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Bill Analysis
Legislative Service Commission

S.B. 151
123rd General Assembly
(As Introduced)

Sens. Mumper, Kearns, DiDonato, Oelslager, Furney, Brady, McLin

BILL SUMMARY

- Transfers authority for issuing licenses, certificates, and permits to teachers, aides, administrators, and other education professionals from the State Board of Education to a new State Educator Standards Board.
- Establishes a bifurcated licensing structure by dividing the new Board into two separate committees; one responsible for licensing classroom teachers (and other professionals who primarily deal directly with students) and the other responsible for licensing administrators.

CONTENT AND OPERATION

Assumption of educator licensing duties by new State Educator Standards Board

The bill transfers from the State Board of Education to a new State Educator Standards Board all authority for licensing educators, including public and nonpublic school teachers, administrators, and other professional education personnel; aides and teacher assistants; preschool teachers; and school district treasurers and business managers. The Standards Board would have two specialized "committees" that would actually be responsible for most licensing decisions. One committee would be largely comprised of classroom teachers and would be responsible for the licensing of classroom teachers and other educational professionals working primarily with students. The other committee would contain no classroom teachers and would be responsible for licensing administrators.

The Standards Board would have control of the Department of Education's special account containing licensing fees and would be authorized to approve the portion of the Department's budget recommending the appropriation of the funds derived from these licensing fees.

Like the State Board of Education, the State Educator Standards Board would adopt all licensing rules under Revised Code Chapter 119. (the Administrative Procedure Act). However, unlike the State Board's rules, the rules of the new Educator Standards Board would not have to be approved by concurrent resolution of the General Assembly (sec. 3319.22(B)).

Creation of new board

Qualifications of members

(secs. 3319.228 and 3319.229)

The State Educator Standards Board would consist of 15 members appointed by the Governor with the advice and consent of the Senate. The required membership consists of:

- (1) **Eight** classroom teachers employed by a school district or county MR/DD board and who, at the time of their appointments, held professional teacher licenses (or the equivalent) in any category included in the rule of the State Board of Education for licensing classroom teachers;¹
- (2) **Two** persons employed in teacher preparation at an institution of higher education;
- (3) **Two** persons employed in administrative positions by a school district or county MR/DD board who hold administrative licenses currently specified in rules of the State Board;¹
- (4) **One** person who holds a professional license as an audiologist, school counselor, school psychologist, school social worker, school speech-language pathologist, school nurse, occupational therapist, or physical therapist;¹ and
- (5) **Two** persons who represent the general public and do not meet any of the qualifications specified for the other board members.

¹ *The bill refers to types of licenses included under rules of the State Board of Education in existence on January 1, 1999 (OAC 3301-24-05). To allow for board members to be appointed in future years, a member is permitted to hold an "equivalent" license in the event the January 1, 1999 rule is substantively amended after that date. The bill also permits appointees to hold in lieu of a license, a "certificate" issued under the educator licensing transition provisions of Am. Sub. S.B. 230 of the 121st General Assembly.*

The bill requires all members to be Ohio residents and directs the Governor when making appointments to ensure that rural, urban, and suburban areas and a variety of licensure categories and teaching fields are represented on the Board. In addition, before selecting members the Governor must request lists of nominees from statewide organizations whose memberships include the persons in the occupations represented on the Board. But the Governor is not required to actually nominate anyone recommended.

The bill prohibits any classroom teacher member or professional pupil services member of the Board from being employed by the same school district or county MR/DD board as an administrative member.

Terms of office

(secs. 3319.229 and 3319.2210)

The bill specifies that initial terms of office will be staggered by lot at the first meeting of the Board.² Groups of five members will each serve initial terms of six, four, and two years. Thereafter, members serve six-year terms that begin January 1, and end on December 31. No member may serve more than two full consecutive six-year terms.

The Board may declare a position vacant if the member is absent without adequate excuse (as determined by the Board) for two consecutive meetings. In addition, a position is vacant if the member moves out of state or ceases to meet the employment or licensing criteria under which he or she was appointed. All vacancies must be filled in the same manner as original appointments.

Operations of the Board

(secs. 3319.2210, 3319.2211, 3319.2212, and 3319.2213)

The Board must organize every two years by adopting rules of procedure and regular meeting dates, and electing a chairperson and vice-chairperson. The rules of procedure must contain a method for calling special meetings. A majority (eight members) of the Board is required for a quorum, and all official Board actions require the affirmative votes of at least eight members (except when the separate committees of the Board are acting within their areas of authority; see below under "**Separate Board Licensing Committees**"). All meetings must be

² *The bill does not contain a provision establishing a time frame for the Governor to make appointments and for the first meeting to be held.*

public, including those considering whether to suspend or revoke an individual's license.

The bill contains detailed requirements for recordkeeping. The Board's chairperson must designate a person to record all official actions of the Board "in a book provided for that purpose." The book is a public record, and at each Board meeting, the record of the proceedings of the previous meeting must be read, corrected, and approved. The bill allows the Board to adopt a continuing resolution waiving the reading of the record "provided that the record has been distributed to the members . . . at least two days prior to the date of the meeting...and that copies of the record are made available to the public."

Board members receive no compensation but do receive reasonable and necessary expenses while engaged in official duties. The bill also specifies that the school district, county MR/DD board, or institution of higher education employing a Board member must authorize paid leave for the member while attending meetings and "other official functions of the Board."

Upon Board request, the Department of Education must provide staff and administrative support for the Board. Department employees must perform all paperwork and processing associated with the issuance of licenses and must maintain licensing records.

Funding for licensing activities of Board

(secs. 3319.2213 and 3319.51)

Current law establishes the State Board of Education Licensure Fund as a separate fund in the Treasury solely to pay the costs of the State Board of Education in administering the educator licensing laws. The State Board establishes the fees for each type of license, certificate, or permit it issues.

The bill transfers the fee-setting function to the new State Educator Standards Board and directs that money in the renamed Professional Educator Licensure Fund be used to pay the expenses of the Board and its members, and the expenses of the Department of Education to the extent it incurs administrative expenses in assisting the Board to carry out the educator licensing laws.

The bill also specifies that the Board has "control of expenditures" made from the Fund. Specifically, the bill directs the Department of Education to obtain the Board's approval for the portion of its biennial budget proposal to the Office of Budget and Management regarding Fund expenditures.

The Board may receive grants, gifts, and donations from any other public or private source to further its activities.

Separate Board Licensing Committees

The bill divides the Board into two permanent licensing committees. Although all members of the Board may participate in any hearings or discussions of both committees, each committee has its own membership and specific licensing duties that it alone may act upon.

Classroom Teacher Licensure Committee

(sec. 3319.2214)

The eight classroom teacher members of the Board, the two higher education employee members, the professional pupil services member, and one of the public members (designated by the Governor at the time of appointment) constitute the Board's Classroom Teacher Licensure Committee. The 12-member Committee requires an affirmative vote of seven members to take any of the following actions, which constitute its area of authority:

- (1) Adopting, amending, or rescinding rules for classroom teacher licenses and certificates (including special endorsements authorizing such things as adult education, teaching preschool handicapped students, acting as a reading specialist, and teaching English to speakers of other languages);
- (2) Adopting, amending, or rescinding rules for licensure of pupil services personnel;
- (3) Issuing, renewal or nonrenewal, suspension, or revocation of any of the types of licenses for which it makes rules;³
- (4) Ruling on an appeal of a decision of a local professional development committee regarding the coursework a licensee wishes to

³ Section 3319.31(B) includes statutory reasons for the Board to refuse to issue or renew a license, or suspend, revoke, or limit a license that has been issued to an educator. These statutory reasons involve commission of drug or theft offenses, an offense of violence, or other felony. The Board under its rule-making authority could add additional grounds for disciplinary action. Current rules, for example, require the completion of continuing education requirements to renew licenses.

complete in fulfillment of continuing education requirements for license renewal.⁴

Administrative Licensure Committee

(sec. 3319.2215)

The two members of the Board holding administrative licenses, the two higher education employees, the one pupil services professional, and the other public member (not serving on the Classroom Teacher Licensure Committee) will form the Board's Administrative Licensure Committee. This Committee is responsible for rule-making, license issuing, disciplinary actions, and appeals of local professional development committee decisions with respect to licensing of administrators. An affirmative vote of four of the six committee members is required for any official action.

Duties of the Board acting as a whole

(sec. 3319.2216)

The entire membership of the State Educator Standards Board is required to:

- (1) Adopt rules for issuing, refusing to issue and renew, and take individual disciplinary action against holders of all other types of permits, licenses, and certificates;⁵

⁴ *One change in educator licensing affected by Am. Sub. S.B. 230 was an on-going continuing education requirement for renewal of educator licenses. Each school district and nonpublic school had to establish a local professional development committee to approve the proposed continuing education coursework of the employees of that district or school. Under current law, the decisions of these local committees may be appealed to the State Board of Education (sec. 3319.22(C)(1)).*

⁵ *These would include licenses for school district treasurers and business managers (sec. 3301.074); educational aide permits and educational paraprofessional licenses for educational assistants (sec. 3319.088); internship certificates (sec. 3319.28); and 12-hour per week teaching certificates (sec. 3319.301). It is not clear whether alternative teaching licenses (sec. 3319.26) and licenses for temporary and substitute teachers (OAC 3301-23-44) would be the responsibility of the Classroom Teacher Licensing Committee, or the Board acting as a whole. While these licenses are not currently included in the rule cited in the bill (OAC 3301-24-05(C)) for "teacher licenses," they could potentially be construed as "equivalent" to those licenses.*

- (2) Adopt a professional code of ethics for educators;
- (3) Approve or disapprove the Department's proposed budget for the expenditure of the Professional Educator Licensure Fund;
- (4) Establish the fees for all licenses, certificates, and permits;
- (5) Establish rules for and approve or disapprove teacher preparation institutions (sec. 3319.23);
- (6) Take action on any other issues that come before the Board.

The bill transfers to the new Board other duties of the State Board of Education related to licensing, including requesting background checks of applicants (sec. 3319.291), establishing qualifications for the teaching of community service education for high school credit (sec. 3319.231), adopting standards for teachers of visually handicapped students to demonstrate competency in Braille (sec. 3319.232), and requiring coursework in technology for all teachers (sec. 3319.235).

Streamlining licensing system

(sec. 3319.2217)

The bill directs the Board and its two licensure committees to attempt to "reduce and streamline the educator licensing system to the extent possible to allow greater flexibility in staffing schools while maintaining standards of educator excellence."

Continuing licensure phase-in

(sec. 3319.222)

Am. Sub. S.B. 230 of the 121st General Assembly, which enacted the current educator licensing system, contained an elaborate phase-in (ending in 2006) of the new license renewal requirements. Subsequent legislation also allows, until January 1, 2002, for issuing temporary speech-language pathology licenses valid while the holder is working to become licensed by the Board of Speech-Language Pathology and Audiology (sec. 3319.223). The bill validates actions of the State Board of Education in issuing or renewing certificates and licenses (including temporary speech-language pathology licenses) during this transition period, while assigning the State Board's phase-in duties to the new Educator Standards Board as of the bill's effective date.

Transferal of State Board Rules

(Section 3)

Uncodified law transfers the rules, orders, and determinations of the State Board of Education and the Department of Education to the new Board on the bill's effective date. All licensing rules remain in effect unless modified or rescinded under Chapter 119. by the new Board. The Educator Standards Board is directed to assume the existing business commenced but not completed by the State Board of Education, and the bill specifies that "no validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer" of licensing functions.

HISTORY

| ACTION | DATE | JOURNAL ENTRY |
|------------|----------|---------------|
| Introduced | 06-02-99 | p. 523 |

S0151-I.123/jc