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Bill Analysis

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Primary Sponsor: Rep. Young

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SUMMARY

Compliance with S.B. 1

Diversity, equity, and inclusion (DEI)

- Requires each state institution of higher education to annually certify compliance with specified provisions of S.B. 1 of the 136th General Assembly.
- Prohibits a state institution from reassigning, reclassifying, or otherwise disguising any position to continue DEI functions prohibited by S.B. 1.
- Requires each state institution to, within 90 days of the bill's effective date, and by July 1 of each year thereafter, prepare and submit to the Chancellor of Higher Education the following:
 - An inventory of all employees who performed DEI functions on January 1, 2025, and who were reassigned on or before September 25, 2025; and
 - For each such employee, a justification report detailing the employee's reassignment.

Certification and oversight

- Requires the president of a state institution of higher education and the chair of its board of trustees to sign each certification, inventory, and report submitted by the institution under the bill.
- Requires the Chancellor to withhold the set-aside portion of state share of instruction (SSI) funds for a fiscal year from any state institution that fails to comply with the bill's requirements regarding S.B. 1 compliance certifications, employee reassignment, and retrenchment policies in that year.

- Prohibits the release of SSI funds that are withheld due to noncompliance with certification requirements, inventories and reports on reassigned employees, or retrenchment policies, regardless of subsequent compliance with those requirements for that fiscal year.
- Requires the Governor to ensure that the Governor's budget recommendations each biennium include a recommendation to set aside a portion of the SSI funds, the release of which is subject to compliance with certain of the bill's provisions.
- For FY 2027, requires the Chancellor to make determinations regarding compliance with the bill's requirements for the purpose of disbursing SSI funds set aside by H.B. 96 of the 136th General Assembly.

Retrenchment policies

- Expands the current requirement for a state institution of higher education board of trustees with tenured faculty members to develop policies on tenure and retrenchment to all institutions of higher education.
- Requires, not later than 90 days after the bill's effective date, each board of trustees to adopt a retrenchment policy containing, at minimum, specific provisions listed in the bill.
- Requires each board of trustees to update its retrenchment policy not less than once every five years.
- Requires a board of trustees that adopts or modifies a retrenchment policy to submit the policy to the Chancellor for a determination as to whether the policy complies with the bill's requirements.
- Prohibits the Chancellor from reconsidering a compliant retrenchment policy if the policy has been in place for less than five years, unless the policy is updated or the law is amended.

State and local government expenditure database

- Adds state institution of higher education employees to the searchable state and school district employee salary and employment information in the state and local government expenditure database (colloquially known as Ohio Checkbook).

Faculty instructional workload policies

- Eliminates the requirement for the Chancellor, jointly with all state institutions of higher education, to develop standards for instructional workloads for faculty.
- Requires each state institution to adopt an instructional workload policy for full-time and part-time faculty that maintains a primary emphasis on undergraduate instruction.
- Prohibits an instructional workload policy from establishing a minimum workload that falls below the prevailing Ohio standards for undergraduate instruction.

- Prohibits the Chancellor from prescribing alternative ranges or minimum standards for instructional workload policies.

Act title

- Entitles the bill the S.B. 1 Compliance Supplemental Appropriation Act.

DETAILED ANALYSIS

Compliance with S.B. 1

Overview

The bill addresses state institution of higher education compliance with S.B. 1 of the 136th General Assembly, which took effect June 27, 2025. It requires each state institution to annually certify its compliance with specified S.B. 1 provisions and create and annually update an inventory of employees who performed diversity, equity, and inclusion (DEI) functions prior to S.B. 1 and remain employed by the institution. To enforce these requirements, as well as the bill's provisions regarding retrenchment policies, the bill requires the Chancellor of Higher Education to withhold state share of instruction (SSI) funds of a noncompliant state institution, as follows:

1. For FY 2027, only for state universities, the Chancellor must withhold a noncompliant state university's portion of the S.B. 1 compliance SSI set-aside established in H.B. 96 of the 136th General Assembly, the main operating appropriations act of the biennium; and
2. For FY 2028 and future fiscal years, for all state institutions, the Chancellor must withhold a noncompliant state institution's portion of any future SSI set-aside, which the bill further requires the Governor to include in the Governor's biennial budget recommendations.

Under the bill, a "state institution of higher education" is a state university, university branch, community college, state community college, or technical college.¹

Certification of compliance

The bill requires each state institution of higher education to annually certify compliance with the following provisions of S.B. 1 of the 136th General Assembly:

1. Completing trustee training provided by the Chancellor;
2. Syllabus posting requirements;
3. Incorporating specified statements into a statement of commitment;
4. Adopting a policy containing specified requirements and prohibitions regarding DEI, intellectual diversity, and other concepts at the institution;
5. Developing an American civic literacy course and requiring completion of the course beginning with students graduating in the spring semester of the 2029-2030 academic year;

¹ R.C. 3345.011, not in the bill.

6. Establishing a written system of faculty evaluations;
7. Adopting and periodically updating a post-tenure review policy; and
8. A prohibition on accepting gifts or donations from the People's Republic of China and other related prohibitions and requirements.²

A state institution must certify compliance on the bill's effective date for FY 2027, and by July 1 of each fiscal year thereafter.

The bill requires the Chancellor to withhold a state institution's portion of any set-aside SSI funds for FY 2028 or a future fiscal year if the institution fails to file a certification for that fiscal year. The Chancellor may audit institutional records, require documentation, and conduct reviews to verify a state institution's certification. A recklessly false or fraudulent certification constitutes noncompliance with the bill's certification requirements. For FY 2028 and each fiscal year thereafter, such a certification constitutes grounds for the Chancellor to withhold the entirety of set-aside SSI funds for a state university or state institution. Additionally, a recklessly false or fraudulent certification may subject the institution or responsible officers to civil penalties.

Any withheld SSI funds may not be released, regardless of subsequent compliance with the certification requirements.³

Inventory of reassigned employees

The bill prohibits each state institution of higher education from reassigning, reclassifying, or otherwise disguising any position to continue diversity, equity, and inclusion (DEI) functions prohibited under continuing law enacted by S.B. 1 of the 136th General Assembly.⁴

Each state institution must prepare an inventory of all employees who, on January 1, 2025, performed DEI functions and who were reassigned on or before September 25, 2025. The inventory must include:

1. Employee name, title, and unit;
2. Prior duties related to DEI;
3. Reassignment details;
4. Salary changes;
5. New duties; and
6. Attestation of accuracy by the chief human resources officer and general counsel.

² See R.C. 3333.045, 3345.029, 3345.0216, 3345.0217, 3345.382, 3345.451, 3345.453, and 3345.591, none in the bill.

³ R.C. 3345.0220.

⁴ See R.C. 3345.0217, not in the bill.

For each employee included in a state institution's inventory, the state institution must prepare a justification report containing:

1. A narrative explanation of the employee's reassignment;
2. Proof that the employee's reassignment consists of substantially different duties from DEI functions;
3. Side-by-side job comparisons;
4. An attestation of accuracy by the institution's general counsel;
5. Itemized compensation breakdown;
6. A compliance plan for ongoing review; and
7. Certification by the president and chair of the board of trustees.

Under the bill, an employee's duties are substantially different if there are material changes in the employee's primary responsibilities or supervisory authority, not including temporary assignments, title changes, or minor duty adjustments.

Each state institution must submit its inventories and reports to the Chancellor of Higher Education within 90 days after the bill's effective date. Beginning with FY 2028, each state institution must submit updated inventories and reports regarding those employees annually, not later than July 1.

The bill requires the Chancellor to determine whether the evidence in a justification report submitted by an institution sufficiently establishes that an employee's new duties are substantially different from DEI functions. The Chancellor must make this determination using a preponderance of the evidence standard.

Finally, the bill makes each inventory and report submitted by a state institution public record.⁵

Signature

The bill requires the president of a state institution of higher education and the chair of the institution's board of trustees to sign each certification, inventory, and report submitted by the institution as required by the bill.⁶

Compliance

Generally

If a state institution of higher education fails to comply with the bill's requirements on S.B. 1 certifications, employee reassignment reporting, and retrenchment policies in a fiscal year, the bill requires the Chancellor to withhold SSI funds set aside for that year. Any SSI funds that

⁵ R.C. 3345.0221.

⁶ R.C. 3345.0222(B).

are withheld may not be released, regardless of subsequent compliance with the bill's requirements.⁷

The bill requires the Governor to ensure that, among the various budget recommendations made by the Governor and the Director of Budget and Management to the General Assembly each biennium, there are recommendations to set aside a portion of SSI funds for state institutions for that purpose. The set-aside SSI funds must be calculated in the same manner as any other SSI funds, except that their release to each state institution is subject to those requirements.⁸

FY 2027

For FY 2027 specifically, the bill requires the Chancellor, for purposes of disbursing a \$75 million set-aside of SSI funds created in H.B. 96 to determine whether each state university is complying with the bill's requirements as follows:

1. On the bill's effective date, whether a state university is complying with the bill's certification requirements; and
2. 91 days after the bill's effective date, whether a state university is complying with the bill's certification requirements, requirements on employee reassignment reporting, and retrenchment policy requirements.

Additionally, if at any time following either of these determinations, the Chancellor becomes aware of potential noncompliance by a state university regarding any requirement for which a determination was made, the Chancellor may investigate compliance and make an additional determination.

If the Chancellor finds that a state university is not in compliance with an applicable section during a standard determination or after investigating potential noncompliance, the Chancellor must withhold that state university's portion of the set-aside beginning with the first disbursement that occurs after that finding is made.

The bill permits a state university that has been determined noncompliant, at any time following a determination, to request an additional determination from the Chancellor to evaluate whether the university has resolved noncompliance. If the Chancellor determines that a university has become compliant, the Chancellor shall resume disbursing the university's portion of the set-aside, beginning with the first disbursement that occurs after the new determination is made.

Any amount of SSI funds withheld from a state university following a determination cannot be released, regardless of subsequent compliance determinations.⁹

⁷ R.C. 3345.0222.

⁸ R.C. 107.037.

⁹ Section 4; Section 381.250 of H.B. 96 of the 136th General Assembly, not in the bill.

Background

H.B. 96 of the 136th General Assembly set aside \$75 million of SSI funds for FY 2027 to be distributed in the same manner as other SSI funds, except that the release of a state university's portion of the set-aside is contingent on the university complying with specified provisions of S.B. 1 for the previous fiscal year.

Retrenchment policies

The bill expands the current law requirement that a state institution of higher education with tenured faculty members must develop policies on tenure and retrenchment to apply to all institutions of higher education. Continuing law defines "retrenchment" as a process by which a state institution reduces programs or services, thus resulting in a temporary suspension or permanent separation of one or more institution faculty, to account for a reduction in student population or overall funding, a change to institutional missions or programs, or other fiscal pressures or emergencies facing the institution.¹⁰

Not later than 90 days after the bill's effective date, the bill requires each state institution of higher education board of trustees to adopt a retrenchment policy that, at minimum, specifies all the following:

- That the authority to initiate retrenchment is held by the board;
- That the board may delegate its authority to initiate retrenchment to the president or provost of the institution;
- That a dean or comparable academic officer may recommend retrenchment but may not unilaterally initiate it;
- That the provost, in consultation with the president, must administer and complete the retrenchment process subject to parameters imposed by the board;
- That retrenchment may be initiated for any lawful academic or operational reason determined by the board, including enrollment stagnation, program discontinuation, restructuring, business necessity, financial emergency, or other lawful reasons;
- That, before finalizing retrenchment decisions, the provost must consider relevant factors affecting the institution and students, including program interdependence, completion pathways, feasibility of phased reductions, academic reputation, potential redeployment of affected faculty, and attrition or voluntary separation as alternatives to retrenchment;
- That the provost's consideration of relevant factors affecting the institution and students does not create enforceable rights beyond those expressly provided in the policy and the bill;
- That selection, retention, and nondisplacement standards may affect multiple faculty positions;

¹⁰ R.C. 3345.454(A)(2) and (B).

- That when fewer than all faculty positions within an academic unit are retrenched, the institution will retain faculty members the provost determines are best qualified to meet programmatic, curricular, and institutional needs;
- Except as described below, in “**Limited faculty exemption**,” that seniority, tenure, rank, or length of service do not confer a right of retention;
- That a faculty member whose position is selected for retrenchment may not displace or bump another faculty member;
- That a faculty member whose position is selected for retrenchment must receive written notice in a form and at a time determined by the board and set forth in the policy;
- That, during the notice period specified by the board in the policy, a faculty member shall remain subject to applicable institutional policies and performance expectations unless relieved of duty;
- That a faculty member whose position is selected for retrenchment must receive procedural protections substantially similar to those historically afforded by the institution, including a limited internal review or appeal process confined to whether the institution complied with its policy and the bill;
- That retrenchment is not a disciplinary action and no review may substitute the board’s judgment regarding academic, programmatic, or institutional needs;
- That the board may approve a buyout program, voluntary separation incentive, or other negotiated separation arrangements for faculty positions subject to retrenchment when the board determines the arrangement will be cost effective or in the best financial or operational interests of the institution;
- That participation in a buyout program or other negotiated separation arrangement is voluntary unless otherwise authorized by law;
- The provost may adopt written procedures to implement retrenchment, including timelines, documentation standards, verification processes, and notice formats;
- Any procedures adopted by the provost must be publicly accessible.¹¹

The bill requires each board of trustees to update the institution’s retrenchment policy no less than once every five years. When a board adopts or modifies a policy, the board must submit it to the Chancellor.

The Chancellor must review each retrenchment policy and determine whether it complies with the bill. The review is limited to determining compliance with the bill’s requirements. The Chancellor may not approve, disapprove, or modify the substantive academic, managerial, or strategic judgments in the policy.

¹¹ R.C. 3345.454(C)(1).

The bill requires the Chancellor to notify each board in writing of a determination. If the Chancellor determines a policy does not comply, the Chancellor must identify the specific noncompliant provisions. When a board is notified of noncompliance, it must revise and resubmit the policy no more than 60 days after receiving the notice.¹²

When a retrenchment policy has been in place for less than five years, and the Chancellor has determined it complies with the bill, the Chancellor is prohibited from changing the determination unless the policy is updated or this law is amended.¹³

Limited faculty exemption

Under the bill, a retrenchment policy must exempt a faculty member selected for retrenchment who, at the time the faculty member receives notice of the selection, has at least 30 but not more than 35 years of service credit in a state retirement system. The exemption lasts until the faculty member attains 35 years of service credit. A retrenchment policy must require verification of the faculty member's service credit within 15 days after the member receives notice that the member's position has been selected for retrenchment.¹⁴

Under continuing law, the law governing retrenchment generally prevails over any conflicting provision of a collective bargaining agreement entered into on or before June 27, 2025.¹⁵ The bill eliminates an exception that allows a state institution of higher education that had a collective bargaining agreement with a provision on retrenchment in effect on June 27, 2025, to continue to collectively bargain over retrenchment policies with respect to faculty with 30 to 35 years of service in a public retirement system at the time of a retrenchment determination in new or renewed agreements.¹⁶

State and local government expenditure database

The bill adds state institution of higher education employees to the searchable state and school district employee salary and employment information in the state and local government expenditure database (colloquially known as Ohio Checkbook) and requires state institutions to provide that information.¹⁷

Faculty workload policy

The bill eliminates the requirement for the Chancellor, jointly with all state institutions of higher education, to develop standards for instructional workloads for full-time and part-time faculty. The bill, instead, requires the board of trustees of each state institution to adopt an instructional workload policy for full-time and part-time faculty that maintains a primary

¹² R.C. 3345.454(D) to (F).

¹³ R.C. 3345.454(G).

¹⁴ R.C. 3345.454(C)(2).

¹⁵ R.C. 3345.455, not in the bill.

¹⁶ R.C. 3345.456, repealed.

¹⁷ R.C. 113.70 and 113.73.

emphasis on undergraduate instruction. An instructional workload policy cannot establish a minimum workload that falls below the prevailing Ohio standards for undergraduate instruction.

The bill prohibits the Chancellor from prescribing alternative ranges or minimum standards for instructional workload policies.¹⁸

Act title

The bill is entitled the S.B. 1 Compliance Supplemental Appropriation Act.¹⁹

HISTORY

Action	Date
Introduced	02-12-26

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¹⁸ R.C. 3345.45.

¹⁹ Section 5.