



Sub. H.B. 106*

125th General Assembly
(As Reported by S. Education)

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BILL SUMMARY

- Requires that upon a child's discharge or release from the custody of the Department of Youth Services (DYS), specified records pertaining to the child be provided to the juvenile court that committed the child to DYS custody and to the superintendent of the child's resident school district.
- Prohibits the admission of a child discharged or released from DYS custody to a school in the child's resident school district until the superintendent receives the required records from DYS.
- Specifies that a school district's policy on criteria for assignment of students to an alternative school may include assignment to such a school of any child released from the custody of DYS.
- Makes DYS eligible for grants and services from the Ohio SchoolNet Commission.
- Requires public children services agencies to notify specified school authorities of investigations into alleged child abuse or neglect involving a school or educational service center (ESC).

** This analysis was prepared before the report of the Senate Education Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Requires the county probate court (instead of the ESC governing board as under current law) to perform the duties of the board of education of a local school district if the school board fails to carry out those duties or to fill a vacancy.
- Exempts limited English proficient students who have been enrolled in U.S. schools for less than one full school year from certain testing and accountability requirements.
- Eliminates the deadline for the State Board of Education to issue one-year conditional teaching permits in the area of intervention specialist, thereby allowing the State Board to continue issuing them indefinitely.
- Requires the Department of Education to use an existing FY 2005 appropriation to contract for the operation of a safe school help line at a rate of \$1.80 per participating student, unless insufficient funds require a lower per student rate.
- Specifies that the purchase of services or supplies by a political subdivision through a reverse auction satisfies competitive bidding requirements.
- Permits any county with a population of 500,000 or more to use an alternative procedure in existing law to establish a regional arts and cultural district.
- Clarifies the method for calculating the transitional aid subsidy to school districts in FY 2005.

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CONTENT AND OPERATION

Provision of records upon release of a child from DYS custody

Background

Under continuing law, each child residing in the state who is between six and eighteen years old is "of compulsory school age" and must attend a public or nonpublic school that meets the minimum education standards set by the State Board of Education. In addition, each child who is at least five but under twenty-two years old may attend school in at least one school district in the state free of tuition to either the child or the child's parent. Generally, a child is entitled to attend school in the school district in which the child's parent resides, but in some cases the child may be entitled to attend school in the district in which the child resides.¹ However, if a minor child commits any offense that would be a criminal offense if committed by an adult, the child may be adjudicated a delinquent child, and if that offense would be a felony if committed by an adult, the child might be placed under the custody of the Department of Youth Services (DYS).² A child placed under the custody of DHS may be held in a residential institution operated by or for DHS and, in such case, will be required to attend a primary or secondary school operated by DHS. That department, then, is responsible for educating the child in accordance with rules adopted by the State Board of Education until the child is discharged or released from its custody. If the child is still of compulsory

¹ See R.C. 3313.64, 3313.65, and 3321.01, none in the bill. Note, a child might be excused from attendance at school for certain statutorily prescribed reasons including (among others) physical or mental incapacity or home instruction (R.C. 3321.04, not in the bill).

² See generally R.C. Chapter 2152.

school age when discharged or released, the child must continue to attend a school that meets the minimum education standards.

Records provided by DYS

(R.C. 2152.18(D)(4))

Under current law, when a child is released from DYS custody, DYS must provide certain documents to the juvenile court that committed the child to its custody and to the school the child attended prior to commitment. The required documents are an updated copy of the child's school transcript³ and a summary of the child's institutional record.⁴ DYS has 14 days from the date of the child's release to forward these documents to the appropriate entities.

The bill makes several changes to this provision. First, it directs DYS, upon discharging or releasing a child from its custody, to send all required documents to the superintendent of the school district in which the child is entitled to attend school, rather than to the school the child previously attended. Presumably, the superintendent would consider the information provided by DYS in determining an appropriate assignment for the child upon return to the district's schools. All documents must continue to be sent to the juvenile court as well. The bill retains the 14-day deadline in current law for sending the documents.

Second, the bill specifies that the summary of the child's institutional record provided by DYS must be a summary of the institutional record of the child's *behavior*. Finally, the bill requires DYS to provide the juvenile court and district superintendent with two additional documents. Thus, under the bill, the documents required to be forwarded by DYS are the following:

- (1) An updated copy of the child's school transcript;
- (2) A report of the child's behavior in school while in DYS custody;
- (3) The child's current individualized education program (IEP), if an IEP has been developed for the child;⁵ and

³ *When a child is committed to DYS custody, the school which the child attended prior to being committed must submit the child's school transcript to DYS (R.C. 2152.18(D)(3)).*

⁴ *In addition, continuing law requires DYS to provide the juvenile court with a copy of any other part of the child's institutional record the court requests (R.C. 2152.18(D)(4)).*

⁵ *An IEP is a written plan prepared for each special education student. It is designed to meet the student's unique educational needs. The IEP must state (1) the present levels of educational performance of the child, (2) annual goals for the child, (3) the specific*

(4) A summary of the institutional record of the child's behavior.

Privacy of DYS records provided to school district superintendent

(R.C. 5139.05(D)(2))

The bill specifies that a school district superintendent who is the recipient of records regarding a child discharged or released from DYS custody must keep the records confidential and may release them only as provided in state and federal law regarding the privacy of a student's educational records.⁶ The bill further specifies that the records are not public records for purposes of compelled disclosure under the Public Records Law.⁷

Admission to school upon child's release from DYS

(R.C. 3313.672(A))

Under continuing law, at the time a child seeks admission to a public or nonpublic school, the child or the child's parent or legal custodian must submit to the school's admission officials certain prescribed documents to prove the child's birth date. In addition, school officials are required to request transmission of the child's school records from the school the child most recently attended within 24 hours of admission to the school. The bill adds a requirement that if a child requesting admission to a school in the child's resident school district has been discharged or released from the custody of DYS just prior to requesting admission, the school may not admit that child until the records required to be released by DYS to the district superintendent have been received by the superintendent.

educational services to be provided to the child and the extent to which the child will participate in regular educational programs, (4) the transition services the child needs prior to leaving the school setting and the projected starting date and duration of those services, and (5) objective criteria and evaluation procedures for determining whether instructional objectives are being met and if the current placement remains appropriate. (R.C. 3323.01(E), not in the bill.)

⁶ Both R.C. 3319.321 (not in the bill) and the federal Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, generally prohibit the unconsented release of a child's educational records to anyone other than school administrators, teachers, and law enforcement officials for certain specified educational and law enforcement purposes. Directory information (such as the name and address of a student) may be released to most persons for any purpose. State law, however, prohibits the release of even directory information for use in a profit-making plan or activity (R.C. 3319.321(A)).

⁷ The Public Records Law is codified in R.C. 149.43, not in the bill.

Assignment of children released from DYS custody to alternative schools

(R.C. 3313.533(A))

School district boards of education are authorized under continuing law to establish alternative schools to serve students in grades K through 12 who are on suspension, are having truancy problems, are experiencing academic failure, have a history of class disruption, or "are exhibiting other academic or behavioral problems." In addition, the boards of the Big-Eight School Districts and the board of any school district with a "significantly substandard graduation rate" are *required* to establish at least one such alternative school for their districts.⁸ Each board that establishes an alternative school must develop and implement a plan for the school. The plan must include, among other things, the qualifications for assignment of students to the school, the criteria and procedures that will be used to return students to their regular schools, and procedures for evaluating the alternative school program and for reporting the results of the evaluation to the public.

The bill adds to the list of students who may be assigned to an alternative school those who have been discharged or released from the custody of DYS.

Eligibility of DYS for SchoolNet grants and services

(Sections 3, 4, and 6)

Am. Sub. H.B. 95 of the 125th General Assembly (the operating budget for the 2003-2005 biennium) appropriated \$7,691,831 in each fiscal year for the provision of grants or services by the Ohio SchoolNet Commission. These funds are earmarked for supporting educational uses of technology in the classroom. Grant recipients may acquire computer hardware or software, telecommunications services, or professional development with the funds. The bill includes DYS as an eligible recipient of the grants and services provided by SchoolNet.

Notification of school authorities regarding allegations of child abuse or neglect involving a school

(R.C. 2151.011 and 2151.421(M); conforming change in R.C. 3313.662)

Under continuing law, when a public children services agency receives a report of child abuse or neglect, the agency must investigate the report within 24

⁸ 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."*

hours to determine the circumstances surrounding the alleged incident and the persons responsible.⁹ If the child abuse or neglect allegedly occurred in or involved an out-of-home care entity, such as a day care center, group home, or residential care facility, the agency must provide written notification of the allegations contained in the report and the name of the alleged perpetrator to the administrator, director, or other chief administrative officer of the entity (unless that person is the alleged perpetrator, in which case the agency must notify the owner or governing board of the out-of-home care entity of the allegations).¹⁰ This notification must occur by the end of the day following the day the agency receives the report. Within three days after the disposition of the agency's investigation, the agency must send written notice of the disposition to the administrator, director, or other chief administrative officer of the out-of-home care entity and to the entity's owner or governing board. No witness statements, police reports, or other investigative reports may be released by the agency as part of the notification process.

The bill specifies that public schools (including community schools), chartered nonpublic schools, and educational service centers (ESCs) are out-of-home care entities. Consequently, the notification requirements described above apply to investigations of child abuse or neglect occurring in or otherwise involving a public school, chartered nonpublic school, or ESC.¹¹ Under the bill,

⁹ R.C. 2151.421(F)(1).

¹⁰ "Out-of-home care child abuse" refers to any of the following: (1) engaging in sexual activity with a child in the person's care, (2) denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care, (3) use of restraint procedures on a child that cause injury or pain, (4) administration of prescription drugs or psychotropic medication to a child without a doctor's approval, or (5) commission of a purposeful act that results in injury or death to a child in out-of-home care (R.C. 2151.011(B)(28)). "Out-of-home care child neglect" involves any of the following: (1) failure to provide reasonable supervision in accordance with a child's age or mental or physical condition, (2) failure to provide reasonable supervision that results in sexual or physical abuse of a child, (3) failure to develop a process for the proper administration of prescription drugs or psychotropic medication, (4) failure to provide necessary subsistence, education, medical care, or other care, (5) confinement of a child to a locked room with monitoring, (6) failure to provide security for medication, or (7) isolation of a child that could impair the mental or physical health of the child (R.C. 2151.011(B)(29)).

¹¹ R.C. 2151.011(B)(27). The bill specifies that out-of-home care child abuse or neglect may be committed by an administrator or employee of a school district, community school, chartered nonpublic school, or ESC as well as by a person who supervises or coaches children as part of an extracurricular activity sponsored by a district, public school, or chartered nonpublic school (R.C. 2151.011(B)(32)). Under current law,

these requirements also apply to investigations of child abuse or neglect involving a *nonchartered* nonpublic school if the alleged perpetrator of the abuse or neglect is an individual licensed by the State Board of Education. In all cases, the bill requires a public children services agency to notify school authorities of any allegations of child abuse or neglect reported to the agency involving the school or ESC and of the disposition of the agency's investigation in the same manner as it does for reports involving other out-of-home care entities. In the case of a public school operated by a school district, notification must be provided to the district superintendent rather than to the school administrator.

Assumption of duties when local school district board of education fails to act

(R.C. 3313.85)

Under continuing law, if the board of education of a city or exempted village school district fails to perform its duties or fails to fill a vacancy within 30 days after it occurs, the county probate court must assume the duties of the school board.¹² However, in the case of a *local* school district, current law requires the governing board of the educational service center (ESC) in whose territory the district is located to take over the duties of the school board if it fails to discharge its duties or fill a vacancy. The bill eliminates the requirement that the ESC board assume the powers of the school board of a local school district and instead assigns that responsibility to the county probate court. This change treats local school districts the same as city and exempted village districts for the purpose of designating an entity to carry out the school board's duties when the board fails to do so.

individuals who would be responsible for the care, custody, or control of a child must undergo a criminal records check prior to employment with a public school, chartered nonpublic school, or ESC (R.C. 3319.39, not in the bill). Therefore, under the bill, they are not subject to the requirements regarding criminal records checks for persons responsible for a child's care in other types of out-of-home care entities (R.C. 2151.86(A)(1)).

¹² *This requirement regarding the assumption of duties by the probate court also applies to educational service center governing boards that fail to perform their duties or fill vacancies.*



Exemptions for limited English proficient students from testing and accountability requirements

(R.C. 3301.0711, 3302.01, 3302.03, 3313.61, 3313.611, 3313.612, and 3317.03)

Background

A limited English proficient (LEP) student generally is an individual who: (1) is between the ages of 3 and 21, (2) is enrolled in an elementary or secondary school, (3) was not born in the United States or whose native language is not English, and (4) has such difficulty speaking, reading, writing, or understanding English that the student may be unable to perform well enough in class or on state tests to meet expected state standards for achievement.¹³

Under the No Child Left Behind Act of 2001 (NCLB), LEP students are a recognized subgroup for accountability purposes.¹⁴ As such, school districts and individual schools must demonstrate that their LEP students are making "adequate yearly progress" (AYP) toward the goal of having all students proficient in reading and math by the end of the 2013-2014 school year. Two key components of making AYP are (1) having at least 95% of the district's or school's total student population and each recognized subgroup participate in grade-level state tests in reading and math and (2) having the district's or school's total student population and each subgroup meet the state's yearly targets for the percentage of students expected to be proficient in those subjects.¹⁵

On February 19, 2004, the U.S. Department of Education announced a new policy regarding LEP students under NCLB. This policy grants states some flexibility with respect to the testing of certain LEP students and their inclusion in AYP calculations for districts and schools. The bill makes changes to state law to reflect the federal policy.

Testing of LEP students

(R.C. 3301.0711(C)(3))

Current state law requires LEP students to take all proficiency or achievement tests administered to their grade level. School districts may permit

¹³ 20 U.S.C. 7801.

¹⁴ 20 U.S.C. 6311(b)(2)(C)(v).

¹⁵ Districts and schools that do not make AYP for two or more consecutive years are subject to sanctions (see generally 20 U.S.C. 6316).

an LEP student to take a test with appropriate accommodations, such as extra time or use of a dictionary. In addition, districts must annually assess each LEP student's progress in learning English.

The new federal policy regarding LEP students permits states to exempt LEP students who have been enrolled in U.S. schools for less than one year from taking a state test in reading and language arts. To accommodate this change in NCLB policy, the bill exempts LEP students who have been enrolled in U.S. schools for less than one full school year from the requirement to take a reading or writing proficiency or achievement test administered to their grade level. A district, however, cannot prohibit an LEP student from taking the reading or writing test if the student chooses to do so.¹⁶

As under current law, *all* LEP students, regardless of length of enrollment in U.S. schools, must take proficiency or achievement tests in math, science, and social studies and may be provided appropriate accommodations. Districts must also continue to assess each LEP student's mastery of English in each school year.

Graduation testing requirements (R.C. 3313.61(K), 3313.611(E), and 3313.612(C)). Despite the exemptions from the reading and writing tests allowed for LEP students under the bill, as required by current law, those students must pass all five Ohio Graduation Tests (OGT) to qualify for a high school diploma from a school district, community school, or chartered nonpublic school or for a diploma of adult education.¹⁷

Inclusion of LEP students in accountability measures

(R.C. 3302.01(I) and 3302.03(D)(2)(c))

The new NCLB policy on LEP students allows states to exclude the test scores of LEP students who have been enrolled in U.S. schools for less than one year from the component of AYP that deals with student proficiency rates on state reading and math tests. However, those students are included in calculating

¹⁶ *The bill specifies that a school district's option to retain a student for failure to take a proficiency or achievement test does not apply to LEP students who are exempt from taking the test (R.C. 3301.0711(E)). Also, an LEP student who does not take a grade-level reading or writing test due to the exemption allowed by the bill is eligible to be counted in a school's membership for the purpose of state foundation payments to school districts (R.C. 3317.03(E)).*

¹⁷ *Alternative graduation testing requirements exist for students who must take the OGT to graduate from high school, but who fail one of the tests by ten points or less (R.C. 3313.615, not in the bill).*

whether a district or school meets the 95% participation rate on those tests. Even though states may exempt LEP students in their first year of enrollment in U.S. schools from taking a state reading test for their grade level (see "Testing of LEP students" above), those students may be counted toward the 95% participation rate for that test if they complete an assessment of their progress in learning English in the school year in which they did not take the state reading test.

Current Ohio law generally requires the inclusion of all LEP students in determining whether a district or school makes AYP.¹⁸ The bill makes two changes in light of the new NCLB policy. First, it excludes the test scores of LEP students enrolled in U.S. schools for less than one full school year from calculations of the percentage of students proficient in reading and math. The score of an LEP student who voluntarily takes a reading test must be excluded as well. Second, the bill requires LEP students with less than one full school year in U.S. schools to be counted in the 95% test participation rate on reading and math proficiency or achievement tests. In accordance with the federal policy, however, an LEP student in his or her first year of enrollment who does not take a reading test cannot be counted toward meeting the 95% participation rate on that test if the student did not complete an assessment of English language proficiency in the same school year.

The bill also excludes LEP students in their first year of enrollment in U.S. schools from *state* accountability measures. These measures include rates of achievement on performance indicators established by the State Board of Education and a performance index score. Both measures are largely based on student performance on proficiency and achievement tests.¹⁹ Thus, under the bill,

¹⁸ *If a subgroup, including the subgroup of LEP students, in a district or school contains less than 40 students, the district or school does not have to meet the 95% test participation rate for that subgroup to make AYP. However, if there are 30 LEP students in a single school but 75 such students in the entire district, the district would have to meet the 95% participation rate while the school would not. In calculating whether a district or school meets the annual targets for the percentage of students proficient in reading and math, a subgroup must contain at least 30 students to be included. (R.C. 3302.01(I).) An LEP student who has not been continuously enrolled in a district or school from the October ADM count to the time of the test administration in March is also excluded from AYP calculations (R.C. 3302.03(D)(2)(a)).*

¹⁹ *The State Board's 18 performance indicators for the 2003-2004 school year include passage rates on proficiency and achievement tests, attendance rate, and graduation rate (see R.C. 3302.02, not in the bill, for the State Board's authority to establish performance indicators). The performance index score is a measure designed to show improved performance on the proficiency and achievement tests by students scoring at all levels. In contrast to the performance indicators, which only measure the percentage of students scoring at or above the proficient level on such tests, the performance index score takes*

the scores of LEP students who have been enrolled in U.S. schools for less than one full school year are not used in calculating how a district or school performs on these measures.

One-year conditional teaching permits for intervention specialists

(R.C. 3319.304; conforming changes in R.C. 3313.53, 3319.29, 3319.291, 3319.303, 3319.31, and 3319.51)

Continuing law authorizes the State Board of Education to issue one-year conditional teaching permits, which are a possible step in the alternative path to teacher licensure. Applicants for the conditional teaching permit must agree to seek an alternative educator license in the same subject area upon expiration of the permit.²⁰ Under current law, the State Board may issue one-year conditional teaching permits in the area of "intervention specialist" for a three-year period ending on November 20, 2004. According to licensure rules of the State Board, an intervention specialist is a person qualified to teach students of any grade who are gifted, who have "mild to moderate" or "moderate to intensive" educational needs, or who are visually or hearing impaired.²¹

To qualify for a conditional teaching permit in the area of intervention specialist, a person must:

- (1) Hold a bachelor's degree;
- (2) Have successfully completed a basic skills test prescribed by the State Board;
- (3) Have completed, either as part of the applicant's degree program or separate from it, the equivalent of at least 15 semester hours of coursework in the principles and practices of teaching exceptional children, including such topics as child and adolescent development, diagnosis and assessment of children with disabilities, curriculum design and instruction, applied behavioral analysis, and methods of teaching students from culturally diverse backgrounds with different learning styles;

into account the percentage of students scoring at each of the five possible levels--limited, basic, proficient, accelerated, and advanced. (R.C. 3302.01(E).)

²⁰ *An alternative educator license is valid for two years, after which time it may be upgraded to a provisional educator license if the license holder meets certain continuing education and assessment requirements (R.C. 3319.26, not in the bill).*

²¹ *Ohio Administrative Code 3301-24-05(C)(5).*

(4) Have entered into a written agreement with the Department of Education and the applicant's prospective employer under which the employer will provide a structured mentoring program in the teaching of exceptional children;

(5) Agree to complete the equivalent of three semester hours of coursework in the content and methods of teaching reading while employed under the conditional teaching permit;

(6) Pay an application fee.

The bill eliminates the November 20, 2004, deadline for issuing one-year conditional teaching permits in the area of intervention specialist. Thus, under the bill, the State Board may issue the permits indefinitely.

Safe school help line

(Sections 5 and 6)

Am. Sub. H.B. 95 of the 125th General Assembly (the operating budget for the 2003-2005 biennium) appropriated \$1.8 million in each of FY 2004 and FY 2005 for a safe school help line.²² This help line enables people to report threats to the safety of students and school personnel. The bill requires the Department of Education to use the funds in FY 2005 to contract for the operation of the help line at a rate of \$1.80 per participating student. If the appropriated funds are insufficient to maintain that rate for all participants, the per student rate must be reduced accordingly. The bill specifies that the contractor operating the help line must accept any reduced rate as full payment and may not bill a school district or other participating entity for any portion of the cost of the service.

Clarification of FY 2005 transitional aid payment to school districts

(Sections 3, 4, and 6)

The 2003-2005 biennial budget act, Am. Sub. H.B. 95 of the 125th General Assembly, established a two-year "transitional aid" subsidy to ensure that no school district's general state operating payments decline by more than 5% in FY 2004 or FY 2005 from the previous fiscal year. If any district's calculated state payments decrease by more than 5% in either year, the Department of Education must pay the district additional state funds to restrict the decrease to 5%. The state payments that, in the aggregate, are subject to this "floor" comprise most of the state subsidies paid to school districts, including base-cost, special education,

²² Section 41.16 of Am. Sub. H.B. 95 of the 125th General Assembly.

vocational education, transportation, DPIA, gifted education units, parity aid, and the charge-off supplement.

The bill clarifies the method of calculating each district's aggregate state payments for FY 2004 to determine eligibility for transitional aid in FY 2005. Specifically, it directs that any transitional aid paid in FY 2004 be included in the FY 2004 base amount upon which FY 2005 transitional aid is calculated. In other words, if a district received a transitional aid payment in FY 2004, that payment must be included in the FY 2004 base amount that is compared to the FY 2005 base amount. Including transitional aid payments in the FY 2004 base amount would have the effect of raising the "floor" for districts in FY 2005.

Reverse auctions for competitive bidding

(R.C. 9.314)

Background

Under current law, any political subdivision, including a school district, that is required by law to purchase services or supplies by competitive sealed bidding or competitive sealed proposals may use a "reverse auction" procedure to acquire certain services and supplies if the political subdivision determines that it is advantageous to do so. A "reverse auction" is defined by statute as a "purchasing process in which offerors submit proposals in competing to sell services or supplies in an open environment via the Internet." To use this authority, a political subdivision must solicit proposals through a request for proposals, which must state the relative importance of price and other evaluation factors. In addition, a political subdivision may conduct "discussions" with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award of the contract. These discussions are intended to ensure full understanding of and responsiveness to solicitation requirements. Political subdivisions are required to treat offerors fairly and equally in regard to clarification, correction, or revision of their proposals.

A political subdivision may award a contract to the offeror whose proposal the political subdivision determines to be the most advantageous to it, taking into consideration factors such as price and the evaluation criteria set forth in the request for proposals. The contract file must contain the basis on which the award is made.

Services to which this authority apply are limited to "the furnishing of labor, time, or effort by a person, *not involving the delivery of a specific end product* other than a report which, if provided, is merely incidental to the required performance." "Services" specifically do not include services furnished pursuant

to employment agreements or collective bargaining agreements. In addition, for purposes of this authority, the term "supplies" is defined as "all property, including, but not limited to, equipment, materials, other tangible assets, and insurance, but excluding real property or interests in real property." Thus, it does not appear that Internet reverse auction procedures may be used to acquire labor for the construction or renovation of buildings but might be used to acquire specific materials to be used in a construction or renovation project.

Changes made by the bill

The bill appears to make only clarifying changes to the law regarding the use of reverse auction procedures by political subdivisions. First, it removes a specification that the authority may be used by a political subdivision "that is required by law to purchase services or supplies by competitive sealed bidding or competitive sealed proposals." It is possible that a political subdivision, in circumstances where competitive bidding is not required, already under current law may use reverse auction procedures to acquire services and supplies if it chooses to do so. Therefore, this change may not be substantive.

Second, the bill adds a statement that "if a political subdivision is required by law to purchase services or supplies by competitive sealed bidding or competitive sealed proposals, a purchase made by reverse auction satisfies that requirement." Apparently, that provision of the bill clarifies that an "open environment" reverse auction may be substituted for "sealed" bidding when the latter otherwise is required.

In either case, however, reverse auction procedures may be used only to acquire "services" and "supplies" as those terms are currently defined for purposes of those procedures.

Alternative procedure for creating regional arts and cultural district

(R.C. 3381.04)

A regional arts and cultural district is established to support the operating or capital expenses of arts or cultural organizations within its territory and to acquire, construct, furnish, repair, renovate, or administer artistic or cultural facilities. It is a political subdivision of the state and may levy taxes for its purposes.²³ Generally, a regional arts and cultural district is created by the adoption of a resolution or ordinance approving the district's creation by the appropriate

²³ R.C. 3381.02 and 3381.07(I), neither section in the bill.

authorities of all counties, municipal corporations, and townships within the territory of the proposed district.²⁴

Continuing law, however, establishes an alternative procedure by which a board of county commissioners may create a county-wide regional arts and cultural district if the county is not already part of a regional arts and cultural district formed under the standard procedures. Under the alternative procedure, the board of county commissioners must adopt a resolution stating: (1) the purposes for the creation of the arts and cultural district, (2) that the district's territory will be coextensive with the territory of the county, (3) the district's official name, and (4) the location of the district's main office or the manner in which that location will be determined. Currently, this alternative procedure is only available to counties that contain a city with a population of 500,000 or more.

The bill maintains the minimum population requirement of 500,000 residents, but eliminates the requirement that those residents live within the boundaries of a single city. Consequently, under the bill, any county with at least 500,000 residents may use the alternative procedure to establish a county-wide regional arts and cultural district.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-04-03	p. 206
Reported, H. Juvenile & Family Law	01-13-04	p. 1402
Passed House (94-3)	01-21-04	pp. 1508-1509
Reported, S. Education	---	---

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²⁴ *R.C. 3381.03, not in the bill.*