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To: The Honorable Bill Reineke
Ohio Senate

From: Mike Niemi, Research Analyst *MN*

Date: November 21, 2022

Subject: Analysis of Sub. S.B. 178 (I_134_1394-5)

SUMMARY

- Renames the Department of Education as the Department of Education and Workforce (DEW).
- Creates the position of the Director of Education and Workforce, who is appointed by the Governor, with the advice and consent of the Senate, and is the head of DEW.
- Establishes within DEW the Division of Primary and Secondary Education and the Division of Career-Technical Education, each of which is headed by a Deputy Director.
- Transfers most of the powers and duties of the State Board of Education and the Superintendent of Public Instruction to DEW.
- Retains the State Board's and state Superintendent's powers and duties regarding educator licensure, licensee disciplinary actions, school district territory transfers, and certain other areas.

DETAILED ANALYSIS

Department of Education and Workforce

Effective July 1, 2023, the bill renames the Department of Education as the Department of Education and Workforce (DEW). It also creates the position of Director of Education and Workforce, who is appointed by the Governor with the advice and consent of the Senate, to oversee DEW and primary and secondary education in Ohio. To that end, the bill transfers to DEW, or where applicable the Director, most of the powers and duties assigned to the State Board of Education and the Superintendent of Public Instruction.

Examples of the powers and duties transferred to DEW include:

1. Adopting minimum education standards for elementary and secondary schools, and minimum operating standards for school districts;

2. Issuing and revoking state charters to school districts, school buildings operated by districts, and nonpublic schools that elect to seek a charter;
3. Developing state academic standards and model curricula;
4. Establishing the statewide program for assessing student achievement through standardized assessments;
5. Establishing the state report card system for school districts, community schools, STEM schools, and college-preparatory boarding schools;
6. Administering state scholarship programs;
7. Performing prescribed functions regarding the creation and operation joint vocational school districts;
8. Providing oversight to, and performing functions regarding, community schools, community school sponsors, and STEM schools; and
9. Calculating and distributing all foundation funding payments.

Under the bill, the State Board and the state Superintendent retain broad powers regarding educator licensure, licensee disciplinary actions, school district territory transfers, and certain other prescribed areas. The bill transfers from DEW to the State Board any employees and assets necessary for the State Board to perform its retained powers and duties.¹

For more information about the role of the State Board and the state Superintendent under the bill, see “**State Board of Education**,” below.

Organization of the Department

Under the bill, in addition to the State Board and the state Superintendent, DEW consists of the Division of Primary and Secondary Education and the Division of Career-Technical Education. Each division is headed by a Deputy Director. However, the bill does not prescribe specific functions for either division.

Rather, except for those duties and powers retained by the State Board and state Superintendent, the bill vests responsibility for primary, secondary, special, and career-technical education in the Director. Under the bill, the Director may delegate duties and powers to either division as the Director determines appropriate. The Director also is responsible for adopting DEW’s administrative rules and for employing personnel to carry out the Department’s powers and duties. However, the Director does not adopt rules regarding the State Board’s and state Superintendent’s retained powers.

¹ R.C. 3301.07 and 3301.13, and Sections 4 and 5; conforming changes in numerous R.C. sections.

The bill expressly states that DEW is subject to all provisions of law pertaining to departments, offices, or institutions established for the exercise of any function of state government. It also subjects DEW to the Administrative Procedure Act.²

State Board of Education

Duties and powers

As noted above, the State Board and the state Superintendent retain their duties and broad powers under continuing law regarding educator licensure, licensee disciplinary actions, and school district territory transfer determinations.³ In addition, they retain oversight over the teacher and school counselor evaluation systems and the annual teacher recognition program.⁴ Their responsibilities regarding the Educator Standards Board also are unaffected. Though, the bill does make the Director of Education and Workforce a nonvoting, ex officio member of the ESB and its subcommittees and permits the Director to have a designee act in the Director's place.⁵

The bill expressly reserves responsibility for the adoption of requirements for educator licensure and licensee disciplinary actions with the State Board, and it appears to largely exclude the Director and DEW from that process. The bill requires the State Board to adopt those requirements as rules in accordance with the Administrative Procedure Act.

Finally, the bill requires the State Board to make recommendations to the Director regarding priorities for primary and secondary education. It also requires the state Superintendent to serve as an adviser to the Director.⁶

Administration

Under current law, the Department of Education is the administrative unit through which the state Superintendent administers the policies and statutorily prescribed powers and duties of the State Board and the state Superintendent.⁷ With the transfer of control over DEW from the State Board to the Director, the bill establishes a separate administrative structure of the State Board and state Superintendent's powers and duties. That structure is similar to current law.

Specifically, the bill expressly states that, in accordance with the Ohio Constitution, the state Superintendent remains an appointee of the State Board. It further states that, in

² R.C. 3301.13.

³ R.C. 3301.071, 3301.074, 3319.22 to 3319.317, 3319.361, 3319.51 and R.C. Chapter 3311, most of which are not in the bill.

⁴ R.C. 3319.111 to 3319.113. See also R.C. 3319.67, not in the bill.

⁵ R.C. 3319.60 to 3319.613. See also R.C. 3319.67, not in the bill.

⁶ R.C. 3301.111(A) and (B).

⁷ R.C. 3301.13, repealed.

accordance with continuing law, the state Superintendent remains the State Board's secretary and executive officer.

The State Board remains subject to all provisions of law regarding state departments, offices, or institutions. The bill authorizes the State Board to employ personnel it determines necessary to carry out its duties and powers. Subject to the State Board's policies, rules, and regulations, the state Superintendent exercises general supervision of those employees and may appoint them, fix their salary, and terminate their employment.

Finally, the State Board may request DEW's assistance in exercising the State Board's powers and duties. To the extent the Director determines that assistance necessary and practicable, DEW must provide the requested assistance.⁸

Background – State Board of Education

The Ohio Constitution provides that there must be a State Board of Education and a Superintendent of Public Instruction appointed by the State Board. The selection and terms of members of the State Board, as well as the powers and duties of the State Board and the Superintendent, must be prescribed by law.⁹

Under law unaffected by the bill, the voting membership of the State Board is 19 members, 11 of whom are elected from specified electoral districts (each consisting of three state Senate districts) and 8 of whom are appointed by the Governor. The chairpersons of the Senate and House Education committees serve as nonvoting ex officio members.¹⁰

Workforce development

Career opportunity informational materials

The bill requires DEW to develop and make available informational materials for seventh and eighth graders about career opportunities available to them, including in-demand jobs. The materials also must address how a career-technical education may help those students satisfy state high school graduation requirements.¹¹

In-demand jobs list

The bill requires DEW to participate in the process established under continuing law to identify in-demand jobs. Specifically, the bill adds DEW to the entities required to develop a methodology to identify in-demand jobs and to use that methodology to create an in-demand jobs list. Furthermore, it requires DEW to post the in-demand jobs list on its website.

⁸ R.C. 3301.111.

⁹ Article VI, Section 4, Ohio Constitution.

¹⁰ R.C. 3301.01.

¹¹ R.C. 3313.6020(D)(3).

Additionally, DEW must work with prescribed entities to conduct a survey of employers about in-demand jobs and to use the survey's results to update the in-demand jobs list. Finally, DEW must collaborate with prescribed entities to establish the OhioMeansJobs website.¹²

Background

Continuing law requires the Governor's Executive Workforce Board, in connection with the Department of Job and Family Services and higher education institutions, to develop a methodology for identifying in-demand jobs. The Department of Job and Family Services and higher education institutions, in consultation with the Board, must use that methodology to create a list of in-demand jobs, which the Department must post that list on its website.

In addition, the Governor's Office of Workforce Transformation, in conjunction with the Department of Job and Family Services, must conduct a survey of employers regarding in-demand jobs every two years and update the in-demand jobs list with the survey's results. The Office of Workforce Transformation, in collaboration with the Department of Job and Family Services and the Department of Higher Education, also must create and publish an OhioMeansJobs website that includes the in-demand jobs list.

Governor's Executive Workforce Board

The bill requires the Governor to appoint the Deputy Director of Primary and Secondary Education and the Deputy Director of Career-Technical Education to the Governor's Executive Workforce Board.¹³

The federal Workforce Innovation and Opportunity Act (WIOA) requires the Governor to establish a state workforce development board to carry out prescribed functions. WIOA also prescribes specific requirements for the board's composition, but it permits the Governor to appoint state agency officials responsible for education programs to it.¹⁴

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¹² R.C. 6301.11, 6301.111, and 6301.112.

¹³ R.C. 6301.04(A)(5).

¹⁴ See 29 United States Code 3111(b)(1)(C)(iii)(II)(dd), not in the bill.