gifted student services (see below);⁴ and

(5) Repeals the requirements that (a) the state Superintendent annually report to the State Board the amount each district spent in the previous fiscal year on each EBM component and (b) the Department annually publish on its web site a Fiscal Accountability and Transparency ("FACT") form for each school district that compares the district's EBM payments with how it deployed the payments, based on its annual spending plan.⁵

Gifted services spending requirements retained and modified

The act retains and modifies the EBM's spending requirements with respect to state gifted education funding.⁶ First, although it repeals the state Superintendent's authority to adopt spending and reporting rules for other components of the EBM, the act retains the requirement for rules governing districts' spending of gifted education funds, moving the rulemaking authority to the State Board of Education and postponing the rules' mandatory effective date by two years, until July 1, 2013. The act retains the requirement that the rules direct districts to use state gifted education funds only to employ staff to serve students identified as gifted or for other services for those students. It also retains the ability for districts to receive waivers from the gifted spending rules, if they did not receive gifted education funding in fiscal year 2009. As under prior law, the first waiver may be valid for up to two years. But where prior law appeared to permit unlimited renewals for one year at a time, the act specifies that districts may receive only one, one-year renewal of the waiver.⁷

Second, the act retains and modifies the "maintenance of effort" requirement, by which districts that received state gifted funding in fiscal year 2009 are required to

³ R.C. 3301.96 and repealed R.C. 3306.31. Conforming change in R.C. 3306.02.

⁴ R.C. 3306.05, 3306.06, 3306.07, 3306.08, 3306.091, and 3306.10.

⁵ Repealed R.C. 3306.18 and 3306.35.

⁶ R.C. 3306.09; conforming changes in R.C. 3302.05 and 3302.07.

⁷ R.C. 3306.09(E) and (H).

maintain in subsequent fiscal years at least the same level of spending on gifted education services. The act adds a stipulation that spending for gifted education *staff* must be maintained in fiscal years after 2009, likely meaning that districts must spend an amount equal to the gifted education unit funding (see below) they received in fiscal year 2009 to obtain gifted education staff services in subsequent fiscal years.⁸

Third, the act adds a requirement that districts account for, and report to the Department of Education, their gifted maintenance of effort spending. It further requires the Department to "monitor and enforce" districts' compliance with the maintenance of effort spending requirements, although it does not prescribe a specific method with which the Department must enforce them.⁹

Gifted unit funding after FY 2011

Prior law prohibited unit funding for gifted student services for fiscal years after fiscal year 2009 in favor of funding under the EBM. The act limits that prohibition to just fiscal years 2010 and 2011.¹⁰ However, it makes no statement as to whether gifted services actually will be funded after fiscal year 2011 under units or the EBM or in some other manner.

Prior to fiscal year 2010, school districts were awarded "units" for gifted services. A "unit" is a group of students receiving the same education program. The value of a unit is generally the sum of the annual salary of the unit's classroom teacher based on the state's former minimum teacher salary schedule in effect prior to 2001, an amount for fringe benefits equal to 15% of the salary allowance, a basic unit allowance, and a supplemental unit allowance. A local share was deducted from the supplemental unit allowance based on the district's relative property wealth. Continuing law also uses unit funding to pay for services for preschool children with disabilities.

Other changes

Along with its repeal of the general authorization for spending and reporting rules, the act eliminates a specific requirement that the rules must include "standards that encourage school districts to give preference to employing or obtaining the services of licensed school nurses with funds received for the" EBM components for school nurse wellness coordinators and district health professionals.¹¹ Presumably, it was intended

⁸ R.C. 3306.09(G).

⁹ R.C. 3306.09(I).

¹⁰ R.C. 3317.018 and 3317.024.

¹¹ R.C. 3306.06(C).

that these standards would encourage districts to obtain the services of licensed school nurses rather than licensed school nurse wellness coordinators. Under separate continuing law, licensed school nurses must be registered nurses.¹²

The act also eliminates a spending provision that required the "enrichment" component of the EBM to be used for purposes *other than* to serve students who have been identified as gifted. It retains a provision allowing, but not requiring, districts to use the funds for "enrichment activities that may encourage the intellectual and creative pursuits of all students, including the fine arts."¹³

Finally, since it repeals the general authorization for spending rules, the act also repeals a requirement that the Executive Director of the Ohio School Facilities Commission, at the state Superintendent's request, advise the state Superintendent about the impact of those rules would have had on existing classroom facilities.¹⁴

All-day kindergarten

The act eliminates the H.B. 1 mandate that all school districts eventually offer all-day kindergarten for all families that want it. It also permanently reinstates the authority that was scheduled to expire June 30, 2011, for school districts and community (charter) schools to charge tuition for all-day kindergarten services if they did not receive a poverty-based assistance payment for all-day kindergarten for fiscal year 2009. It retains the stipulation that the tuition must be structured on a sliding scale according to family income. But effective July 1, 2011, the act removes the limitation of the temporary H.B. 1 law that limited the tuition rates to those charged in fiscal year 2009.

Finally, the act reinstates the pre-H.B. 1 requirement that the Department of Education annually survey each school district and community school authorized to charge tuition for all-day kindergarten to determine (1) the amount it charges and (2) how many of the students for whom tuition is charged are eligible for federal free or reduced-price lunch programs. The Department must issue a report with the results of the survey, and post the report on its web site, by April 30 each year.¹⁵

¹² R.C. 3319.221, not in the act.

¹³ R.C. 3306.091(C).

¹⁴ Repealed R.C. 3318.312.

¹⁵ R.C. 3321.01 and 3321.05. Also repealed Section 265.70.70 of Am. Sub. H.B. 1 of the 128th General Assembly and repealed Section 9 of Sub. H.B. 318 of the 128th General Assembly. Conforming change in R.C. 3306.01. See R.C. 3314.03(A)(11)(d), not in the act.

Background

Separate law enacted in H.B. 1 required that every school district offer all-day kindergarten to each student enrolled in kindergarten beginning in fiscal year 2011 (the current fiscal year). However, a district could apply for and receive a waiver of this requirement from the state Superintendent, or a district could unilaterally "delay" implementation until fiscal year 2012.

Prior to H.B. 1, the law permitted school districts and community schools that did not receive a poverty-based payment for all-day kindergarten (under the former school funding model) to charge for all-day kindergarten, if they offered it, on a sliding scale according to family income. H.B. 1 temporarily permitted these districts and community schools to continue charging for all-day kindergarten at the fiscal year 2009 level, but prohibited any district from charging at all for all-day kindergarten after fiscal year 2011.

Family and civic engagement teams

The act generally repeals the H.B. 1 requirement that each school district create a family and civic engagement team made up of parents, community representatives, health and human service representatives, business representatives, and other representatives identified by the district board. However, it requires any school district that is required by the agreement for a federal Race to the Top grant to have a civic engagement team to continue to do so for the life of the grant award.¹⁶ (Ohio has been awarded \$400 million under the Race to the Top program, which was authorized by the recent federal economic stimulus act. Race to the Top provides competitive grants to states that made "significant progress" in achieving certain student performance objectives.)¹⁷

Background – duties of family and civic engagement teams

Under prior law, family and civic engagement teams were required to work with county family and children first councils to recommend qualifications and responsibilities that should be included in the job description for school family and civic engagement coordinators. Teams also were required to develop five-year family and civic engagement plans and provide annual progress reports on the development and implementation of the plans. Each had to submit its plan and progress reports to the county family and children first council. Finally, the team was required to provide

¹⁶ R.C. 3301.96 and repealed R.C. 3313.821 and 3313.822. Conforming change in R.C. 3301.07.

¹⁷ Division (A), Title XIV, Sections 14005 and 14006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

recommendations on other matters specified by the school district board. Community schools and STEM schools were specifically permitted, but not required, to create family and civic engagement teams. A school district also could combine into one committee its existing business advisory council, required by law not changed by the act, with the family and civic engagement team.

Textbook and instructional materials fund

The act repeals the requirement, enacted in 1997, that each school district annually set aside a prescribed amount into a separate fund for textbooks and instructional materials.¹⁸

Background

Prior law required the board of education of each city, exempted village, local, and joint vocational school district to establish a "textbook and instructional materials fund" and deposit into that fund an amount equal to 3% (or another percentage if established by the Auditor of State) of the base-cost formula amount for the preceding fiscal year, multiplied by the district's student population for the preceding fiscal year. For fiscal year 2011, the formula amount is \$5,732 per pupil; 3% of that amount is \$172 per pupil.

Money in the fund generally could be used solely for textbooks, instructional software, and instructional materials, supplies, and equipment. Any money not used in the fund in any fiscal year carried over to the next fiscal year. Prior law also provided exceptions from the set-aside requirement for districts with certain adverse financial conditions.

HISTORY

ACTION	DATE
Introduced	01-18-11
Reported, H. Education	02-10-11
Passed House (59-36)	02-16-11
Reported, S. Education	03-15-11
Passed Senate (25-8)	03-15-11
House concurred in Senate amendments (59-37)	03-16-11

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¹⁸ Repealed R.C. 3315.17 and 3315.171. Conforming changes in R.C. 3315.18, 3315.19, 3316.06, and 3316.16.