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H.B. 698
(1_136_2721-2)
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 698's Bill Analysis](#)

Version: In House Workforce and Higher Education

Primary Sponsor: Rep. Young

Local Impact Statement Procedure Required: No

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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 a retrenchment policy; and provide employee salary and employment information for inclusion in the Ohio Checkbook.
- The bill requires ODHE to withhold and redistribute 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 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, by July 1, 2027 (FY 2028), 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. If a state institution submits a statement to ODHE attesting that it no longer employs any individual subject to the inventory, and ODHE approves the attestation, that institution is exempt from further reporting. 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 the policy on retrenchment to all state institutions and requires, no later than 90

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.

days after the bill's effective date, each state institution to adopt and submit to ODHE for review a retrenchment 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

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 state share of instruction (SSI)² 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 every fiscal year thereafter, the bill requires ODHE to withhold SSI funds set aside for that year if it determines that 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. The bill grants state institutions 30 days after receipt of any noncompliance determination made prior to January 1, 2029, except as a result of a recklessly false or fraudulent certification, to resolve noncompliance determinations by ODHE and request a new determination before SSI is withheld. Any SSI funds that are withheld may not be released, regardless of subsequent compliance with the bill's requirements. Instead, the bill requires that any SSI funds withheld in a fiscal year must be redistributed to compliant institutions of the same two-year or four-year institutional sector type and in the same proportion as SSI funds were originally allocated. For any state institution whose SSI funds have been withheld, except as a result of a recklessly false or fraudulent certification, it may request an additional determination from ODHE to evaluate whether it has resolved the noncompliance. If ODHE determines a state institution has become compliant, those earmarked SSI allocations will resume.

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.

Synopsis of Fiscal Effect Changes

- The substitute bill (I_136_2721-2) lessens the As Introduced bill's increase to the administrative workloads of certain state institutions of higher education by eliminating changes regarding faculty instructional workload policy requirements.
- The substitute bill postpones, from the bill's effective date to July 1, 2027 (FY 2028), the requirement for each state institution of higher education to certify compliance with certain requirements and prohibitions regarding diversity, equity, and inclusion (DEI) and other higher education provisions of S.B. 1. Commensurately, it initiates in FY 2028, rather than FY 2027, the Ohio Department of Higher Education's (ODHE) process of withholding state share of instruction (SSI) funding from noncompliant institutions. (H.B. 96, the main operating appropriations act of the 136th General Assembly, continues to require state universities to demonstrate compliance with certain S.B. 1 provisions to be eligible for their share of \$75 million set aside from the FY 2027 SSI formula distribution for universities.)
- The substitute bill grants state institutions 30 days after receipt of any noncompliance determination made prior to January 1, 2029, except as a result of a recklessly false or fraudulent certification, to resolve noncompliance and request a new determination before SSI funds are withheld by ODHE. If ODHE determines a state institution has become compliant, those earmarked SSI payments shall resume.
- The substitute bill requires, beginning in FY 2028, any SSI funds withheld in a fiscal year be redistributed to compliant institutions of the same two-year or four-year institutional sector type and in the same proportion as SSI funds were originally allocated.
- The substitute bill eliminates the requirement in the previous version that all state institutions, even if they do not have tenured faculty, develop policies on tenure. This provision most likely lessens the As Introduced version's increase to the administrative workloads of certain community colleges, as all public universities report having tenured faculty.