



John Rau

Final Analysis
Legislative Service Commission

Am. H.B. 711
123rd General Assembly
(As Passed by the General Assembly)

Reps. Brading, O'Brien, Vesper, Evans, Jacobson, Taylor, Jolivette

Effective date: *

ACT SUMMARY

- Re-enacts as a separate act prior amendments to the sections of law establishing the State Board of Education, which amendments added eight voting members appointed by the Governor to the Board.
- Dissolves the appointive positions on the current State Board and requires the Governor to make new appointments to the State Board within 30 days of the effective date of the act.

CONTENT AND OPERATION

Background

The Ohio Constitution provides that there must be a State Board of Education, whose powers, duties, selection, and terms of office must be "prescribed by law."¹ (See **COMMENT.**) Since adoption of that provision in 1953, the General Assembly has provided for the establishment of the Board. Prior to 1995, the Board's voting membership was made up entirely of elected members.²

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

¹ *Ohio Constitution Article VI, Section 4.*

² *Prior to 1992, the State Board consisted of one elected member from each Congressional district. In that year, however, the General Assembly fixed the number at 11 elected members. (Sub. S.B. 162 of the 119th General Assembly.) The State Board also consists of two nonvoting ex officio members who are the respective chairpersons of*

In 1995, the 121st General Assembly included in the biennial appropriations act amendments reconstituting the Board to consist of 19 voting members of which 11 are elected from specified electoral districts and eight are appointed by the Governor.³ Under those amendments, four of the appointive members must represent rural school districts. Rural representative status is to be evidenced by the member's current place of residence and at least one of the following conditions:

- The member's children attend, or at one time attended, school in a rural district;
- The member's past or present occupation is associated with rural areas of the state;
- The member possesses other credentials or experience demonstrating knowledge and familiarity with rural school districts.⁴

Both elected and appointed members serve staggered four-year terms of office.

In 1999, a group of four plaintiffs filed a lawsuit in the Franklin County Court of Common Pleas claiming that enactment of the amendments establishing the membership of the Board in the 1995 appropriations act is a violation of the one-subject rule of the Ohio Constitution.⁵ As of the enactment of this act, the parties have filed their briefs and are waiting for the Court to rule.

The act

The act re-enacts the 1995 amendments to the sections of law that pertain to the establishment of the State Board of Education as a partly elected and partly appointive board.⁶ The act states that the "original enactment of those amendments has been questioned on the grounds that it violated the one-subject rule." It further states that re-enactment of those amendments is intended to render the question

the Senate and House committees that deal primarily with education matters (R.C. 3301.01(A)).

³ *Am. Sub. H.B. 117 of the 121st General Assembly. The electoral districts are each composed of three state Senate districts.*

⁴ *R.C. 3301.03.*

⁵ *Carlier, et al. v. Bob Taft, et al. (99CVH-07 6244). The one-subject rule is found in Ohio Constitution, Article II, Section 15(D).*

⁶ *Sections affected are R.C. 3.15, 3301.01 to 3301.04, 3301.06, and 3501.02.*

moot. In addition, it states that the amendments differ from their original enactment only insofar as necessary to conform to sentence structure changes made by subsequent amendments. (Section 3.)

The act also dissolves the existing State Board insofar as it consists of members appointed prior to the act's effective date. It then requires the Governor to make new appointments within 30 days of the act's effective date.⁷ (Section 4.) The act specifically does not affect the *elected* members of the State Board (Section 5).

COMMENT

The full text of Ohio Constitution, Article VI, Section 4, reads as follows:

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.

HISTORY

| ACTION | DATE | JOURNAL ENTRY |
|--|----------|---------------|
| Introduced | 05-17-00 | p. 2004 |
| Reported, H. Finance and Appropriations | 05-23-00 | pp. 2048-2049 |
| Passed House (50-46) | 05-24-00 | pp. 2101-2102 |
| Passed Senate (18-15) | 05-25-00 | pp. 1861-1862 |

00-HB711.123/lg

⁷ Section 4 of the act also provides for staggered terms for the new appointive members. It requires the Governor to appoint four of the initial appointive members to terms ending on the 31st day of December occurring at least two calendar years after the date the appointments are made and four of such members to terms ending on the 31st day of December occurring at least four calendar years after the date the appointments are made. Thereafter, terms of office for all appointive members are to be for four years.