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Bill Analysis

Legislative Service Commission

H.B. 14

123rd General Assembly
(As Introduced)

Reps. Mottley, Taylor, Terwilleger, Ford, D. Miller

BILL SUMMARY

- Expands the options of city school district voters to change the organization, composition, and method of selecting their boards of education.
- Authorizes a city school district board to initiate, without a voter petition, the process of placing alternative board organization plans on the ballot.
- Requires the commission that is appointed by a city school district board to formulate plans for the voters' consideration, to hold public hearings, and to consider any proposal supported by a petition having signatures of 6% of the district's voters.
- Specifies additional "one-person-one-vote" requirements for drawing subdistricts in city school districts that choose to select board members from subdistricts.
- Lifts the suspension of the right of referendum of the voters of a municipal school district whose board members are appointed by a mayor.

CONTENT AND OPERATION

Background: right of referendum in city school districts

Article VI, Section 3 of the Ohio Constitution empowers the General Assembly to provide by law for the organization, administration, and control of public schools, with one qualification:

. . . provided, that each school district embraced wholly or in part within any city shall have the power by

referendum vote to determine for itself the number of members and the organization of the district board of education, and provision shall be made by law for the exercise of this power by such school districts.

Accordingly, the General Assembly has enacted laws prescribing the organization of school district boards and establishing a limited right of referendum in city school districts.

Current statutory framework for city school board membership

Revised Code section 3313.02 prescribes parameters for the number of members of boards of education in city school districts:

District Population	No. of Board Members
Less than 50,000	3 to 5 elected at large
50,000 to 149,999	2 to 7 elected at large and up to 2 elected from subdistricts
150,000 or more	5 to 7 elected at large

These requirements do not apply in a municipal school district, where the board members are appointed by the mayor under law enacted in 1997.¹

Current statutory framework for referendum

The law that facilitates the referendum right reserved by the Ohio Constitution for city school district residents is R.C. 3313.04 through 3313.07. Currently under those sections, a referendum on the number of members and organization of the board of a city school district can be initiated by a petition signed by 10% of the district's voters. When the petition is filed with the school board, the board must appoint a commission to propose at least two plans to be placed on the ballot, one of which must provide for the board's current organization.

The plans must appear on the ballot of the next regular municipal election that occurs at least 120 days after the board of education passed the resolution

¹ Currently, only the Cleveland City School District meets the definition of a municipal school district.

appointing the commission. The question of reorganizing the school board cannot be submitted to the voters more than once in a four-year period.

It is unclear what the law (or the Constitution) intends by the phrase "number of members and organization," but it could be interpreted that the options of voters by referendum are limited to those specified in current law for school districts of various population levels. That is, for example, a city school with under 50,000 people could only choose to have three, four, or five board members all elected at large.

Right of referendum under the bill

(secs. 3313.04 through 3313.09 and 3313.11)

Formation of commission

(sec. 3313.04(A) and (B))

Current law requires a school board, within 30 days after receiving a petition to change its organization, to provide by resolution for the appointment of a commission to frame two or more plans for submission to the voters.

The bill permits a board of education, upon receiving a petition, to *either* (1) adopt a resolution appointing a commission or (2) provide by resolution for submitting the question of whether to appoint a commission to the district voters. The bill eliminates the 30-day deadline for adopting a resolution, and instead requires that the board adopt either resolution at least 120 days before the next municipal election that occurs at least 120 days after the petition was submitted.²

The bill also permits a city district board of education at any time *on its own motion* to adopt a resolution directly establishing a commission to formulate alternative methods of school board organization for proposal to the voters.

If the board adopts a resolution submitting to the voters the question of appointing a commission, the election generally must be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers. Notice stating the question must be published in a newspaper of general circulation in the school district once a week for three consecutive weeks prior to the election. The ballot must be in the form prescribed by the Secretary of State.

² Article XVII, Section 1 of the Ohio Constitution requires that municipal and school board elections be held in November of odd-numbered years.

The question of *whether to appoint a commission* may be submitted to the voters only once every four years. This limitation replaces the current law limiting the submission of the question of *whether to actually reorganize the board* to once every four years. So presumably, given the board's new authority to appoint a commission on its own initiative, the question of reorganizing the board could be resubmitted to the voters in as soon as two years.

Similar to current law, the commission must be appointed and organized within 60 days after (1) the election approving the commission's formation or (2) passage of the school board's resolution (whether in response to a petition or on its own) to form a commission.

Membership of commission

(sec. 3314.03(C))

The bill changes the membership of the commission charged with drafting plans to submit to the voters, as follows:

	CURRENT LAW	THE BILL
When district has territory in only 1 city	<p>3 members appointed by the president of the board of education</p> <p>2 members appointed by the mayor</p> <p>2 members appointed by the president of the board of sinking fund trustees or, if no such board, the city treasurer</p>	<p>3 members appointed by the president of the board of education</p> <p>4 members appointed by the mayor or the person exercising the functions of mayor under the city charter</p>
When district has territory in more than 1 city	<p>3 members appointed by the president of the board of education</p> <p>1 member appointed by the mayor of each city</p> <p>1 member appointed by the president of the board of sinking fund trustees or the city treasurer of each city</p>	<p>5 members appointed by the president of the board of education</p> <p>1 member appointed by the mayor of each city or the person exercising the functions of mayor under the city charter</p>

Duties of commission

(sec. 3313.05(A) and (B))



Current law requires the commission to prepare and submit to the voters two or more plans for the organization of the board of education at the next regular municipal election, if one occurs not less than 120 days *after the passage of the board resolution*, or otherwise at the second regular municipal election two years later. The 120-day requirement presumably is intended to allow time for the commission to formulate plans and elections authorities to prepare the ballots.

The bill requires instead that the plans be submitted to the voters at the next regular municipal election that occurs at least one year and 150 days *after appointment of the commission*. This means that the time before the commission's plans appear on the ballot will vary from one and a half years to up to four years, depending on the timing of the petition and the school board's decision whether to submit the question of appointing the commission to the voters or simply to proceed and appoint the commission immediately.

During this time, the commission must hold public hearings to examine ideas and proposals for plans to submit to the voters. The commission must consider any plan proposed by any school district resident that is supported by a petition signed by 6% of the voters in the district. If the commission does not vote to include such a plan among those it submits to the voters, or modifies the plan in any substantive manner before submitting it, the commission must include in the official minutes of its meetings the reasons why it chose not to submit the plan, or chose to submit it with substantive modifications. Within 30 days of any decision by a commission not to include a plan supported by a petition, or to include such a plan with substantive modifications, the district board of education may adopt a resolution supporting the plan as it was proposed by the petition. If the board does that, the plan in its original form must be included among the plans submitted to the voters.

Make-up of plans

(sec. 3313.05(C))

Current law requires that each plan proposed to the voters provide for the number of members, the length of their terms, and the organization of the board. One plan must provide for the same number and the same organization as the board existing at the time of the election.

The bill requires that in addition to these current law requirements, each plan must also specify the following:

(1) The method of selection of school board members, which may be by election or appointment, and, if any members are to be appointed, the appointing authority;

- (2) Whether any members are to represent subdistricts;
- (3) The method of filling vacancies;
- (4) The qualifications of members; and
- (5) The manner in which the transition from the existing board to the proposed board will be effected.

No plan may provide for the election of any board members in even-numbered years.

Finally, the bill provides that, notwithstanding current law requiring a board of education to elect or appoint a treasurer and superintendent (secs. 3313.22 and 3319.01, not in the bill), plans may also provide for a different method of selection of a district superintendent or chief executive officer and a district treasurer or chief fiscal officer.

Submission of plans to voters

(sec. 3313.05(D))

The bill maintains current law requiring that the plans be submitted to the voters on a separate ballot, bearing no party designation, and in such form as the commission determines.

The bill further directs the board of elections of the county in which the majority of the school district's territory is located to make all necessary arrangements for the submission of the question to the voters, and that the election generally must be conducted, canvassed, and certified in the same manner as regular elections in the district for county officers.

Adoption of a plan by the voters

(sec. 3313.07)

Current law provides that if any of the plans submitted to the voters receives a majority of the votes cast for all of the plans, it becomes the law governing the board's organizational structure. All the members of the board must be elected pursuant to the plan at the next regular municipal election. The terms of all members who were elected prior to the adoption of the plan, or at the election at which the plan was adopted, expire on the day preceding the first Monday of January following the next regular municipal election. All members elected at the regular municipal election following the adoption of the plan take office on the

first Monday of January following their election, and hold office as provided by the plan adopted by the voters, but no term may be for less than two years.

The bill provides, in lieu of current law, that if a plan is adopted by a majority vote, the transition from the prior board to the board provided in the plan, the terms of all members of the board elected prior to and during the adoption of the plan, and any subsequent vacancies on the board must be handled in the manner specified in the plan.

Redistricting subdistricts

(sec. 3313.03)

Current law permits subdistrict representation as an option for a city school district that has a population of more than 50,000 but less than 150,000. It also requires the board of education of each district that chooses to have subdistricts to establish them within three months after announcement of the results of each federal census. If the board fails to do this, the state Superintendent of Public Instruction must do it. The subdistricts must be as nearly equal in population as possible.

The bill adds provisions explicitly requiring that the population of each subdistrict substantially equal the quotient obtained by dividing the whole population of the school district, as determined in the federal census, by the number of subdistricts. In no event may any subdistrict contain a population of less than 95% nor more than 105% of that quotient.

The bill does not change the statute limiting the option of subdistricts only to city school districts whose populations fall between 50,000 and 149,999. But the voters of other city districts could choose to have subdistricts through the referendum. If they do, they would be subject to the requirements of current law and the bill regulating the relative size, contiguity, and decennial redrawing of subdistricts.

Referendum in school districts with mayoral appointed boards

(sec. 3313.04)

Sub. H.B. 269 of the 122nd General Assembly, enacted in 1997, requires "municipal school districts" to have mayoral appointed school boards. This requirement applies to any school district that is or has ever been under a federal court order requiring the State Superintendent of Public Instruction to supervise and maintain operational, fiscal, and personnel control of the district. This currently applies only to the Cleveland City School District, but would apply to any school district that finds itself under a similar federal court order in the future.

Under the law, when the district is released from the federal court order, supervision and control of the district immediately is assumed by a new nine-member board of education, appointed by the mayor of the city containing the greatest portion of the district's territory. This board serves until shortly after a referendum is held on whether the mayor should continue appointing the board (four or five years later, depending on whether the mayor first assumes control in an odd- or even-numbered year).

The law suspends the right of referendum provided by R.C. 3313.04 through 3313.07 until after the initial referendum vote on continuing the mayor's authority to appoint school board members. After that vote, sections 3313.04 through 3313.07 are operational again for municipal school districts if the voters ever want to change the "number of members and organization" of the board. In Cleveland, the referendum on continuing the mayoral appointment arrangement must be held in November 2002.

The bill removes the suspension of this right of referendum for municipal school districts, thereby permitting voters or the school board to initiate the bill's process of changing the composition and method of selection at any time after the bill's effective date. In Cleveland, this would allow a referendum on the school board's composition and organization in November 2001 if a commission can be appointed by early June 2000. This referendum, if held, would not have to be limited to a choice between keeping mayoral appointment and returning to a seven-member board elected at large, as must the November 2002 referendum required under H.B. 269.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-99	p. 86

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