



John Rau

## *Bill Analysis*

*Legislative Service Commission*

### **H.B. 438**

124th General Assembly  
(As Introduced)

**Reps. Britton, Flannery, Jones, D. Miller, Otterman, Cirelli, Sullivan, Seaver, Key, Setzer, Barrett, Redfern, Fedor**

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#### **BILL SUMMARY**

- Requires the appointment of two student members to the board of trustees of each community college district, state community college district, and technical college district and grants voting power to such student members.
- Prohibits a student of a community college, state community college, or technical college from being disqualified from serving as a student member of the board of trustees of that college's district if the student receives financial aid or is employed by the college in certain student employment positions.
- Prohibits a student member of the board of trustees of a community college district, state community college district, or technical college district from attending board meetings or participating in board discussions on matters that may be deemed to be a conflict of interest for the student trustee.
- Prohibits a faculty member or other employee of a community college, state community college, or technical college from conferring any favor, advantage, preference, or other benefit on a student trustee of the college district board of trustees because of the student's status as a trustee.

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#### **CONTENT AND OPERATION**

##### **Background**

State law authorizes the creation and operation of three different types of two-year regional institutions of higher education known as community colleges,

state community colleges, and technical colleges.<sup>1</sup> Each college's district is a political subdivision of the state and is under the oversight of a board of trustees. The make-up and powers of the boards vary according to the type of college under its control.

### **Community colleges**

A community college is organized specifically to provide the people of the district in which it is located with "arts and sciences," "technical," and "adult-education" instructional programs that do not exceed two years in duration. Such a college district may consist of the territory of one or more contiguous counties having a total population of not less than 75,000 people.<sup>2</sup> Districts are created in accordance with rules of the Board of Regents and may be proposed by the affected boards of county commissioners or electors in those counties.<sup>3</sup>

The board of trustees of a community college district is currently made up of nine members, six of whom are appointed by the board or boards of county commissioners and three of whom are appointed by the Governor with the advice and consent of the Senate. The trustees serve five-year staggered terms of office.<sup>4</sup>

A community college board of trustees is authorized to levy a property tax outside the ten-mill limitation with voter approval to pay the cost of operations and permanent improvements.<sup>5</sup>

### **Technical colleges**

Similarly, a technical college is organized to provide the people of the district in which it is located with "technical" and "adult education" instructional programs. The law specifies that these programs may not exceed two years in duration and may not lead to bachelor's degrees. A technical college district may consist of the territory of a city school district, a county, or two or more contiguous school districts or counties pursuant to standards prescribed by the

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<sup>1</sup> *Currently, there are six community colleges, eight technical colleges, and nine state community colleges. These colleges are in addition to the 13 state universities, the university branch campuses, and two stand-alone state-assisted medical colleges.*

<sup>2</sup> *R.C. 3354.01, not in the bill.*

<sup>3</sup> *R.C. 3354.02, not in the bill.*

<sup>4</sup> *R.C. 3354.05.*

<sup>5</sup> *R.C. 3354.12, not in the bill.*

Board of Regents.<sup>6</sup> A district is established by the Board of Regents after being proposed by any of the following:

- (1) The board of education of a city school district;
- (2) The boards of two or more contiguous city, exempted village, or local school districts or educational service centers;
- (3) The governing board of a single educational service center;
- (4) The governing boards of two or more contiguous educational service centers; or
- (5) The electors residing in a city school district, in a county, in two or more contiguous school districts, or in two or more contiguous counties.<sup>7</sup>

Depending upon the specific make-up of the territory comprising the technical college district, its board of trustees currently consists of either seven or nine members. If the technical college district is made up of one or more school districts and more than one-half of the territory of each district is in the same county, then the college district board is to be made up of seven trustees, two of whom are to be appointed by the Governor with the advice and consent of the Senate. The other five members are to be appointed by a caucus of the presidents (or representatives of the presidents) of the boards of the school districts and educational service centers the territory of which are included in the territory of the college district. On the other hand, if a technical college district consists of any other territorial make-up, then the board of trustees is to consist of nine members, with three appointed by the Governor and six appointed by a caucus of the school district and educational service center board presidents (or their representatives). The members serve staggered three-year terms of office.<sup>8</sup>

Like a community college board of trustees, the board of a technical college district is authorized to levy a property tax outside the ten-mill limitation with voter approval. Such a tax, however, may not be levied for a period longer than ten years. The law also specifies that it may be used only to provide funds for

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<sup>6</sup> *R.C. 3357.01, not in the bill. The statute does not authorize "arts and sciences" instructional programs.*

<sup>7</sup> *R.C. 3357.02, not in the bill.*

<sup>8</sup> *R.C. 3357.05(A).*

operation and maintenance, for purchasing or enlarging a site, and for constructing, enlarging, improving, rebuilding or equipping buildings.<sup>9</sup>

### **State community colleges**

A state community college is organized to provide the people of the district in which it is located a "baccalaureate-oriented program" and "technical education" and "adult continuing education" programs.<sup>10</sup> A state community college district may be composed of the territory of a county or of two or more contiguous counties having a total population of at least 150,000 people and where no university branch campus or technical college is located.<sup>11</sup> As in the case of community college districts, the creation of state community college districts may be proposed to the Board of Regents by the affected boards of county commissioners or electors of those counties.<sup>12</sup>

The board of trustees of a state community college is made up of nine members, all of whom are appointed by the Governor with the advice and consent of the Senate. The members serve staggered six-year terms of office.<sup>13</sup>

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<sup>9</sup> R.C. 3357.11, not in the bill.

<sup>10</sup> A "baccalaureate-oriented program" is a curriculum of not more than two years' duration designed to enable a student to gain academic credit for first- and second-year courses that may be transferred to four-year colleges and universities to apply toward earning a bachelor's degree.

<sup>11</sup> R.C. 3358.01, not in the bill.

A university branch is an academic program administered by a state university in a community other than one in which the university's main campus is located that affords students enrolled in the program academic credit corresponding to that afforded to the students on the main campus. The branch district is a political subdivision with authorization to levy a property tax with elector approval. It is under the direction of either a district administrator or a district board of trustees, either of which is appointed by the legislative authority of the municipal corporation, in which the district is located or by the board of county commissioners of the county in which the district is located. (R.C. Chapter 3355., not in the bill.)

<sup>12</sup> R.C. 3358.02. The board or boards of county commissioners or the electors may also propose the conversion of a university branch district or a technical college district to a state community college district. A board of trustees of a state community college district may propose changing the college from a state community college to a community college.

<sup>13</sup> R.C. 3358.03.

Unlike the board of trustees of either a community college or a technical college district, the board of a state community college district is not authorized to levy a tax to support the college. On the other hand, the law specifically states that the General Assembly must support each state community college "by such sums of money and in such manner as it may provide."<sup>14</sup>

### **The bill**

#### **Appointment of student trustees to college district boards of trustees**

(R.C. 3354.05, 3357.021, 3357.05, 3358.02, and 3358.03; Section 3)

The bill provides that two student trustees must be added to the boards of trustees of all community college districts, technical college districts, and state community college districts. Such student trustees, who are to be appointed by the Governor with the advice and consent of the Senate by July 1, 2002, must be enrolled in the applicable college and must have completed one academic year of study at that college. The term of office of each student trustee is one year. In the event that a student trustee is not able to complete that term, a replacement must be appointed to the unexpired term in the same manner as the original appointment.<sup>15</sup>

The bill specifies that it does not prohibit a student of an applicable college from being appointed to a "nonstudent" trustee position of the college board of trustees. In such case, however, the student appointed to a nonstudent trustee position is subject to the conflict of interest considerations prescribed in the bill for student trustees. (See "**Conflict of interest considerations**" below.) The bill does not affect the terms of office of "nonstudent" trustees.

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<sup>14</sup> R.C. 3358.09, not in the bill. Like the boards of community colleges and technical colleges, the board of a state community college is also empowered to receive funds from other sources.

<sup>15</sup> Under the bill, the board of trustees of a community college district consists of 11 trustees (two of whom must be students); that of a technical college district consists of either nine or 11 trustees depending upon the make-up of its territory under current law (in either case two of whom must be students); and that of a state community college district consists of 11 trustees (two of whom must be students).

### *Voting power for student trustees*

(R.C. 3345.35 (D) and (F), 3354.05(B), 3357.05(B), and 3358.03(B))

The bill grants voting power to each student trustee appointed to the board of trustees of a college district. Each student trustee is to be counted as a member of the board in determining whether a quorum is present for the conduct of board business. In addition, each student trustee is entitled to attend any executive session of the board unless 3/5 of the nonstudent trustees on the board vote to restrict a student trustee's attendance at such session. A student trustee also is not permitted to attend any portion of a board meeting or participate in any board discussion or votes involving matters in which it may be deemed that the student trustee has a conflict of interest. Nevertheless, a student is specifically *not* disqualified from membership on the board of trustees if the student receives any financial aid payable out of the state treasury or any college fund or if the student is employed by the college in a work-study or some other kind of student-employment position.<sup>16</sup>

### *Conflict of interest considerations*

(R.C. 3345.35 and 3345.99(D))

The bill prohibits a college district student trustee from using the trusteeship to influence any grade or other evaluation made by a faculty member or other employee of the college. As noted above, it also prohibits a student trustee from attending any portion of a meeting or from participating in any discussion or votes of the board that involve matters in which it may be deemed that the student trustee has a conflict of interest. Any student trustee who violates either provision is to be removed from the board.

The bill also prohibits any faculty member or other employee of the college from conferring any favor, advantage, preference, or other benefit on a student trustee because of the student's trusteeship. Violation of this provision is a minor misdemeanor. (See **COMMENT.**)

In addition, the bill specifies that any vote of the board in which the student trustee participated that is connected with a violation of the bill's conflict of interest provisions is void.

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<sup>16</sup> *The bill specifically provides that a student's acceptance of financial assistance or student employment offered by the college is not to be considered a violation of the Ohio Ethics Law, provisions pertaining to receipt of improper compensation by public officials, or provisions pertaining to improper interests in public contracts by public officials. (R.C. Chapter 102, and R.C. 2921.42 and 2921.43 (none in the bill).)*

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## COMMENT

Continuing law provides for the appointment of two *nonvoting* student trustees to the board of trustees of each of the 13 state universities. The student trustees, who are appointed by the Governor with the advice and consent of the Senate, serve staggered two-year terms of office. As in the case of a college district student trustee under the bill, a university student trustee is specifically prohibited from using the trusteeship to influence any grade or other evaluation by a faculty member or other employee of the university. And a faculty member or other employee of the university is prohibited from conferring any favor, advantage, preference, or other benefit on a student trustee because of the student's trusteeship. Unlike the provisions of the bill, however, violation of either of these provisions by a university student trustee or a university employee is a first degree misdemeanor.<sup>17</sup>

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-27-01	p. 1095

H0438-i.124/ejs

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<sup>17</sup> R.C. 3335.02, 3337.01, 3339.01, 3341.02, 3343.02, 3343.06, 3344.01, 3345.34, 3352.01, 3356.01, 3359.01, 3360.01, 3361.01, and 3362.01 (none in the bill) and R.C. 3345.99(B).