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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 698
136th General Assembly

Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsor: Rep. Young

Local Impact Statement Procedure Required: No

Jason Glover, Senior Budget Analyst

Highlights

- The Ohio Department of Higher Education (ODHE) may incur increased administrative costs for having to hire an analyst to review documentation submitted by each state institution of higher education and determine each state institution's compliance with certain provisions of S.B. 1 of the 136th General Assembly and the bill. According to a spokesperson with ODHE, the agency anticipates costs of more than \$100,000, including salary and benefits, to hire an analyst for its additional responsibilities under the bill.
- State institutions of higher education may experience a minimal increase in their administrative workloads to annually certify compliance with certain provisions of S.B. 1; annually submit an inventory of reassigned diversity, equity, and inclusion (DEI) employees; adopt retrenchment and instructional workload policies; and provide employee salary and employment information for inclusion in the Ohio Checkbook.
- The bill requires ODHE to withhold certain state share of instruction (SSI) funding set-asides if a state institution fails to comply with the bill's requirements on S.B. 1 certifications, employee reassignment reporting, and retrenchment policies.

Detailed Analysis

Overview

The bill makes several changes to the laws governing higher education related to retrenchment and faculty instructional workload policies, the addition of salary and employment information of state institution of higher education employees to the state and local government expenditure database, and state institution compliance with certain provisions of S.B. 1 of the 136th General Assembly. Generally, state institutions estimate minimal increases to their administrative workloads to comply with the bill's proposed additional responsibilities. On the

other hand, the administrative costs of the Ohio Department of Higher Education (ODHE) may increase more significantly for fulfilling its new responsibilities required under the bill. According to a spokesperson for ODHE, the agency anticipates having to hire a new analyst at a cost of more than \$100,000 (including salary and benefits) to review documentation submitted by each state institution and determine each one's compliance with certain provisions as required under the bill. Provisions with fiscal effects are discussed below. For more information on all the provisions in the bill, please see the bill analysis.

Compliance with certain S.B. 1 provisions

Certification of compliance

The bill requires each state institution of higher education, on the bill's effective date for FY 2027 and by July 1 of each fiscal year thereafter, to certify compliance with certain requirements and prohibitions regarding diversity, equity, and inclusion (DEI) and other higher education provisions of S.B. 1. ODHE may audit institutional records, require documentation, and conduct reviews to verify a state institution's certification. Additionally, a recklessly false or fraudulent certification may subject the institution or responsible officers to civil penalties and increase costs for legal fees.

Inventory of reassigned employees

The bill prohibits each state institution of higher education from reassigning, reclassifying, or otherwise disguising any position to continue DEI functions prohibited under continuing law. It also requires, no later than 90 days after the bill's effective date, each state institution to prepare an inventory of all employees who, on January 1, 2025, performed DEI functions and who were reassigned on or before September 25, 2025, and a justification report that includes, among other things, proof that each employee's reassignment consists of substantially different duties from DEI functions. Beginning with FY 2028, each state institution must submit updated inventories and reports regarding those employees annually, not later than July 1. According to responses received by the Inter-University Council of Ohio (IUC) and the Ohio Association of Community Colleges (OACC) for public universities or community colleges, state institutions may incur minimal additional costs, if any, to create or update these inventories.

Additionally, the bill requires ODHE 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 bill makes each inventory and report submitted by a state institution a public record.

Retrenchment policies

S.B. 1 requires state institutions of higher education with tenured faculty members to develop policies on tenure and retrenchment¹ and submit those policies to the Chancellor. The bill expands this policy to all state institutions and requires, no later than 90 days after the bill's effective date, each state institution to adopt and submit to ODHE for review a retrenchment

¹ 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.

policy that includes certain numerous provisions specified in the bill. Each institution must also update its retrenchment policy at least once every five years. If ODHE determines a policy does not comply with the bill, it must notify the state institution and specify the noncompliant provisions. No more than 60 days after receiving the notice, state institutions must revise and resubmit the policy.

According to responses from OACC, some community colleges do not have tenured faculty and, therefore, have no retrenchment policy in place based on the S.B. 1 requirement. Under the bill, these community colleges may incur increased administrative workloads to develop these policies. On the other hand, according to responses received by IUC, each public university has tenured faculty and, therefore, has an S.B. 1 policy in place. In other words, public universities may not incur much, if any, costs to update their current policies, if necessary to do so.

Compliance enforcement

Generally, the bill requires ODHE to withhold state share of instruction (SSI)² funds set aside for that year if a state institution fails to comply with the bill's requirements on S.B. 1 certifications, employee reassignment reporting, and retrenchment policies in a fiscal year. Any SSI funds that are withheld may not be released, regardless of subsequent compliance with the bill's requirements.

Specifically, for FY 2027, ODHE must determine whether each state university is complying with S.B. 1 certifications on the bill's effective date and DEI employee reassignment reporting and retrenchment policies 91 days after the bill's effective date. If a state university is not in compliance, ODHE must withhold its share of the \$75 million SSI set-aside for S.B. 1 compliance established in H.B. 96, the main operating appropriations act of the 136th General Assembly. Once a state university becomes compliant, those earmarked SSI payments may resume, but the withheld amounts will not be released. According to IUC, each university would be able to comply with these requirements within the deadlines without incurring more than minimal cost.

Beginning with the Governor's FY 2028-FY 2029 main operating budget recommendations, the bill requires the Governor to ensure recommendations include setting aside a portion of SSI funds for the S.B. 1 compliance, DEI employee reassignment, and retrenchment policy provisions. 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. 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.

State and local government expenditure database

The bill requires each state institution to provide certain information about its employees to add to the searchable state and school district employee salary and employment information in the state and local government expenditure database (colloquially known as the [Ohio Checkbook](#)). According to responses received by IUC and OACC, administrative staff time and potential IT development may be required to generate reports in the format required by the Ohio Checkbook system, but any costs are not expected to exceed minimal for most universities and

² The SSI formula is used to distribute the core state operating funding for public higher education.

community colleges. Some institutions also estimate a one-time IT development cost to create automated reporting tools. According to a spokesperson for the Ohio Treasurer of State, the agency anticipates additional costs to add higher education employee information to the Ohio Checkbook to be minimal.

Faculty workload policy

Under current law, ODHE and all state institutions must develop standards for instructional workloads for full-time and part-time faculty in keeping with the institutions' missions and with special emphasis on the undergraduate experience. The bill eliminates this requirement and, instead, 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. According to responses received by IUC and OACC, most state institutions report no new costs for this provision, while others report only minimal increases in their administrative workloads, as faculty workload policies had to be adopted or updated pursuant to S.B. 1.