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## *Revised Final Analysis*

Legislative Service Commission

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(As Passed by the General Assembly)

**Reps. Setzer, Reinhard, Webster, Carano, C. Evans, Chandler, Calvert, Combs, DeBose, Domenick, Fende, Flowers, Gibbs, Key, Law, Martin, McGregor, J., Otterman, Patton, T., Schlichter, Schneider, Seitz, Smith, S., Stewart, D., Strahorn, Williams**

**Sens. Cates, Padgett, Gardner, Mumper, Niehaus, Harris**

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## **ACT SUMMARY**

### **Educational Regional Service System**

- Creates the Educational Regional Service System (ERSS) to provide support services to school districts, community schools, and chartered nonpublic schools in each of 16 designated regions.
- Requires the State Board of Education to adopt rules by July 1, 2007, establishing a process for school districts to transfer to a different ERSS region by June 30, 2009.
- Establishes an advisory council for each ERSS region to coordinate the delivery of services within the region.
- Directs the Department of Education to select a fiscal agent for each ERSS region.
- Requires fiscal agents to enter into performance contracts with the Department for the implementation of state and regional education initiatives and school improvement efforts.
- Establishes a State Regional Alliance Advisory Board to address issues regarding the operation of ERSS.

- Permits school districts, community schools, and chartered nonpublic schools to receive services from any educational service center or data acquisition site in the state, except that local school districts must receive supervisory services required by law from the ESC in whose territory they are located.

**Other provisions**

- Establishes an EMIS Advisory Board to recommend improvements to the Education Management Information System.
- Reduces the amount deducted from a school district for each of its kindergarten students receiving an Educational Choice scholarship to \$2,700 (instead of \$5,200 as under prior law).
- Permits the governing authority of a start-up community school that is not managed by an independent operator and that meets certain performance criteria to establish another community school outside the temporary cap on community schools.
- Permits a school district to establish residency requirements for its superintendent.
- Appropriates \$13.2 million in FY 2007 to support implementation of the Ohio Core Program through alternative teacher licensure programs and dual enrollment programs in the areas of math, science, engineering, technology, and foreign language.

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## CONTENT AND OPERATION

### Background

Educational service centers and a number of other entities provide services to school districts and schools on a regional basis.

### Educational service centers

Educational service centers (ESCs) are regional public entities that offer a broad spectrum of services, including curriculum development, professional development, purchasing, publishing, human resources, special education services, and counseling services, to school districts and community schools in their regions. Formerly known as "county school districts," ESCs are statutorily required to provide some administrative oversight and other services to all "local" school districts within their service areas. In addition, ESCs provide services to "city" and "exempted village" school districts that enter into agreements for those services. An ESC also may provide services for a fee to any school district or community school on a contractual basis. Each ESC is under the oversight of its own elected governing board. Currently, there are 60 ESCs each serving districts in one or more counties in the state.

### *Other regional service providers*

Various other entities that provide services to school districts and schools on a regional basis are described below. The numerals in parentheses indicate the total number of each type of provider currently in operation.

- Special education regional resource centers (or SERRCs) (16) assist school districts, schools, and county boards of mental retardation and developmental disabilities (MR/DD boards) in serving children with disabilities by providing technical guidance, special education teachers, instructional materials, and professional development.
- Area media centers (18) provide access to media resources for schools.
- Data acquisition sites (23) provide administrative and instructional computer services to school districts and other education entities. These services include accounting, payroll, curriculum management, test scoring, student scheduling, and reporting data to the Education Management Information System. Collectively, the data acquisition sites are known as the Ohio Education Computer Network.
- Education technology centers (8) provide computer training, distance learning, professional development, and instructional programming.

### *Overview of the Educational Regional Service System*

The act creates a new 16-region system, known as the Educational Regional Service System (ERSS), to provide support services to school districts, community (charter) schools, and chartered nonpublic schools within each region. The stated purpose of the system is to "support state and regional education initiatives and efforts to improve school effectiveness and student achievement" with a specific reference to the provision of special education and related services. The act further states the intent of the General Assembly that ERSS reduce the unnecessary duplication of programs and provide for a more streamlined and efficient delivery of educational services without reducing the availability of the services districts and schools need.<sup>1</sup> Each region is served by an advisory council, which is the policymaking body for the region, and a fiscal agent. ERSS is to

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<sup>1</sup> R.C. 3312.01(A).

become operational July 1, 2007, subject to appropriations of the General Assembly.<sup>2</sup>

### **Structure of ERSS**

(R.C. 3301.075 and 3312.01)

Under the act, ERSS consists of (1) a State Regional Alliance Advisory Board, (2) an advisory council and five specialized subcommittees for each of the 16 statutorily prescribed regions, (3) a fiscal agent for each region, and (4) educational service centers (ESCs), data acquisition sites, and other regional education service providers.

ESCs must continue to provide the supervisory, curriculum, and administrative services to "local" school districts already required by ongoing law, and may enter into agreements with "city" and "exempted village" school districts for the provision of similar services. In addition, ESCs may contract on a fee-for-service basis with districts and community schools for any services agreed to by the parties to the contract. Those fee-for-service contracts may include (1) assistance in improving student performance, (2) services to enable a district or school to operate more efficiently or economically, (3) professional development, (4) assistance in the recruitment and retention of teachers and administrators, or (5) any other educational, administrative, or operational services. An ESC that is selected to be a fiscal agent for its region must continue to provide services to its share of the region's territory. Data acquisition sites also are authorized to enter into fee-for-service contracts with school districts and community schools. (See "Service agreements with ESCs" and "Service agreements with data acquisition sites" below.)

With one exception, no school district or school is required to receive services from an ESC or data acquisition site in their region. The exception is for local school districts, which must receive the supervisory, curriculum, and administrative services required by law from the ESC in whose territory they are located. Local districts, however, may contract outside of their region for any other services.

In addition, the act specifically prohibits the State Board of Education, in providing for the administration of the data acquisition sites and the Ohio Education Computer Network, from adopting a rule that does not permit a school district or ESC to receive computer services from any data acquisition site or any other public or private vendor.

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<sup>2</sup> Section 3.

Finally, the act specifies that besides implementing state and regional education initiatives and school improvement efforts through ERSS, ESCs must implement state or federally funded initiatives assigned to them by the General Assembly or the Department of Education.

**ERSS regions**

(R.C. 3312.02)

The ERSS regions established by the act are described in the table below. They are aligned with the 16 SERRC regions.

<b>Region</b>	<b>Counties</b>
1	Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, and Wood
2	Erie, Huron, and Lorain
3	Cuyahoga
4	Geauga and Lake
5	Ashtabula, Mahoning, and Trumbull
6	Allen, Auglaize, Champaign, Hardin, Logan, Mercer, and Shelby
7	Ashland, Crawford, Knox, Marion, Morrow, Richland, and Wyandot
8	Medina, Portage, and Summit
9	Columbiana, Stark, and Wayne
10	Clark, Darke, Greene, Miami, Montgomery, and Preble
11	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway, and Union
12	Belmont, Carroll, Coshocton, Guernsey, Harrison, Holmes, Jefferson, Muskingum, Noble, and Tuscarawas
13	Butler, Clermont, Hamilton, and Warren
14	Adams, Brown, Clinton, Fayette, and Highland
15	Lawrence, Pike, Ross, and Scioto
16	Athens, Gallia, Hocking, Jackson, Meigs, Monroe, Morgan, Perry, Vinton, and Washington

The act specifies that if an ESC or city or exempted village school district has territory in more than one ERSS region, the ESC (and all local districts within the ESC's territory) or the city or exempted village district is considered part of the region in which the majority of its territory is located.

### **Option to transfer regions**

(R.C. 3312.02(C))

The act directs the State Board of Education, in consultation with school districts and regional service providers, to adopt rules establishing a process for a district to transfer to an ERSS region other than the one to which the act has assigned it. The rules must be adopted by July 1, 2007, and school districts will have a two-year window after that date to transfer to a new region. No transfers are permitted after June 30, 2009.

### **Regional advisory councils**

#### **Duties**

(R.C. 3312.04)

Each ERSS region must have an advisory council. This council must identify regional needs and priorities for educational services and develop corresponding policies to coordinate the delivery of services. It also must make recommendations to the region's fiscal agent for the expenditure of funds to implement state and regional education initiatives and school improvement efforts. The advisory council must monitor implementation of those initiatives and school improvement efforts by ESCs, data acquisition sites, and other regional service providers to ensure that they are meeting the terms of the region's performance contracts with the Department of Education (see "**Performance contracts**" below). Policies of the council cannot supersede the requirements of a performance contract. Finally, the council must establish an accountability system to evaluate its own performance.

#### **Membership**

(R.C. 3312.03; Section 4)

Each advisory council must include the following members:

- (1) The superintendent of each ESC with territory in the region;
- (2) The director of the region's SERRC;

- (3) The superintendents of the school districts in the region with the largest and smallest student populations;
- (4) The director of each data acquisition site in the region;
- (5) One representative of a four-year institution of higher education in the region, appointed by the Ohio Board of Regents;
- (6) One representative of a two-year institution of higher education in the region, appointed by the Ohio Association of Community Colleges;<sup>3</sup>
- (7) The treasurer of the region's fiscal agent;
- (8) Three board of education members, one each from a city, exempted village, and local school district in the region;
- (9) One governing board member of an ESC in the region;
- (10) One superintendent of a city, exempted village, or local school district in the region;
- (11) One superintendent of a joint vocational school district in the region;
- (12) One representative of business;
- (13) One employee of each education technology center that provides services in the region; and
- (14) One teacher.

The advisory council members listed in (1) through (7) above must appoint the members listed in (8) through (14) upon a majority vote. An advisory council may add other members as well. To increase its membership, the council must adopt a resolution specifying the number of additional members, their manner of appointment, and any eligibility criteria for appointment. Advisory council members are not compensated.

Each advisory council must elect a chairperson and vice-chairperson annually from among its full membership. For two years after its initial meeting, the council must hold meetings at least four times annually. After that period, all meetings are at the call of the council chairperson.

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<sup>3</sup> *If there is no four-year or two-year institution of higher education located in the region, the appointing authority must select a representative of an appropriate institution located in an adjacent region.*

The Board of Regents and the Ohio Association of Community Colleges must make their appointments to the 16 advisory councils within 30 days after the act's effective date. Each advisory council must make the appointments in (8) through (14) above within 45 days after the effective date.

**Advisory council subcommittees**

(R.C. 3312.05 and 3312.06; Section 4)

Each advisory council must establish five subcommittees to address specialized areas of education services. These subcommittees are responsible for making recommendations to the advisory council regarding implementation of state and regional education initiatives and school improvement efforts in their areas of specialization. Recommendations may address strategies to tailor state education initiatives to regional needs and priorities or to maximize funds. The five subcommittees required by the act are:

(1) A school improvement subcommittee, which must include one teacher, appointed jointly by the Ohio Education Association and the Ohio Federation of Teachers, and representatives of community schools and education personnel with expertise in school improvement;

(2) An education technology subcommittee, which must include teachers or curriculum coordinators, parents, elementary and secondary school principals, and representatives of chartered nonpublic schools, data acquisition sites, business, and institutions of higher education;

(3) A professional development subcommittee, which must include teachers, principals, superintendents, curriculum coordinators, and representatives of chartered nonpublic schools and institutions of higher education;

(4) A special education subcommittee consisting of one teacher, appointed jointly by the Ohio Education Association and the Ohio Federation of Teachers, and the members of the SERRC governing board in the region; and

(5) A data acquisition site subcommittee consisting of one teacher, appointed jointly by the Ohio Education Association and the Ohio Federation of Teachers, and the members of the governing authority of each data acquisition site in the region.

Members of the school improvement, education technology, and professional development subcommittees must be appointed by the advisory council (except for the teacher appointed by the teachers' unions on the school improvement subcommittee). In appointing these members, the council must select people who live or work in the region (although a person from an adjacent

region may be appointed if necessary to fulfill the membership requirements). Initial appointments to the subcommittees must be made within 60 days after the act's effective date.

An advisory council may establish additional subcommittees at its discretion and appoint their members. The membership of any other subcommittee must include a diverse group of teachers and other education personnel with knowledge of the subcommittee's topical area and representatives of individuals and groups with an interest in the area. Advisory council members may participate in the deliberations of any subcommittee.

### **Selection of fiscal agents**

(R.C. 3312.07)

By January 31, 2007, the Department of Education must select a fiscal agent for each ERSS region. Only school districts and ESCs, both of which have publicly elected governing boards, are eligible to be fiscal agents. The Department must issue a request for proposals from districts and ESCs interested in being a fiscal agent, and must select from among the respondents based upon the following criteria:

- (1) Capability to serve as a fiscal agent as demonstrated by a satisfactory audit record and prior experience serving as a fiscal agent;
- (2) Adequate capacity in terms of facilities, personnel, and other relevant resources;
- (3) Evidence that the school district's or ESC's role as a fiscal agent would result in minimal disruption to its existing responsibilities; and
- (4) Demonstrated intent to limit administrative fees for managing a performance contract to a maximum of 7% of the contract's value.

If no school district or ESC in a region responds to the request for proposals, the Department must choose a district or ESC in the region that meets these criteria to be the region's fiscal agent.

## *Duties of fiscal agents*

(R.C. 3312.08, 3312.09, and 3312.13)

### *Performance contracts*

The fiscal agent's primary responsibility is to enter into performance contracts with the Department of Education to implement state and regional education initiatives and school improvement efforts. These performance contracts outline the manner in which the initiative will be implemented and the funding that will be provided to the region. The act directs the Department to consider the unique needs and circumstances of each region when allocating funds for implementing statewide education initiatives. Additionally, each performance contract must include:

(1) A definition of the services to be provided to school districts, community schools, and chartered nonpublic schools in the region;

(2) Expected outcomes from the provision of those services;

(3) The evaluation method the Department will use to determine if the expected outcomes have been achieved, the results of which must be posted on the Department's web site;

(4) A requirement that the fiscal agent develop and implement a corrective action plan if the evaluation results are unsatisfactory;

(5) Data reporting requirements;

(6) The aggregate fees that will be charged by the fiscal agent and by any entity with which it subcontracts. Any fees exceeding 4% of the contract's value must be approved by the Controlling Board.

(7) A requirement that a member of the region's advisory council serve on the State Regional Alliance Advisory Board (see "*State Regional Alliance Advisory Board*" below).

### *Other duties*

As a party to the performance contract, the fiscal agent receives federal and state funds specified in the contract, including federal funds for special education and related services, and disburses those funds in accordance with the contract to the ESCs, data acquisition sites, and other regional service providers in the region. However, the act specifically states that each ESC's per-pupil state funding and payments for services deducted from the state aid accounts of school districts do



not pass through the fiscal agent for disbursement. Rather, those payments continue to be paid directly to the ESC by the Department of Education in accordance with ongoing law. (See "*Service agreements with ESCs*" below.) Similarly, the act requires all operating funds appropriated for data acquisition sites to be paid directly to the sites by the Department. The fiscal agent also exercises fiscal oversight of the implementation of state and regional education initiatives and school improvement efforts.

As the policymaking body for the region, the advisory council makes decisions regarding the manner in which the initiatives will be executed and how funds will be spent to accomplish the goals specified in the performance contracts. The fiscal agent generally must spend funds in accordance with the decisions of the advisory council or as required by a performance contract. However, the fiscal agent cannot implement a spending decision if (1) there are insufficient funds available to the region to cover the expenditure or (2) the expenditure is illegal or violates the terms of a performance contract.

### **State Regional Alliance Advisory Board**

#### **Duties**

(R.C. 3312.12)

The State Regional Alliance Advisory Board is a state-level entity created by the act to address issues affecting the operation of ERSS and statewide education initiatives. It is not a policymaking body. Rather, its responsibilities are to promote communication and coordination among the State Board of Education, the Department of Education, fiscal agents, advisory councils, and users of ERSS. The State Regional Alliance Advisory Board also must identify issues regarding ERSS that may require action by the State Board or the Department. Finally, the Board must recommend quality standards for the delivery of services to school districts and schools through ERSS. The Board must provide copies of its recommendations to the Department of Education and the regional advisory councils. Like each of the regional advisory councils, the State Regional Alliance Advisory Board must establish an accountability system to evaluate its performance.

#### **Membership**

(R.C. 3312.11; Section 4)

There are 34 members of the State Regional Alliance Advisory Board. The Superintendent of Public Instruction and the chairpersons and ranking minority members of the education committees of the House and Senate, or their designees,

are ex officio, nonvoting members of the Board. The 29 voting members of the Board, who serve at the pleasure of their appointing authorities, are:

(1) One member of each regional advisory council, appointed by the council;

(2) One member of the State Board of Education, appointed by the State Board;

(3) One representative of four-year institutions of higher education, appointed by the Ohio Board of Regents;

(4) One representative of two-year institutions of higher education, appointed by the Ohio Association of Community Colleges;

(5) One representative of the Department of Education, appointed by the Superintendent of Public Instruction;

(6) One representative of the Governor, appointed by the Governor;

(7) One teacher, appointed jointly by the Ohio Education Association and the Ohio Federation of Teachers;

(8) One parent, appointed by the Ohio Parent Teacher Association;

(9) One representative of business, appointed by the Ohio Chamber of Commerce;

(10) One representative of the Buckeye Association of School Administrators, appointed by the Association;

(11) One representative of the Ohio Educational Service Center Association, appointed by the Association;

(12) One representative of the Ohio School Boards Association, appointed by the Association;

(13) One school administrator, appointed jointly by the Ohio Association of Elementary School Administrators and the Ohio Association of Secondary School Administrators; and

(14) One representative of the Ohio Association of School Business Officials, appointed by the Association.

Appointments to the State Regional Alliance Advisory Board must be made within 60 days after the act's effective date. The Superintendent of Public



Instruction is the chairperson of the Board. For two years after its initial meeting, the Board must meet at least monthly. After that time, all meetings are at the call of the chairperson or upon the request of at least one-third of the Board's members. Board members are not compensated.

### *Service agreements with ESCs*

#### *Background*

As noted above, ESCs provide oversight functions to all "local" school districts in their territories. "City" and "exempted village" school districts may enter into agreements with ESCs to receive supervisory services similar to those provided to local districts in the ESC's territory. These services may include supervisory teachers, professional development, curriculum services, research and development programs, academic instruction, and special education services. This authorization generally is limited to city and exempted village districts with total student populations of less than 13,000 students. City and exempted village districts that enter into agreements with ESCs on these terms are known as "client districts." ESCs also provide other services to school districts and community schools on a fee-for-service basis.

ESCs receive payments from the state and from each school district they serve to pay the cost of providing those services. Payments owed by a school district are deducted from the district's state aid account and paid to the ESC by the Department of Education.<sup>4</sup> The payments received by ESCs are as follows:

- (1) Each ESC receives \$6.50 per pupil from each local and client school district.
- (2) Each ESC receives either \$37 or \$40.52 per pupil of direct state funding for each local and client school district.<sup>5</sup>
- (3) Each ESC receives from each local and client school district one "supervisory unit" for the first 50 classroom teachers required to be employed in the district and one such unit for each additional 100 required classroom teachers.

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<sup>4</sup> See R.C. 3317.11, not in the act.

<sup>5</sup> The latter amount is paid to ESCs that have formed as a result of a merger of at least three smaller ESCs.

This funding is to pay the cost of providing a teacher to supervise a district's teachers.<sup>6</sup>

(4) Each ESC receives a contractually specified amount from each district with which it has a fee-for-service contract.

**Elimination of geographical restriction**

(R.C. 3313.843)

Under former law, a client school district could only receive supervisory services from an ESC with territory in the same county as the district. The act eliminates this geographical restriction, making it possible for city and exempted village school districts to contract with any ESC in the state for supervisory services. The act does not alter the payment schedule for those services.

**Fee-for-service contracts**

(R.C. 3313.845)

The act explicitly authorizes ESCs to enter into fee-for-service contracts with any school district in the state. Under the act, a district and ESC may contract for services through adoption of identical resolutions. The contract must describe the services to be provided and the amount the district will pay. To be valid, a copy of the contract must be filed with the Department of Education by the first day of the school year in which the contract will be in effect. Payments under fee-for-service contracts are deducted from the district's state aid account and paid to the ESC by the Department. An ESC does not receive any contribution from the state for services provided to districts under fee-for-service contracts.

The act places two restrictions on the kinds of services that certain districts may receive from an ESC under a fee-for-service contract. City and exempted village school districts that are eligible to receive services for which the state contributes payments cannot receive those services under a fee-for-service contract. Also, local school districts cannot contract for supervisory services, which ESCs are required to provide to local districts within their territories, from an ESC in whose territory they are not located.

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<sup>6</sup> A supervisory unit is the sum of the statutorily prescribed minimum salary for the licensed supervisory employee, an amount equal to 15% of that salary, and a statutorily prescribed allowance for necessary travel expenses (R.C. 3317.11(B)(1), not in the act).

**Reductions in force**

(R.C. 3319.17)

Continuing law permits an ESC to make reductions in the number of teachers it employs under certain circumstances. Two of these circumstances involve decreases in services provided by the ESC due to termination or nonrenewal of agreements or contracts with other public entities. The act adds fee-for-service contracts with school districts and service agreements with community schools to the list of contracts that, if discontinued, may justify reductions in force.

**Service agreements with data acquisition sites**

(R.C. 3312.10)

School districts and community schools may contract with data acquisition sites on a fee-for-service basis under the act in the same manner as they may contract with ESCs. Specifically, the governing authorities of the parties to the contract must adopt identical resolutions to formalize the agreement. The services must be specified in the contract along with the amount the district or community school will pay. However, unlike contractual payments from districts to ESCs, district payments under a contract with a data acquisition site are not deducted from the district's state aid account. All payments, including those made by a community school, must be made directly to the data acquisition site providing the services.

**Legislative intent language regarding the Office of Early Childhood Education**

(Section 5)

The act expresses the General Assembly's intent that the Department of Education not fill vacancies within the regional offices of its Office of Early Childhood Education.

**EMIS Advisory Board**

(R.C. 3301.0713; Section 4)

The act creates an EMIS Advisory Board to make recommendations to the Department of Education for improving the Education Management Information System (EMIS). EMIS is a statewide electronic database of public school fiscal, staff, and student data.<sup>7</sup> Data submitted to EMIS is used to determine funding for

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<sup>7</sup> See R.C. 3301.0714, not in the act.

school districts and to compile the district and building report cards issued by the Department. Topics that the Advisory Board's recommendations may address include the EMIS data definitions, reporting deadlines, the State Board of Education's rules and guidelines for the operation of EMIS, and other issues raised by education personnel who work with EMIS.

Seventeen members serve on the EMIS Advisory Board:

- (1) Two members of the State Board, appointed by the State Board;
- (2) One person appointed by the Ohio Educational Service Center Association;
- (3) One person appointed by the Buckeye Association of School Administrators;
- (4) One person appointed by the Ohio Association of School Business Officials;
- (5) One person appointed by the Ohio Association of EMIS Professionals;
- (6) One representative of four-year institutions of higher education, appointed by the Ohio Board of Regents;
- (7) One representative of two-year institutions of higher education, appointed by the Ohio Association of Community Colleges;
- (8) Two representatives of the Department of Education, appointed by the Superintendent of Public Instruction;
- (9) Two persons appointed by the Management Council of the Ohio Education Computer Network;
- (10) One teacher appointed jointly by the Ohio Education Association and the Ohio Federation of Teachers; and
- (11) The chairpersons and ranking minority members of the education committees of the House and Senate, or their designees, as ex officio, nonvoting members.

Board members must be appointed within 30 days after the act's effective date. Initial members of the Board serve until January 1, 2008, after which time terms are two years. Members are not compensated. The education committee chairpersons alternate annually as chairperson of the Board. The Board must meet at least every other month. If EMIS is replaced with a new data collection system

in the future, the act specifies that the EMIS Advisory Board will continue to exist to make recommendations regarding the new system.

**Educational Choice Scholarship Pilot Program**

(R.C. 3310.08)

Beginning in the 2006-2007 school year, the Educational Choice Scholarship Pilot Program provides scholarships to pay tuition at chartered nonpublic schools for students assigned to public schools that have been declared to be in academic emergency or academic watch for three consecutive school years. It does not apply to the Cleveland Municipal School District, where a scholarship pilot program has been operating since 1995. The maximum amount of each Educational Choice scholarship for the first year of operation is \$4,250 for students in grades K through 8, and \$5,000 for students in grades 9 through 12.<sup>8</sup> To finance the Educational Choice scholarships and part of the Cleveland scholarships, law largely retained by the act requires a \$5,200 deduction from the state aid account of the resident school district in which each Educational Choice scholarship student is entitled to attend school.

The act reduces to \$2,700 the amount deducted from a school district for each of its kindergarten students receiving an Educational Choice scholarship. It does not change the amount of the deduction for students in grades 1 through 12, which remains \$5,200 for each student. The act's change to the kindergarten deduction is in conformance with the way kindergarten students are counted in the district's student membership for funding purposes. Under continuing law, a district may count each kindergarten student as only one-half of one full-time-equivalent (FTE) student; therefore, the district is credited with only one-half of the calculated base-cost amount (the formula amount plus base funding supplements) for that student (roughly \$2,725 in fiscal year 2007) prior to the deduction for each kindergarten scholarship student. On the other hand, continuing law authorizes a district to count each student in grades 1 through 12 as one FTE student, crediting the district with the full base-cost amount (roughly \$5,450 in fiscal year 2007) prior to the deduction.

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<sup>8</sup> *In future years, the maximum amount is to be inflated by the rate of increase in the base-cost formula amount from the previous year.*

## **Exception to community school cap**

(R.C. 3314.014)

### **Background**

Continuing law limits, until July 1, 2007, the number of community (charter) schools that may be in operation in the state at any one time. First, it limits the number of start-up schools sponsored by entities other than the school districts in which the schools are located to 30 more than the number of such schools that were in operation on May 1, 2005.<sup>9</sup> Second, it similarly limits the aggregate number of start-up schools and conversion "e-schools" that are sponsored by the school districts in which they are located to 30 more than the number of such schools that were in operation on May 1, 2005.<sup>10</sup> There is no limit on the number of "brick-and-mortar" conversion schools.

The law permits community schools in excess of the statewide caps to open under certain conditions. Specifically, once a statewide cap to which a community school would otherwise be subject has been reached, the school still may be established if it is managed by an "operator" pursuant to a contract with the school's governing authority. An operator is essentially an independent contractor engaged to run the community school. The number of operator-managed schools that may open outside of the statewide caps is limited for each operator to the number of community schools it manages on the date the applicable statewide cap is reached that are rated excellent, effective, or in need of continuous improvement, excluding any conversion school that is not an e-school.

### **The act**

The act creates another exception to the statewide caps for certain high performing schools that are *not* managed by operators. It permits the governing authority of a start-up school that is not sponsored by the school district in which it is located to enter into another contract with the same sponsor, or a different sponsor, to open in the 2006-2007 school year one additional school serving *the same grade levels and providing the same educational program*, if the following conditions are met:

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<sup>9</sup> *The statewide caps are set forth in R.C. 3314.013(A)(4) and (5), not in the act.*

<sup>10</sup> *An "e-school" is an Internet- or computer-based community school (R.C. 3314.02(A)(7), not in the act). The law also prohibits any entity from sponsoring new e-schools until the effective date of any standards enacted by the General Assembly governing the operation of e-schools (R.C. 3314.013(A)(6), not in the act).*

(1) The governing authority and the sponsor entered into their contract and filed a copy with the Superintendent of Public Instruction prior to March 15, 2006;

(2) The governing authority's existing school currently is rated as excellent or effective in the Department of Education's annual rating of school buildings;

(3) The existing school made adequate yearly progress for the previous school year;<sup>11</sup>

(4) The existing school has been in operation for at least four school years; and

(5) The existing school is not managed by an operator.

The act's exception to the limits on the number of community schools does not apply to schools sponsored by the school districts in which they are located. Moreover, it does not authorize any new school established under the act's exception to be sponsored by such a district.

### **Residency requirements for school district superintendents**

(R.C. 3319.01)

The act creates an exemption from the general prohibition on residency requirements for employees of political subdivisions by specifically permitting the board of education of a city, exempted village, local, or joint vocational school district to require its superintendent, as a condition of employment, to reside within the district's boundaries. Since the act's language limits the exemption to city, exempted village, local, and joint vocational school districts, the exemption likely does not also apply to the superintendent of an educational service center.<sup>12</sup>

### **Background**

Continuing law generally prohibits any political subdivision from requiring its employees, as a condition of employment, to reside in any specific area of the

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<sup>11</sup> *The Department of Education is required under the federal No Child Left Behind Act and conforming state law to determine whether each district or school building, including each community school, has met a particular performance target (called "adequate yearly progress" or "AYP") based on achievement test scores among students in specified subgroups. (20 U.S.C. 6311(b)(2)(E) to (J) and R.C. 3302.03(A), not in the act.)*

<sup>12</sup> *See R.C. 3311.055, not in the act.*

state.<sup>13</sup> That law, however, exempts volunteers from its application, and permits a political subdivision to require "certain employees," in the interest of ensuring "adequate response times" to emergencies, to live in the county where the political subdivision is located or in an adjacent Ohio county.

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## HISTORY

ACTION	DATE
Introduced	03-08-05
Reported, H. Education	05-18-05
Passed House (93-2)	10-05-05
Reported, S. Education	05-23-06
Passed Senate (29-4)	05-24-06
House concurred in Senate amendments (83-12)	05-25-06

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<sup>13</sup> *R.C. 9.481, not in the act.*

