



# Ohio Legislative Service Commission

## Bill Analysis

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### Sub. H.B. 30

129th General Assembly  
(As Reported by H. Education)

**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

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## BILL 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 School Funding Advisory Council.
- 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.

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## **CONTENT AND OPERATION**

### **Spending and reporting requirements under the EBM**

#### **Overview of EBM and spending and reporting rules**

The general operating budget act for the 2009-2011 fiscal biennium (Am. Sub. 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," the new system does not compute a district's funding on a per pupil basis like the prior model did but, instead, computes funding as an aggregate of various personnel and nonpersonnel components known as the "adequacy amount." To derive the several components that go into the adequacy amount, the EBM starts with each district's student count and relies on various presumed ratios of students to personnel to compute many of the components.

The EBM, in and of itself, generally does not specify that a district must spend its funding for a particular component to achieve the student-to-personnel ratios used to compute that funding. It does, however, require a district to account for its spending of the amount computed for each component separately and to submit to the Department of Education an annual plan for the deployment of those funds. In addition, the Superintendent of Public Instruction must adopt rules regulating both the reporting and the expenditure of EBM funds so that they "are directed toward the purposes for which they were calculated."<sup>1</sup> The reporting rules could take effect as early as July 1, 2010, but the spending rules may not take effect before July 1, 2011, and both may take effect later. The spending rules must afford districts degrees of flexibility based on their current performance ratings, and districts rated "excellent" must be completely exempt from those rules.

The Department is further required to impose graduated sanctions for a district that fails to submit an annual spending plan or to comply with the Superintendent's rules. Prescribed sanctions range from (1) technical assistance and development of an operations improvement plan for the first year of noncompliance, (2) appointment of a state team to evaluate the district's operations, for the second consecutive year of

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<sup>1</sup> R.C. 3306.25, repealed by the bill.

noncompliance, (3) appointment of a trustee or commission essentially to take over the district's management, for the third consecutive year of noncompliance, to (4) forced closure for the fourth consecutive year of noncompliance. The state Superintendent may waive compliance for up to five years at a time, upon application of a district, based on standards of the State Board of Education.

### **The bill**

While the bill does not change the way the EBM computes funding, it eliminates operating requirements related to the funding system. Specifically, the bill:

(1) Repeals the authorization for reporting and expenditure rules related to most EBM components and the requirement that each district submit an annual spending plan;<sup>2</sup>

(2) Repeals the provisions requiring sanctions for noncompliance with, and authorizing waivers from, the spending and reporting rules;<sup>3</sup>

(3) Repeals the support services spending requirements 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.) These provisions currently require school districts 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.<sup>4</sup>

(4) Eliminates language requiring districts to account for each EBM component separately, except for funding components for special education, career-technical education, and gifted student services (see below);<sup>5</sup> 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

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<sup>2</sup> Repealed R.C. 3306.25 and 3306.30. Conforming changes in R.C. 3301.07, 3301.16, 3302.05, and 3302.07.

<sup>3</sup> Repealed R.C. 3306.33, 3306.34, and 3306.40. Conforming changes in R.C. 3301.07 and 3301.16.

<sup>4</sup> R.C. 3301.96 and repealed R.C. 3306.31. Conforming change in R.C. 3306.02.

<sup>5</sup> R.C. 3306.05, 3306.06, 3306.07, 3306.08, 3306.091, and 3306.10.

the district's EBM payments with how it deployed the payments, based on its annual spending plan.<sup>6</sup>

### **Gifted services spending requirements retained and modified**

The bill retains and modifies current spending requirements with respect to state gifted education funding.<sup>7</sup> First, although it repeals the state Superintendent's authority to adopt spending and reporting rules for other components of the EBM, the bill 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 bill retains the current 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 current law, the first waiver may be valid for up to two years. But where current law appears to permit unlimited renewals for one year at a time, the bill specifies that districts may receive only one, one-year renewal of the waiver.<sup>8</sup>

Second, the bill retains and modifies the current "maintenance of effort" requirement, by which districts that received state gifted funding in fiscal year 2009 are required to maintain in subsequent fiscal years at least the same level of spending on gifted education services. The bill 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.<sup>9</sup>

Third, the bill 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.<sup>10</sup>

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<sup>6</sup> Repealed R.C. 3306.18 and 3306.35.

<sup>7</sup> R.C. 3306.09; conforming changes in R.C. 3302.05 and 3302.07.

<sup>8</sup> R.C. 3306.09(E) and (H).

<sup>9</sup> R.C. 3306.09(G).

<sup>10</sup> R.C. 3306.09(I).

## Gifted unit funding after FY 2011

Current law prohibits unit funding for gifted student services for fiscal years after fiscal year 2009 in favor of funding under the EBM. The bill limits that prohibition to just fiscal years 2010 and 2011.<sup>11</sup> 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 bill 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.<sup>12</sup> Presumably, these standards are intended to encourage districts to obtain the services of licensed school nurses rather than licensed school nurse wellness coordinators. Under separate law, licensed school nurses must be registered nurses.<sup>13</sup>

The bill also eliminates a spending provision that requires the "enrichment" component of the EBM to be used for purposes *other than* to serve students who have been identified as gifted. It retains the current law 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."<sup>14</sup>

Finally, since it repeals the general authorization for spending rules, the bill also repeals a requirement that the Executive Director of the Ohio School Facilities

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<sup>11</sup> R.C. 3317.018 and 3317.024.

<sup>12</sup> R.C. 3306.06(C).

<sup>13</sup> R.C. 3319.221, not in the bill.

<sup>14</sup> R.C. 3306.091(C).

Commission, at the state Superintendent's request, advise the state Superintendent about the impact of those rules on existing classroom facilities.<sup>15</sup>

## **School Funding Advisory Council**

The bill repeals the sections of law creating the School Funding Advisory Council and its subcommittees, thereby abolishing them.<sup>16</sup>

### **Background**

H.B. 1 created the 28-member School Funding Advisory Council to recommend biennial updates of the EBM's components. The Council's first report was submitted, as required by law, by December 1, 2010.<sup>17</sup> Thereafter, the Council must submit its subsequent reports by July 1 of each even-numbered year. The Council also must have a subcommittee on school district-community school collaboration and may have other subcommittees. The Department of Education is required to provide staff to assist the Council.

The Council consists of the following members:

- (1) The Governor, or the Governor's designee;
- (2) The Superintendent of Public Instruction, or the Superintendent's designee;
- (3) The Chancellor of the Board of Regents, or the Chancellor's designee;
- (4) Two school district teachers, appointed by the Governor;
- (5) Two nonteaching, nonadministrative school district employees, appointed by the Governor;
- (6) One school district principal, appointed by the Speaker of the House;
- (7) One school district superintendent, appointed by the Senate President;
- (8) One school district treasurer, appointed by the Speaker of the House;
- (9) One member of a school district board, appointed by the Senate President;

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<sup>15</sup> Repealed R.C. 3318.312.

<sup>16</sup> Repealed R.C. 3306.29, 3306.291, and 3306.292.

<sup>17</sup> The report is published online at [www.education.ohio.gov/GD/Templates/Pages/SFAC/SFACPrimary.aspx?page=760](http://www.education.ohio.gov/GD/Templates/Pages/SFAC/SFACPrimary.aspx?page=760).

(10) One representative of a college of education, appointed by the Speaker of the House;

(11) One representative of the business community, appointed by the Senate President;

(12) One representative of a philanthropic organization, appointed by the Speaker of the House;

(13) One representative of the Ohio Academy of Science, appointed by the Senate President;

(14) One representative of the general public, appointed by the Senate President;

(15) One representative of educational service centers, appointed by the Speaker of the House;

(16) One parent of a student attending a school operated by a school district, appointed by the Governor;

(17) One representative of community school sponsors, appointed by the Governor;

(18) One representative of operators of community schools, appointed by the Senate President;

(19) One community school fiscal officer, appointed by the Speaker of the House;

(20) One parent of a student attending a community school, appointed by the Senate President;

(21) One representative of early childhood education providers, appointed by the Governor;

(22) One representative of chartered nonpublic schools, appointed by the Speaker of the House;

(23) Two persons appointed by the Senate President, one of whom is recommended by the Senate Minority Leader; and

(24) Two persons appointed by the Speaker of the House, one of whom shall be recommended by the House Minority Leader.

The state Superintendent, or the Superintendent's designee on the Council, is the chairperson of the Council.

### **All-day kindergarten**

The bill 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, currently 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 bill removes the limitation of the temporary H.B. 1 law that the tuition cannot exceed rates charged in fiscal year 2009.

Finally, the bill 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.<sup>18</sup>

### **Background**

Separate law enacted in H.B. 1 requires 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 can apply for and receive a waiver of this requirement from the state Superintendent, or a district may 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 permits these districts and community schools to continue charging for all-day kindergarten at the fiscal year 2009 level, but prohibits any district from charging at all for all-day kindergarten after fiscal year 2011.

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<sup>18</sup> 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 bill.



## **Family and civic engagement teams**

The bill 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.<sup>19</sup> (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.)<sup>20</sup>

### **Background--duties of family and civic engagement teams**

Under current law, family and civic engagement teams must 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 must develop five-year family and civic engagement plans and provide annual progress reports on the development and implementation of the plans. The plan and progress reports must be submitted to the county family and children first council. Finally, the team must provide recommendations on other matters specified by the school district board. Community schools and STEM schools are specifically permitted, but are not required, to create family and civic engagement teams. A school district may combine into one committee its existing business advisory council, required by law not changed by the bill, with the new family and civic engagement team.

## **Textbook and instructional materials fund**

The bill repeals the requirement that each school district annually set aside into a separate fund for textbooks and instructional materials an amount equal to at least 3% of the previous year's "formula amount" per pupil.<sup>21</sup>

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<sup>19</sup> R.C. 3301.96 and repealed R.C. 3313.821 and 3313.822. Conforming change in R.C. 3301.07.

<sup>20</sup> Division (A), Title XIV, Sections 14005 and 14006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

<sup>21</sup> Repealed R.C. 3315.17 and 3315.171. Conforming changes in R.C. 3315.18, 3315.19, 3316.06, and 3316.16.

## Background

Current law requires 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 must be used solely for textbooks, instructional software, and instructional materials, supplies, and equipment. Any money not used in the fund in any fiscal year carries over to the next fiscal year. Current law also provides exceptions from the set-aside requirement for districts with certain adverse financial conditions.

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## HISTORY

ACTION	DATE
Introduced	01-18-11
Reported, H. Education	02-10-11

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