



John Rau

## *Bill Analysis*

*Legislative Service Commission*

### **H.B. 447**

125th General Assembly  
(As Introduced)

**Reps. Carano, Miller, Hollister, Harwood, Perry, Book, Otterman, Distel, Koziura, S. Patton, Strahorn, Seaver, Kearns, Collier**

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#### **BILL SUMMARY**

- Creates a two-year moratorium on the establishment of new community schools sponsored by entities other than the school districts in which the proposed schools would be located.
- Extends indefinitely, after the moratorium expires, the current statewide limit of 225 community schools sponsored by entities other than such school districts.
- Increases to \$1,000 (from \$100 under current law) the civil penalty for community school fiscal officers who fail to report Education Management Information System (EMIS) data.
- Requires the Department of Education to provide training for community schools and their sponsors in reporting data to EMIS.
- Requires the Legislative Office of Education Oversight to update an existing study of community schools.

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#### **CONTENT AND OPERATION**

##### **Background**

Community schools (often called "charter schools") are public schools that operate independently from any school district under a contract with a sponsoring entity, which may be a school district or a variety of other entities specified by law. Community schools often serve a particular educational purpose or a limited

number of grades.<sup>1</sup> A conversion community school, created by converting an existing school district school, may be located in and sponsored by any school district in the state. On the other hand, a "start-up" community school may be located only in a "challenged school district." A challenged school district is any of the following: (1) a "Big-Eight" school district, (2) a school district in a state of either academic watch or academic emergency, or (3) a school district in the original community school pilot project area (Lucas County).<sup>2</sup>

The sponsor of a start-up community school, which must be approved by the Department of Education, may be any of the following:

- (1) The school district in which the school is located;
- (2) A school district located in the same county as the district in which the school is located has a major portion of its territory;
- (3) A joint vocational school district serving the same county as the district in which the school is located has a major portion of its territory;
- (4) Any educational service center;
- (5) The board of trustees of a state university (or the board's designee) under certain specified conditions; or
- (6) A federally tax exempt entity under certain specified conditions.<sup>3</sup>

Until the enactment of Sub. H.B. 364 of the 124th General Assembly, effective April 8, 2003, the State Board of Education was authorized to sponsor start-up community schools. That act eliminated the State Board's authority to sponsor schools, except that it permits the State Board to continue its existing sponsorship of schools for up to two school years while the schools secure new sponsors. After that, the State Board may sponsor community schools only in specified exigent circumstances.<sup>4</sup>

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<sup>1</sup> *Community schools are funded with state funds that are deducted from the state aid account of the school districts in which the enrolled students are entitled to attend school. Community schools may not charge tuition.*

<sup>2</sup> *The "Big-Eight" districts are Akron, Canton, Dayton, Cincinnati, Cleveland, Columbus, Toledo, and Youngstown. (R.C. 3314.02(A)(3).)*

<sup>3</sup> *R.C. 3314.015(B)(1) and 3314.02(C)(1)(a) through (f).*

<sup>4</sup> *H.B. 364 also permits other sponsors qualified under prior law to continue to sponsor existing and new schools without being subject to Department approval as a sponsor.*

### **Two-year moratorium on certain new community schools**

(R.C. 3314.013(A)(3))

The bill prohibits any entity, other than the school district in which a proposed community school is to be located ((1) above), from sponsoring a new start-up community school until two years after the bill's effective date. However, all qualified sponsors may renew any contracts with existing schools when those contracts are eligible for renewal.<sup>5</sup> In addition, during the moratorium period, all qualified sponsors, except a tax exempt entity ((6) above), may assume the sponsorship of existing schools formerly sponsored by the State Board or other entities. The bill retains a provision of current law that prohibits a tax exempt entity from sponsoring any schools other than existing schools formerly sponsored by the State Board until July 1, 2005. (See **COMMENT.**) After that date, the bill allows a tax exempt entity to assume sponsorship of any existing community school for the balance of the moratorium period.

### **Indefinite cap on start-up community schools after moratorium expires**

(R.C. 3314.013(A)(4) and (C))

Current law limits until July 1, 2005, the aggregate number of start-up schools that may be operating, except those sponsored by the school districts in which the schools are located, to 225 schools. The bill extends this limit indefinitely beginning at the end of the two-year moratorium on new start-up schools. The bill also states that it is the intent of the General Assembly to change the statewide limit on the number of start-up schools following its examination of studies conducted by the Legislative Office of Education Oversight (see "**LOEO study of community schools**" below).

### **Penalty for failure to report EMIS data**

(R.C. 3314.17(C))

Current law, not changed by the bill, requires that each community school participate in the Education Management Information System (EMIS), which is a statewide electronic database of student, building, personnel, and fiscal data about school districts and community schools maintained by the Department of

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<sup>5</sup> *Current law, not changed by the bill, provides that the term of the initial contract between a community school and its sponsor may not exceed five years. After that, the contract may be renewed for any period of time determined by the school's sponsor, but not ending before the end of a school year. (R.C. 3314.03(A)(13) and (E), not in the bill.)*

Education.<sup>6</sup> The fiscal officer of each community school is responsible to submit EMIS data. Currently, that officer may be subject to a civil fine of \$100 imposed by the Superintendent of Public Instruction for (1) willfully failing to report data, (2) willfully reporting erroneous, inaccurate, or incomplete data in any year, or (3) negligently reporting erroneous, inaccurate, or incomplete data in the current and any previous year.<sup>7</sup>

The bill increases the amount of the civil fine to \$1,000.

**Training in EMIS reporting and consequences for failure to report data**

(R.C. 3314.015(A)(1); Section 3)

Current law requires the Department of Education to provide technical assistance to proposing parties, governing authorities, and sponsors of community schools by conducting training sessions and distributing informational materials. The bill requires that these training sessions and materials include information on the requirements for reporting EMIS data and the penalties for failure to comply with those requirements. The bill further requires the Department to begin the training sessions and distributing information materials on EMIS reporting not later than 90 days after the effective date of the bill. (See "**Penalty for failure to report EMIS data**" above.) (See also COMMENT 2.)

**LOEO study of community schools**

(R.C. 3314.013(C); Section 4)

In 1997, when the General Assembly authorized the establishment of community schools, it also directed the Legislative Office of Education Oversight (LOEO) to conduct a series of studies on the effectiveness of the schools.<sup>8</sup> The

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<sup>6</sup> *Each community school is required to participate in EMIS as if it were a school district, except as modified by rules of the State Board. Those rules may distinguish methods and timelines for community schools to annually report data that differ from those prescribed for school districts. The rules, however, may not modify the actual data required to be reported by statute. (R.C. 3301.0714 (not in the bill) and 3314.17.)*

<sup>7</sup> *The Superintendent of Public Instruction may impose the civil fine only after an adjudicatory hearing under the Administrative Procedure Act. The fine may be imposed in addition to any adjudicatory action the State Board may take to revoke or suspend the license of a community school employee who violates the EMIS requirements (see R.C. 3301.0714(N), not in the bill).*

<sup>8</sup> *Section 50.39 of Am. Sub. H.B. 215 of the 122nd General Assembly and Section 50.52.2 of Am. Sub. H.B. 215 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 282 of the 123rd General Assembly.*

bill requires LOEO to "update" those studies by "examining the assets and liabilities to the state's system of educational options that result from the establishment of community schools." The report is to include an assessment of any advantages to providing a greater number of educational choices to Ohio parents, any detrimental impacts on the state education system or on individual school districts, the effects of attending community schools on the academic achievement of students, and community school compliance with EMIS requirements. LOEO must complete its report not later than one year after the bill's effective date and provide copies of the report to the Speaker of the House and the President of the Senate.

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## COMMENT

1. Under current law, the temporary prohibition against a tax exempt entity's sponsoring schools other than those formerly sponsored by the State Board is located in the paragraph following division (C)(1)(f)(iii) of R.C. 3314.02. The bill relocates the prohibition to R.C. 3314.013(A)(3)(c). An exception to this prohibition for the tax exempt entity that is the successor to the University of Toledo Board of Trustees was recently enacted in Am. Sub. S.B. 2 of the 125th General Assembly, effective June 9, 2004. That exception refers to the current location of the prohibition and likely should be amended by this bill to conform to its provisions.

2. The 2003-2005 biennial budget act, Am. Sub. H.B. 95 of the 125th General Assembly, earmarked \$250,000 in each of fiscal years 2004 and 2005 for the Department of Education to conduct training for sponsors and prospective sponsors of community schools (Section 41.06, line-item 200-455), as required by R.C. 3314.015(A)(1). Section 19 of Am. Sub. H.B. 3 of the 125th General Assembly (effective August 15, 2003) redirected that earmark by instructing the Department instead to use that funding to contract with the Ohio Foundation for School Choice to develop and conduct the training sessions required under R.C. 3314.015(A)(1). This bill's amendments to that R.C. section, and Section 3 of this bill, require the Department to provide training to community schools on EMIS reporting. Whether the new EMIS training requirements can be conducted by the contractor as part of the training described in the H.B. 3 earmark, or whether they are in addition to those described under the earmark, is not clear. In either case, however, the Department is required under this bill to provide training on EMIS reporting.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-30-04	p. 1746

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