

Testimony on SB 1, April 25, 2023

Chairman Swearingen, Vice Chair Santucci, Ranking Member Upchurch and the member of the Economic and Workforce Development Committee.

Over the years as I was testifying as an advocate for the teachers, I used to focus on the merits of educational provisions to improve student achievement in Ohio. SB 1 has no such provisions, ideas, or proposals. SB 1 is not about educational improvement – instead, it is about political control of educational policy aside from the legislature.

In 1953, Ohioans were of a mind to set some important things straight.

The 8th US Congress (1803–1805) missed a critical part of the statehood process for Ohio: congressional ratification of the state constitution. One hundred and fifty years later, in the 83rd US Congress (1953–1955), Representative [George H. Bender](#) of Ohio introduced the legislation on January 13, 1953, to retroactively grant statehood.

On May 19, 1953, the US House of Representatives voted to approve legislation retroactively ratifying the state constitution and admitting Ohio to the Union as of March 1, 1803.

Later in that year, on Nov. 3, 1953, [State Issue 2](#) appeared on ballots throughout Ohio as a proposed constitutional amendment creating a State Board of Education. According to Ballotpedia, 913,134 voters, or nearly 57% of Ohioans voting on the issue, [approved the amendment](#).

DeRolph v. State is a landmark case in [Ohio constitutional law](#) in which the [Supreme Court of Ohio](#) ruled that the state's method for funding [public education](#) was unconstitutional.^[1] On March 24, 1997, the Supreme Court of Ohio ruled in a 4–3 decision that the state funding system "fails to provide for a thorough and efficient system of common schools," as required by the [Ohio Constitution](#), and directed the state to find a remedy.^[2] The court would look at the case several times over the next 5 years before it relinquished [jurisdiction](#), but the underlying problems with the school funding system remain to this day.^[1]

Perry County Judge, Linton Lewis handed down the first DeRolph decision on July 1, 1994. Just months after that, the Ohio State Board of Education voted not to appeal the DeRolph decision. Before the year was over, the Governor and legislature acted to put eight appointed members on the State Board of Education.

Oliver Ocasek, who had been the President of the Ohio Senate in the 1970's and 1980's, later served as the President of the State Board of Education.

Ocasek was a professor at the University of Akron, he taught about public school finance. He testified in the DeRolph case. As President of the State Board, he oversaw the Board vote to NOT appeal the DeRolph decision. Governor Voinovich's reaction was immediate. He wanted the Governor's Office to water down the power and authority of the State Board. He championed legislation to place eight appointed (unelected) members on the State Board.

The question is simple, does anyone believe that there would be appointed members on the State Board today if President Ocasek had caved into political pressure and voted to appeal the decision? Ocasek not only believed that the school funding system was unconstitutional, but he also wanted to protect the independence and integrity of the State Board. DeRolph was about

protecting the constitutional rights of Ohio's children and the decision represented the proper role of the judiciary to rule on the constitutionality of legislation.

The question is simple, does anyone believe that the voters of Ohio who voted to create a State Board of Education wanted the Board to have the powers and duties of a license clerk in the Ohio Bureau of Motor Vehicles? License clerks at the BMV have the powers and duties to issue and transfer vehicle titles. Under SB 1, the State Board of Education would have the "power" to approve territory transfers and oversee education related license discipline issues.

Recently, a spokesperson for the administration spoke to the issue of the "will of the people," how is it possible to deduce such a thing all these years later, especially when the motivations of voters can be so varied." I am quite sure that we can safely deduce that the motivation of the voters in 1953 was not to create a state level policy board and then assign them the task of handling territory transfers between school districts.

SB 1 proposes exactly what the voters wanted to eliminate in their approval of the amendment, [Article VI, Section 4](#), to create the State Board as part of the Ohio Constitution. The voters and the educational community wanted to remove educational policy from the whims of politics and elect people to serve on the Board in non-partisan elections like judges are elected. The amendment has been in place for the last 70 years.

Such an approach hews -- nominally -- to the language of the 1953 amendment, but it clearly runs contrary to what motivated that amendment in the first place: a desire to take from the governor and give to the people and lawmakers more direct control over education policy.

In the last election, voters in three of the four contested State Board of Education races "ousted two GOP incumbents in favor of Democrats and elected another Democrat in a contested district previously held by a Republican." That was shortly before the first bill to rewrite education policy began to move in the legislature.

Just like the State Board refusing to appeal the DeRolph decision in 1994, this was too much for the administration to accept. Thus, the introduction of SB 1 to deny the will of the voters and capture educational policy firmly under the control of the administration.

Lastly, if the powers and duties which were surgically removed from the State Board were given to a new Director of the Department of Education and Workforce, who would that **single** person be? Would the person look more like a credentialed educator or a political, at-will employee of the Governor? Would it be a person with a history and track record of supporting public education or should it be a political person that is an outspoken advocate for charter schools and vouchers which are now in the process of destroying public education?

The sixty-seven-year history of the Ohio State Board of Education speaks for itself. The progress of the educational system has been remarkable considering the need for achieving a balance between the need for state level educational policy and resources and the tradition of local control in education.

I urge you to vote against SB 1 and instead seek ways to isolate the State Board of Education from undue political influence.

Thank you for this opportunity to testify and I would gladly entertain any questions the members might have.

Russell Harris