



John Rau

Bill Analysis

Legislative Service Commission

H.B. 74

125th General Assembly
(As Introduced)

Rep. DeWine

BILL SUMMARY

- Restricts the required delayed effective date for any educator licensing rule adopted, amended, or rescinded by the State Board of Education only to cases where the proposed rule, amendment, or rescission will necessitate curriculum changes in college and university teacher preparation programs.
- Clarifies that an Alternative Educator License must be issued to a qualified applicant upon the request of specified school officials.
- Prescribes the timing of subject area testing for applicants for the Provisional Educator License who are employed as intervention specialists under the Alternative Educator License.
- Provides a qualified immunity for teacher performance assessors, trainers, and coordinators and for teacher performance assessment entities in civil actions concerning performance assessments of candidates for the Professional Educator License.

CONTENT AND OPERATION

Delayed effective date for certain educator licensing rules

(R.C. 3319.22(B)(1) and 3319.23)

The State Board of Education is required to adopt rules for standards and requirements for obtaining educator licenses for persons who teach in primary and secondary schools in the state. Under those rules each license specifies a range of

grade levels or a subject area for which it is valid.¹ In addition, the State Board is required to establish standards and courses of study for the preparation of teachers and to inspect and approve teacher preparation programs at higher education institutions in the state.

Current law requires the State Board to adopt, amend, or rescind any educator licensing rules in accordance with the state Administrative Procedure Act, as codified in R.C. Chapter 119. (APA). That law provides for public notice of the proposed rulemaking action and at least one public hearing on the matter, filing with the Joint Committee on Agency Rule Review (JCARR), the Legislative Service Commission (LSC), and the Secretary of State, publication in the *Register of Ohio*, and an opportunity for the General Assembly to invalidate the action by adoption of a concurrent resolution. Currently under the APA, the earliest a proposed rulemaking action may be effective is the 76th day after the action is first filed with JCARR, LSC, and the Secretary of State. However, notwithstanding the APA provisions, the effective date of *all* educator licensing rulemaking actions must be delayed until at least one year after the first day of January that next succeeds the "publication" of the action.² Thus, for example, a licensing rule that is adopted in final form and "published" anytime from January through December of 2003 cannot be effective until January 1, 2005.

The bill restricts the specified delayed effective date to *only* those educator licensing rules that require specific changes in the curriculum of Board-approved teacher preparation programs. By implication, other educator licensing rules would take effect as provided in the APA.³

¹ Under former law, the State Board was required to adopt rules for the issuance of teaching "certificates" of a similar nature as those now required under current law. Certain certificates issued under former law may continue to be valid for teaching in Ohio schools. (See R.C. 3319.222, not in the bill.)

² Although the statute does not specify what is meant by "publication" in regard to any change in educator licensing rules, it is likely that the term means the date that the rule is filed in "final form" with JCARR, LSC, and the Secretary of State in accordance with R.C. 119.04 (not in the bill). That date falls near the end of the rulemaking process. Under R.C. 119.04(A)(1), a rulemaking action may not be effective until the tenth day after it is filed in final form.

³ Although the APA does permit a temporary "emergency rule" to be filed under an accelerated timeframe, current law, not changed by the bill, does not permit the State Board to use such emergency procedures for adoption, amendment, or rescission of any educator licensing rules (R.C. 3319.22(B)(2)).

Alternative Educator Licenses

Background

In 1996, the General Assembly authorized the State Board of Education to establish rules for the issuance of an "Alternative Educator License." It is a two-year nonrenewable license intended to give certain qualified persons the opportunity to work toward obtaining a provisional educator license without completing a traditional teacher preparation program at a college or university while employed full-time as a teacher. This alternative license authorizes the holder to teach a designated subject area in grades 7 through 12 or in the area of "intervention specialist" in grades K through 12.⁴ To be eligible for the license, an individual must hold at least a bachelor's degree, must have completed at least the equivalent of three semester hours of college coursework in each of the areas of "developmental characteristics of adolescent youths" and "teaching methods," and must have passed a specified subject area examination. This examination is currently the "Praxis II" *subject area* test. (See **COMMENT.**) While teaching under an alternative educator license, the holder must complete at least the equivalent of another 12 semester hours of college coursework in specified pedagogical topics. Upon completion of the required coursework, two years of successful teaching under the alternative educator license, and passing a specified assessment of "professional knowledge," the holder of the alternative educator license may be issued a provisional license.⁵ The additional test required at the end of the two-year duration of the alternative educator license is the "Praxis II" *professional knowledge* test. (See **COMMENT.**)

⁴ An "intervention specialist" works with disabled, gifted, and other students that have individualized instructional needs that require utilization of particularized teaching practices or methods.

⁵ The State Board of Education has also specified by rule that the holder of an alternative educator license must complete a mentorship program sponsored by the school where the holder is employed (O.A.C. 3301-24-10(B)).

Current law specifies that the test at the end of the two-year alternative educator license include both "subject area" and "professional knowledge" assessments, but, in fact, except as provided for "intervention specialist" licensees under the bill, all holders of the alternative educator license should have passed the subject area assessment prior to receiving that license. The bill makes technical corrections to R.C. 3319.26 to clarify that (except for those intervention specialist licensees) the subject area assessment is required prior to issuance of the alternative educator license and the professional knowledge assessment is required at the end of the duration of that license prior to issuance of a provisional license.

In 2001, the General Assembly also created a "one-year conditional teaching permit." The State Board is required to issue this new permit (without adopting rules) to qualified applicants for teaching in grades 7 through 12. In addition, from November 20, 2001, to November 20, 2004, the Board is required to issue such a one-year permit for employment as an "intervention specialist" in grades K through 12. To be eligible, an applicant must hold a bachelor's degree, successfully complete a basic skills test prescribed by the State Board, complete either as part of the applicant's degree program or outside of it certain specified coursework, and agree in writing to participate in a school-sponsored mentorship program aligned with State Board performance expectations. The required basic skills test is the "Praxis I" test. (See **COMMENT**.) In addition, the applicant must complete additional specified coursework while employed under the permit and agree to seek an alternative educator license at the end of the one-year duration of the permit.⁶ The new one-year permit is an optional precursor to the alternative educator license for individuals who have met certain qualifications.

Issuance of an Alternative Educator License upon request of specified school officials

(R.C. 3319.26)

The bill specifies that an Alternative Educator License must be issued to a qualified applicant upon the request of the superintendent of the school district or educational service center or of the chief administrator of the chartered nonpublic school where that applicant will be employed under the license.

Timing of subject area testing for intervention specialists under Alternative Educator Licenses

(R.C. 3319.26 and 3319.261)

The bill provides that an individual who otherwise qualifies for an Alternative Educator License for employment as an "intervention specialist" need not complete the subject-area examination (usually required prior to issuance of the license) until after completing the additional coursework required during the two-year duration of the license. Thus, these individuals would likely complete both the subject-area and professional knowledge portions of the Praxis II test at roughly the same time, near the end of the two-year duration of the Alternative Educator License. This change pertains to both an individual who applies for the Alternative Educator License as part of an obligation under the one-year conditional teaching license and an individual who applies directly for the

⁶ R.C. 3319.302 and Section 7 of Sub. H.B. 196 of the 124th General Assembly.

alternative license. It does not pertain to any applicant for an Alternative Educator License in an area or subject other than the "intervention specialist" area.

Qualified immunity for teacher performance assessors

(R.C. 3319.228)

An individual may be issued a Provisional Educator License either upon completing an approved teacher preparation program or completing the additional educational, mentorship, and testing requirements of the Alternative Educator License. This provisional license is the traditional entry-year teaching license and is valid for two years, during which time the holder of the license must participate in an approved mentorship program and meet other requirements. Near the end of the two-year duration of the license, the holder also must receive a satisfactory rating on a performance assessment in order to qualify for a five-year Professional Educator License.⁷ The assessment prescribed by the State Board is the "Praxis III" test, which consists of direct observation and evaluation of the beginning teacher's actual classroom performance. (See **COMMENT**.) To perform the observations and evaluations, the Department of Education contracts with regional centers that in turn contract with individuals to be assessors and trainers of assessors. These individuals are generally veteran teachers, administrators, and teacher-preparation instructors.

The bill grants a qualified immunity from liability in a civil action for damages regarding the conduct of a Praxis III assessment to any entity or individual that contracts to perform assessments or to train or coordinate assessors. Immunity does not apply to actions conducted with malicious purpose, in bad faith, or in a wanton or reckless manner.

COMMENT

The licensing tests prescribed by the State Board of Education are the ones included in "The Praxis Series: Professional Assessments for Beginning Teachers." These tests are developed and marketed by the Educational Testing Service (ETS). According to the ETS web site, Praxis I is an "academic skills" assessment designed to be taken early in the college career of a teacher-preparation student to measure reading, writing, and mathematics skills. Praxis II consists of both "subject assessments," to measure licensing candidates' knowledge of the subjects they will teach, and "professional knowledge"

⁷ *The "Professional Educator License" is the final step in licensure issued to those who have met specified continuing education requirements and are generally considered to be fully competent teachers in the subject areas or grade levels prescribed on their licenses.*

assessments to measure their mastery of general and subject-specific teaching skills and practices. Finally, Praxis III is a "classroom performance assessment" in which trained local assessors (not employed by ETS) using nationally validated criteria directly observe and evaluate a beginning teacher's actual classroom performance. (See ETS web site at www.ets.org/praxis.)

HISTORY

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|------------|----------|---------------|
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