



John Rau

## *Bill Analysis*

*Legislative Service Commission*

### **H.B. 196**

124th General Assembly  
(As Introduced)

**Reps. Husted, D. Miller, Clancy, Peterson, Raga, DeWine, Goodman, DePiero, G. Smith, Ogg, Jerse, White, Schaffer, Willamowski, Schmidt, Gilb, Setzer, Webster, Barrett, Williams, Key, Faber, Allen, Woodard**

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#### **BILL SUMMARY**

- Permits a school district board to contract with nonprofit or for profit entities to operate alternative schools in the district.
- Permits any nonprofit or for profit entity that contracts to operate an alternative school to employ as teachers in the school individuals who do not hold educator licenses or certificates as otherwise specified for teachers employed by school districts as long as those individuals are licensed in the same manner as teachers employed by nontax-supported schools.
- Specifies standards for alternative schools that are operated by nonprofit or for profit entities.

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#### **CONTENT AND OPERATION**

##### **Background**

School district boards are authorized to establish alternative schools to serve students in grades kindergarten through twelve who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, or "who are exhibiting other academic or behavioral problems."<sup>1</sup> The board of each of the Big-Eight School Districts and the board of any school district with a "significantly substandard graduation rate" are *required*

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<sup>1</sup> R.C. 3313.533(A).

to establish at least one such alternative school for their respective district.<sup>2</sup> Each board that establishes an alternative school must develop and implement a plan for the school. The plan must include the qualifications for assignment of students to the school, the criteria and procedures that will be used to return students to their regular school, and procedures for evaluating the alternative school program and for reporting the results of the evaluation to the public. The plan also may include a requirement that students assigned to the school attend additional hours beyond the normal school day, restrictions on extracurricular activities, and a requirement that students wear uniforms as specified by district board.<sup>3</sup> Two or more school districts may join to form either a cooperative education school district or a joint education program to operate a joint alternative school.<sup>4</sup>

**Authorization for school districts to contract with nonprofit and for profit entities to operate alternative schools**

Under current law, school districts are authorized to employ teachers and nonteaching staff necessary to operate an alternative school. The statute appears to permit only a district board to operate the alternative school itself or to do so jointly with the board of another district.

The bill specifically permits a board, whether individually or jointly with another district board, to contract with a nonprofit or for profit entity to operate an alternative school, which operation may include the provision of personnel, supplies, equipment, or facilities.<sup>5</sup>

**Authorization for nonprofit or for profit entities that operate alternative schools to employ teachers who are licensed in the same manner as teachers employed by nontax-supported schools**

Persons employed as teachers in schools chartered by the State Board of Education must hold educator licenses or certificates issued by the State Board. The requirements for such licensure to teach in the schools of school districts are different from those for licensure to teach in nontax-supported (nonpublic) schools. To be licensed to teach in a school district, a person must have a

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<sup>2</sup> R.C. 3313.534, not in the bill. *The Big-Eight School Districts are Akron, Canton, Cincinnati, Columbus, Cleveland, Dayton, Toledo, and Youngstown. The Department of Education is required to define "significantly substandard graduation rate."*

<sup>3</sup> R.C. 3313.533(B).

<sup>4</sup> R.C. 3313.533(E).

<sup>5</sup> R.C. 3313.533(C) and (E).

bachelor's degree in education or a specific subject area to be taught, have completed specific courses in professional education, have passed certain education method and content area tests, and maintain certain continuing education requirements, including eventual attainment of an advanced degree. However, the law requires the State Board to license a person to teach in nontax-supported schools who has received a bachelor's degree from an accredited college or university (or the foreign equivalent approved by the State Board) "without further educational requirements."<sup>6</sup> The bill permits a nonprofit or for profit entity that contracts with a school district board to operate an alternative school to hire teachers who do not hold educator licenses or certificates specified for teachers in school districts as long as the persons hired are licensed in the same manner as teachers employed by nontax-supported schools.<sup>7</sup>

In addition, current law prohibits someone from receiving compensation as a teacher from a school district unless the person is properly licensed to teach in a school district. Since public funds likely would be paid to nonprofit and for profit entities to operate alternative schools under the bill's provisions, it is also likely that the prohibition on teacher compensation would also apply to teachers who are employed by the entities at those schools. The bill amends that provision to exempt from it those persons employed by a nonprofit or for profit entity to teach in an alternative school.<sup>8</sup>

### **Standards for alternative schools operated by nonprofit or for profit entities**

The bill specifies some standards for alternative schools operated by nonprofit or for profit entities that are either different from or in addition to those otherwise specified for alternative schools operated by a school district.

First, in addition to the specifications in current law, the plan adopted for any alternative school operated by a nonprofit or for profit entity must include the following items:

(1) A description of the educational program of the alternative school, which must specify provisions for the school to be configured in clusters or small learning communities, provisions for the incorporation of education technology into the curriculum, and provisions for accelerated learning programs in reading and mathematics;

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<sup>6</sup> *R.C. 3301.071, not in the bill.*

<sup>7</sup> *R.C. 3313.533(F).*

<sup>8</sup> *R.C. 3319.30.*

(2) Methods to determine the reading and mathematics level of each student assigned to the alternative school and to continuously monitor each student's progress in those areas, both of which methods must be aligned with the district's curriculum;

(3) A plan for social services to be provided at the school, which can include (but is not limited to) such things as counseling services, psychological support services, and enrichment programs; and

(4) A plan for a student's transition from the alternative school back to a school operated by the school district.<sup>9</sup>

Second, any alternative school that is operated by a nonprofit or for profit entity must be limited to grades six through twelve. In addition, the bill specifies that students must be assigned to the school for at least an entire school year.<sup>10</sup>

Finally, the bill specifies the characteristics of students that may be assigned to an alternative school operated by a nonprofit or for profit entity. Students assigned to the school must exhibit only one or more of the following characteristics:

(1) Classroom behavior that is so disruptive that it seriously interferes with a teacher's ability to communicate effectively with the students in the classroom, the ability of other students to learn, or the operation of a school or school-related activity;

(2) Habitual truancy;<sup>11</sup>

(3) Disregard for school authority including persistent or repeated violation of the district's code of conduct;

(4) Nonviolent out-of-classroom infractions of the district's code of conduct that result in a disciplinary action against the student;

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<sup>9</sup> R.C. 3313.533(G)(1).

<sup>10</sup> R.C. 3313.533(G)(2) and (4).

<sup>11</sup> *The Juvenile Justice Law defines "habitual truant" as any child of compulsory school age (generally 6 to 18 years old) who is absent from school without legitimate excuse for 5 or more consecutive school days, 7 or more school days in a school month, or 12 or more school days in a school year (R.C. 2151.011(B)(18), not in the bill). While this might provide one possible standard for "habitual truancy," the bill does not specify this definition of habitual truancy (or any other definition) for purposes of assigning a student to an alternative school.*

(5) Misconduct that warrants assignment to a disciplinary education program under the school district's alternative school policy;

(6) Suspension or expulsion under the district's disciplinary policy;

(7) Retention for academic reasons for two or more years;

(8) Mathematics or reading levels that are two or more grades below the student's current grade level;

(9) Grade point averages in two or more courses during a previous or the current semester that are lower than 70 on a 100-point scale;

(10) No prospect of graduating from high school within 4 years of the date the student begins the 9th grade based on the student's prior academic performance; or

(11) Failure to attain passing scores on the test to measure reading or mathematics required for high school graduation under state law or failure to attain a passing score on the reading or mathematics portion of any other standardized test required under school district policy.<sup>12</sup>

**Intent to appropriate moneys for alternative schools operated by nonprofit or for profit entities**

The bill states that it is the intent of the General Assembly to appropriate moneys specifically for the purpose of assisting school districts in contracting with nonprofit or for profit entities to operate alternative schools as authorized in the bill; however, the bill itself does not make an appropriation. The bill specifies that any moneys appropriated for these schools must be used to pay costs associated with educating students assigned to the alternative schools to the extent that those costs exceed those associated with educating the students if they were not assigned to the alternative schools. In addition, the bill specifies that any such moneys must be in the form of a stipend that may not in any way reduce the amount of moneys a

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<sup>12</sup> R.C. 3313.533(G)(3). *Current law, not changed by the bill, requires any student who receives a high school diploma from any school chartered by the State Board of Education to complete the high school curriculum and to attain a passing score on 9th grade proficiency tests in the five areas of reading, writing, mathematics, science, and citizenship. The 9th grade tests are currently being phased out in favor of 10th grade tests. (R.C. 3301.0710(B) (not in the bill) and Section 4 of Am. Sub. S.B. 55 of the 122nd General Assembly.)*

school district would otherwise be eligible to receive under state law.<sup>13</sup> (See COMMENT.)

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## COMMENT

The General Assembly appropriated \$20 million for each year of the current 1999-2001 biennium to be used by the Department of Education to award competitive grants to school districts for establishing and operating alternative education programs for at-risk and delinquent youth.<sup>14</sup> School districts to which these grants may be awarded include the "Urban-21 districts," suburban districts, and rural districts.<sup>15</sup> Programs supported by the grants must be focused on youth who have been expelled or suspended from school, who have dropped out or are at risk of dropping out of school, who are habitually truant or disruptive, or who are on probation or parole from a facility operated by the Department of Youth Services. Criteria for awarding the grants, which must be developed by the Alternative Education Advisory Council, must give priority to projects that demonstrate collaboration among schools, juvenile courts, law enforcement agencies, local government, and other private and public organizations.<sup>16</sup> The criteria also must give priority to projects that include strategies to ensure enforcement of state school attendance laws, that are research-based, and that ensure data collection to facilitate evaluation of the projects. Grants must not be awarded to any project where the grant award would be the project's primary source of funding. Finally, the Department *may* waive compliance with any minimum education standard for any alternative school that receives one of these grants, if the Alternative Education Advisory Council recommends the waiver on the grounds that it will enable the school "to more effectively educate" students.

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<sup>13</sup> *Section 3 of the bill.*

<sup>14</sup> *Section 4.12 of Am. Sub. H.B. 282 of the 123rd General Assembly.*

<sup>15</sup> *The Urban-21 School Districts are the following city school districts: Akron, Canton, Cleveland, Columbus, Cincinnati, Dayton, Toledo, Youngstown, Cleveland Heights, East Cleveland, Elyria, Euclid, Hamilton, Lima, Lorain, Mansfield, Middletown, Parma, Springfield, South-Western, and Warren.*

<sup>16</sup> *The Alternative Education Advisory Council was also established by Section 4.12 of Am. Sub. H.B. 282 of the 123rd G.A. The Council is made up of one representative from each of the following: Department of Education, Department of Youth Services, Department of Alcohol and Drug Addiction, Department of Mental Health, Office of the Governor or alternatively the Office of the Lt. Governor, and the Office of the Attorney General.*

The executive proposal for the budget for the next biennium (2001-2003) proposes renewal of this grant program with appropriations of \$22,336,697 for Fiscal Year 2002 and \$25,511,384 for Fiscal Year 2003.<sup>17</sup> The language used in both the current appropriation and the proposed one for the next biennium does not specify that the grants awarded under those programs may be used to establish alternative schools operated for school districts by nonprofit and for profit entities. In addition, while there are some similarities between the specifications made for the schools operated under those programs and the specifications made in the bill for alternative schools, there are also some potential differences among those specifications. Thus, the appropriation currently proposed for alternative education programs for the next biennium might not necessarily apply to programs established under this bill.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-03-01	p. 286

h0196-i.124/kl

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<sup>17</sup> Sections 4 and 4.06 of H.B. 94, As Introduced. Some of the moneys appropriated are to be used for specified programs or for administrative costs.