

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**S. B. No. 20**

**Senator Schiavoni**

**Cosponsors: Senators Brown, Cafaro, Gentile, Sawyer, Skindell, Tavares,  
Thomas, Williams, Yuko**

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**A BILL**

To amend sections 117.11 and 149.351 and to enact  
sections 117.102, 149.46, and 3314.031 of the  
Revised Code regarding audit and record-keeping  
requirements for community school sponsors and  
operators.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 117.11 and 149.351 be amended and  
sections 117.102, 149.46, and 3314.031 of the Revised Code be  
enacted to read as follows:

**Sec. 117.102.** (A) As used in this section:

(1) "Community school" means a school established under  
Chapter 3314. of the Revised Code.

(2) "Operator" has the same meaning as in section 3314.02  
of the Revised Code.

(B) The auditor of state annually shall audit each  
community school operator and each community school sponsor  
described in division (C) (1) of section 3314.02 or section  
3314.021 or 3314.027 of the Revised Code. In the case of a

nonpublic operator or sponsor, the audit shall cover only those 18  
accounts, reports, records, and files regarding the operator's 19  
or sponsor's receipt or expenditure of public funds relating to 20  
the operation or sponsorship of a community school. 21

**Sec. 117.11.** (A) Except as otherwise provided in this 22  
division and in sections 117.102, 117.112, 117.113, and 117.114 23  
of the Revised Code, the auditor of state shall audit each 24  
public office at least once every two fiscal years. The auditor 25  
of state shall audit a public office each fiscal year if that 26  
public office is required to be audited on an annual basis 27  
pursuant to "The Single Audit Act of 1984," 98 Stat. 2327, 31 28  
U.S.C.A. 7501 et seq., as amended. In the annual or biennial 29  
audit, inquiry shall be made into the methods, accuracy, and 30  
legality of the accounts, financial reports, records, files, and 31  
reports of the office, whether the laws, rules, ordinances, and 32  
orders pertaining to the office have been observed, and whether 33  
the requirements and rules of the auditor of state have been 34  
complied with. Except as otherwise provided in this division or 35  
where auditing standards or procedures dictate otherwise, each 36  
audit shall cover at least one fiscal year. If a public office 37  
is audited only once every two fiscal years, the audit shall 38  
cover both fiscal years. 39

(B) In addition to the annual or biennial audit provided 40  
for in division (A) of this section or in section 117.114 of the 41  
Revised Code, the auditor of state may conduct an audit of a 42  
public office at any time when so requested by the public office 43  
or upon the auditor of state's own initiative if the auditor of 44  
state has reasonable cause to believe that an additional audit 45  
is in the public interest. 46

(C) (1) The auditor of state shall identify any public 47

office in which the auditor of state will be unable to conduct 48  
an audit at least once every two fiscal years as required by 49  
division (A) of this section and shall provide immediate written 50  
notice to the clerk of the legislative authority or governing 51  
board of the public office so identified. Within six months of 52  
the receipt of such notice, the legislative authority or 53  
governing board may engage an independent certified public 54  
accountant to conduct an audit pursuant to section 117.12 of the 55  
Revised Code. 56

(2) When the chief fiscal officer of a public office 57  
notifies the auditor of state that an audit is required at a 58  
time prior to the next regularly scheduled audit by the auditor 59  
of state, the auditor of state shall either cause an earlier 60  
audit to be made by the auditor of state or authorize the 61  
legislative authority or governing board of the public office to 62  
engage an independent certified public accountant to conduct the 63  
required audit. The scope of the audit shall be as authorized by 64  
the auditor of state. 65

(3) The auditor of state shall approve the scope of an 66  
audit under division (C) (1) or (2) of this section as set forth 67  
in the contract for the proposed audit before the contract is 68  
executed on behalf of the public office that is to be audited. 69  
The independent accountant conducting an audit under division 70  
(C) (1) or (2) of this section shall be paid by the public 71  
office. 72

(4) The contract for attest services with an independent 73  
accountant employed pursuant to this section or section 115.56 74  
of the Revised Code may include binding arbitration provisions, 75  
provisions of Chapter 2711. of the Revised Code, or any other 76  
alternative dispute resolution procedures to be followed in the 77

event a dispute remains between the state or public office and 78  
the independent accountant concerning the terms of or services 79  
under the contract, or a breach of the contract, after the 80  
administrative provisions of the contract have been exhausted. 81

(D) If a uniform accounting network is established under 82  
section 117.101 of the Revised Code, the auditor of state or a 83  
certified public accountant employed pursuant to this section or 84  
section 115.56 or 117.112 of the Revised Code shall, to the 85  
extent practicable, utilize services offered by the network in 86  
order to conduct efficient and economical audits of public 87  
offices. 88

(E) The auditor of state, in accordance with division (A) 89  
(3) of section 9.65 of the Revised Code and this section, may 90  
audit an annuity program for volunteer fire fighters established 91  
by a political subdivision under section 9.65 of the Revised 92  
Code. As used in this section, "volunteer fire fighters" and 93  
"political subdivision" have the same meanings as in division 94  
(C) of section 9.65 of the Revised Code. 95

**Sec. 149.351.** (A) All records are the property of the 96  
public office concerned and shall not be removed, destroyed, 97  
mutilated, transferred, or otherwise damaged or disposed of, in 98  
whole or in part, except as provided by law or under the rules 99  
adopted by the records commissions provided for under sections 100  
149.38 to 149.42 and section 149.46 of the Revised Code or under 101  
the records programs established by the boards of trustees of 102  
state-supported institutions of higher education under section 103  
149.33 of the Revised Code. Those records shall be delivered by 104  
outgoing officials and employees to their successors and shall 105  
not be otherwise removed, destroyed, mutilated, or transferred 106  
unlawfully. 107

(B) Any person who is aggrieved by the removal, 108  
destruction, mutilation, or transfer of, or by other damage to 109  
or disposition of a record in violation of division (A) of this 110  
section, or by threat of such removal, destruction, mutilation, 111  
transfer, or other damage to or disposition of such a record, 112  
may commence either or both of the following in the court of 113  
common pleas of the county in which division (A) of this section 114  
allegedly was violated or is threatened to be violated: 115

(1) A civil action for injunctive relief to compel 116  
compliance with division (A) of this section, and to obtain an 117  
award of the reasonable attorney's fees incurred by the person 118  
in the civil action; 119

(2) A civil action to recover a forfeiture in the amount 120  
of one thousand dollars for each violation, but not to exceed a 121  
cumulative total of ten thousand dollars, regardless of the 122  
number of violations, and to obtain an award of the reasonable 123  
attorney's fees incurred by the person in the civil action not 124  
to exceed the forfeiture amount recovered. 125

(C) (1) A person is not aggrieved by a violation of 126  
division (A) of this section if clear and convincing evidence 127  
shows that the request for a record was contrived as a pretext 128  
to create potential liability under this section. The 129  
commencement of a civil action under division (B) of this 130  
section waives any right under this chapter to decline to 131  
divulge the purpose for requesting the record, but only to the 132  
extent needed to evaluate whether the request was contrived as a 133  
pretext to create potential liability under this section. 134

(2) In a civil action under division (B) of this section, 135  
if clear and convincing evidence shows that the request for a 136  
record was a pretext to create potential liability under this 137

section, the court may award reasonable attorney's fees to any defendant or defendants in the action.

(D) Once a person recovers a forfeiture in a civil action commenced under division (B) (2) of this section, no other person may recover a forfeiture under that division for a violation of division (A) of this section involving the same record, regardless of the number of persons aggrieved by a violation of division (A) of this section or the number of civil actions commenced under this section.

(E) A civil action for injunctive relief under division (B) (1) of this section or a civil action to recover a forfeiture under division (B) (2) of this section shall be commenced within five years after the day in which division (A) of this section was allegedly violated or was threatened to be violated.

Sec. 149.46. Each community school established under Chapter 3314. of the Revised Code shall have a school records commission. The commission shall meet at least once every twelve months. The function of the commission shall be to review applications for one-time disposal of obsolete records and schedules of records retention and disposition submitted by any employee of the school. The commission may dispose of records pursuant to the procedure outlined in section 149.381 of the Revised Code. The commission, at any time, may review any schedule it has previously approved and, for good cause shown, may revise that schedule under the procedure outlined in that section.

Sec. 3314.031. Each nonpublic operator of a community school and each nonpublic entity that sponsors a community school shall comply with section 149.43 of the Revised Code as if it were a public office with respect to all records

pertaining to the management or sponsorship of the school. 168

**Section 2.** That existing sections 117.11 and 149.351 of 169  
the Revised Code are hereby repealed. 170