

The Ohio Coalition for Equity and Adequacy of School Funding

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TESTIMONY IN OPPOSITION TO HOUSE BILL 12

Chairman Bird, Vice-Chair Arthur, Ranking Member Robinson and members of the committee, I am William L. Phillis, Executive Director of the Ohio Coalition for Equity and Adequacy of School Funding. I began a career in public education in 1958 as a teacher. (I was a student teacher in Frankfort, Ohio the year the State Board of Education commenced operation.) My administrative jobs have included high school principal, local superintendent, county superintendent (forerunner of ESC superintendency), joint vocational school superintendent, assistant superintendent of public instruction and executive director of the Ohio Coalition for Equity and Adequacy of School Funding.

One of my tasks during my tenure with ODE (1976-1992) was the ODE liaison with the legislature. Another assignment was to help manage ODE's responsibilities in career/technical education.

My testimony is, unequivocally, in opposition to HB12. The reasons given in support of the transfer of State Board functions to the Governor's office, such as the dysfunctionality of the State Board of Education, infighting among members, sluggish response time to issues and tasks, low performance of some school districts, and neglect of career technical education are not germane to the proposed change in the governance structure. Some citizens might conclude that some other public legislative bodies are dysfunctional; bogged down by infighting, slow to respond to needs, etc. and thus seem somewhat ineffective. (Congress has a 20% approval rating)

Regarding the transfer of the core functions of the State Board of Education to the Governor's office, there is no compelling evidence that such transfer would by force of circumstance result in any improvements in either general education or career technical education. To make such a consequential change without any assurance of positive results is risk that should not be taken.

I am not here to defend the current membership of the State Board of Education or some of the Board's recent antics; I am here to defend an all-elected State Board of Education as the appropriate governance structure for the state education agency.

Historically, public education governance has been a 4th branch of government at the local level and at the state level, except for the period of 1914-1953. Local boards of education are not attached to the office of Mayor, councils, county commissions or township trustees. Since 1956 Ohio's state education agency operation has been independent, except for the distortion of the board member selection process in the mid-1990's when the legislature required gubernatorial appointees be added to the existing elected members.

This General Assembly could immediately resolve a major flaw in the state education governance structure by requiring that all members of the State Board of Education be elected. The current hybrid structure has been a major obstacle to the Board's effectiveness and image.

The 1953 amendment to establish a State Board of Education required the Board to select the Superintendent of Public Instruction. At that time the Superintendent of Public Instruction and state

education agency staff were attached to the Governor's office. HB12 reverses the very process that Article VI, section 4 of the Constitution was adopted to accomplish. The fact that HB12 does not discontinue the State Board of Education is not relevant to this debate. The citizens of Ohio didn't vote to transfer some state education duties and responsibilities from the Governor's office to the State Board of Education. It was the whole state education agency operation that was to be transferred. To transfer the core duties of the State Board of Education to the Governor's office, leaving some minutiae to the State Board and Superintendent of Public Instruction, is a ruse. It is an affront—a slap in the face to the 1953 amendment, and thus to the process by which the Constitution is amended.

This policy is of such monumental importance that it should be subjected to a statewide vote. To thwart the will of the people, to violate the constitutional provision is wrong-headed. Article I, section 2 states in part, "all political power is inherent in the people." HB12 tramples underfoot the constitutional process laid out to amend this supreme governing document; thus a proposal to reverse the state education agency transfer from the Governor's office to the State Board should be decided by the body-politic—the citizens of Ohio.

The enabling legislation that implemented the 1953 amendment is a testament to the fact that HB12 is wrongheaded. Legislators who served during, and immediately after, the adoption of the amendment understood the language of the amendment and the intent thereof. They transferred the whole state education agency to the newly-minted State Board of Education.

Much discussion surrounding HB12 has been about the need to heighten the focus on career/technical education. That objective can and should be accomplished by additional state resources being allocated for that purpose—not changing the governance structure.

Beginning in the late 1960's the State Department of Education began to put an emphasis on vocational education—what is now labeled career/technical education. The elected State Board of Education assumed the role of developing a statewide system that guaranteed every high school student an opportunity to attend a program that offered a minimum of 20 classes of at least 12 different vocational education offerings. The State Board of Education, in spite of major resistance from pockets of local school communities, accomplished the goal resulting in the finest career/technical program in the nation at that time. It became a national model.

In 1975 the State Board of Education developed [Ohio's Career Continuum Program Director's Handbook](#). (attached) This document identifies the Career Developmental Program in terms of components as follows:

1. Career Motivation Programming K-6
2. Career Orientation Programming 7-8
3. Career Exploration Programming 9-10
4. Career Preparation Programming 11-12

This is a document that is relevant to this discussion.

Today's discussion is more about who is in charge, rather than improvement of educational opportunities for the youth of Ohio. It would be helpful for everyone involved to take time to grasp the history of the governance structure of the state education agency. Contemplation of that history is a

more important consideration than a knee-jerk response to some actual and some perceived issues in state level governance of public education.

HB12 needs to be put on hold in light of the history of state governance of public education in Ohio.

Horace Mann, the “father” of the American common school, was appointed Secretary of the Massachusetts Board of Education in 1837; the same year the Ohio legislature created the position of Superintendent of Common Schools and employed Samuel Lewis as Superintendent. The absence of a state agency for education in the years prior to 1837 left the state rudderless in state education policy and practice. In fact, the state legislature squandered much, if not most, of the land that was set aside via the 16th section of each township because no state agency was established to manage the program.

Samuel Lewis, in his first annual report, lamented the travesty of how the state allowed this significant “public asset to be looted”.

In 1840 Samuel Lewis resigned from the position and the legislature eliminated the state position and assigned the state education agency duties to the Secretary of State.

Delegates to the Constitutional Convention of 1850/1851 were appalled at the legislature’s neglect of education and assigned the legislature the duty to secure a thorough and efficient system of common schools throughout the state.

Convention Delegates debated a provision to establish in the Constitution a chief state school officer position, but did not include such in the final version of the Constitution; however, in the 1853 legislation enabling the common school provision, the legislature created the office of State Commissioner of Common Schools to be elected on a three-year cycle (a separate branch of government). With this action the state initiated an enduring concept of a state agency to provide leadership for public education.

State Commissioners of Common Schools, by way of annual reports and interactions with the various legislatures through the years, spurred state officials to expand education opportunities. Previous to 1853, with the exception of Samuel Lewis’ 1837-1840 stint as Superintendent of Common Schools, there was not a state agency with the sole responsibility for public education; hence, local education leaders and personnel formed associations to influence state officials to expand educational opportunities. The presence of local education associations continued to influence state education policy and practices even after the State Commissioner’s office was established and in operation.

Delegates to the 1912 Constitutional Convention included two education provisions that were approved by voters in September 1912. One of the amendments, Article VI, Section 3 was: “make provision by law for the organization, administration and control of the public school system, supported by public funds.” The other said provision was the establishment of the office of Superintendent of Public Instruction, which replaced the office of State Commissioner of Common Schools. The Superintendent’s office and thus the state education agency were merged by legislation into the Governor’s office.

Governor James Cox acted upon the constitutional amendments with a significant sense of urgency. He challenged the legislature to act. He appointed a School Survey Commission, called upon local school officials and personnel to hold discussions at their school buildings to make recommendations, and called together a statewide education congress. All of these actions were taken to inform the legislature

on the need to enact appropriate legislation. Four major education bills were enacted as a result of the input of a multitude of Ohioans. The newly created office of Superintendent of Public Instruction was, as stated earlier, assigned to the Governor's office.

A constitutional amendment was proposed in 1939 to establish a State Board of Education, but voters at that time rejected it; however, in 1953 Ohio voters approved an amendment to establish a State Board of Education and Superintendent of Public Instruction to be appointed by the Board. Article VI, Section 4: "There shall be a state board of education which shall be selected in such manner and for such terms as shall be provided by law. There shall be a superintendent of public instruction, who shall be appointed by the state board of education. The respective powers and duties of the board and of the superintendent shall be prescribed by law."

It is noteworthy that Governor Frank Lausche publicly opposed the 1953 amendment. It is fair to say that no governor since the establishment of the State Board in January 1956 has been completely comfortable with having an "independent" State Board of Education. Some governors have actively worked to get rid of it. Governor Voinovich worked extremely hard to secure an all-appointed Board, but had to settle first for a reduced number of elected members, and later for 8 appointed members added to the 11 elected members.

Past legislatures have been reluctant to thwart the intent of, and thus the will of the people, which was to separate the State agency from the office of the Governor.

Local Boards of Education historically have been non-partisan, elected bodies independent of other political subdivisions. They have operated as a fourth branch of government. At the state level, education agencies have been governed under various models. In 1953 Ohioans chose the independent Board of Education model. It should be treated as a fourth branch of government. Hence to transfer the powers and duties of the State Board of Education to the Governor's office by the legislature is wrong-headed. Ohioans decided by a majority vote to transfer the state education agency from the Governor's office. The legislature should respect that decision and let the people decide whether the state agency should be transferred back to the Governor's office.