



**Sub. H.B. 250**

126th General Assembly

(As Reported by H. Finance and Appropriations)

**Rep. Trakas**

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**BILL SUMMARY**

- Grants authority to boards of education of two or more city, local, or exempted village school districts to create, by agreement, a student special services district (SSSD) to fund substance abuse prevention and intervention services and other behavioral health services, or to fund autism services, or both, for the students enrolled in those districts.
- Requires that the superintendent of each member school district serve on the board of directors of the SSSD and requires the agreement to provide other specific provisions governing the board of directors.
- Requires the board of directors to contract with one or both of the following to provide the services to students enrolled in the districts that are part of the SSSD: (1) a qualified nonprofit, nationally accredited agency that is chartered and licensed or certified by the state and provides school-based counseling for the provision of substance abuse prevention and intervention and other behavioral health services, or (2) a qualified organization licensed by the state that provides autism services.
- Permits the board of directors, with the approval of a majority of the member school district boards of education and then of the voters of the SSSD, to levy a property tax to fund SSSD services and operations.

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## CONTENT AND OPERATION

### *Creation and operation of a student special services district (SSSD)*

(R.C. 3313.82)

#### *Creation*

The bill permits the boards of education of two or more city, local, or exempted village school districts, by adopting identical resolutions, to enter into an agreement creating a student special services district (SSSD) to fund one or both of the following for students enrolled in those school districts: (1) substance abuse prevention and intervention services and other behavioral health services, and (2) autism services. An SSSD's territory must be composed of the combined territories of the member districts.

#### *Board of directors*

A board of directors must govern each SSSD. The superintendent of each school district that is an SSSD member must serve on the board of directors. The agreement must provide for the terms of office of directors. Directors are to receive no compensation, but will be reimbursed, from the SSSD's special fund discussed below, for the reasonable and necessary expenses they incur in performing their SSSD duties. The agreement must also provide for the conduct of the board's initial organizational meeting and for the frequency of subsequent meetings and quorum requirements. At its first meeting, the board must designate from among its members a president and secretary in the manner provided in the agreement. The agreement also must require the board to designate a permanent location for its offices and meeting place, and may provide for the person or organization contracted with to provide services as discussed below to use the facilities and property. The board may, but is not required to, designate the facilities and property of one or more of the member school districts as its offices and meeting place.

#### *Provision of services*

Services funded by an SSSD must be available for all students enrolled in the member school districts. To provide those services, the board of directors must contract with one or both of the following:

- A qualified nonprofit, nationally accredited agency for which all of the following apply: (1) the agency is licensed or certified by the Departments of Mental Health, Job and Family Services, and Alcohol and Drug Addiction Services, (2) it is chartered by the Department of Education, and

(3) it provides school-based counseling for the provision of substance abuse prevention and intervention and other behavioral health services.

- A qualified organization licensed by the state that provides autism services, including special education services for autistic children.

### **Status and authority of SSSD and board of directors**

Each SSSD board of directors is a body corporate and politic, is capable of suing and being sued, is capable of contracting to the extent described in this analysis and the agreement governing each SSSD, and is capable of accepting gifts, donations, bequests, or other grants of money for use in paying its expenses, but it cannot hold real property or tangible personal property. The bill also prohibits the board of directors from issuing securities or otherwise incurring indebtedness.

The bill also provides the following with respect to SSSDs:

- An SSSD is a public office and its directors are public officials with respect to Ohio law granting the Auditor of State authority to conduct audits of public offices;
- The board of directors is a public body with respect to Ohio's open meetings law;
- The records of the board and of the SSSD are public records under Ohio's public records law;
- An SSSD is a political subdivision for purposes of Ohio law governing political subdivision tort liability.

### **Officers**

The agreement must provide for appointment of a fiscal officer and for an individual to serve as the legal representative for the SSSD. The agreement must specify the length of time that each such individual is to perform their duties and whether they may be reappointed upon the completion of a term. The fiscal officer and legal representative are not to receive compensation for performing their duties, but the agreement may provide for each to be reimbursed for reasonable expenses of performing their duties from the SSSD's special fund discussed below.

The legal representative is required to prosecute all actions against a member of the board of directors for malfeasance or misfeasance in office and is to be the legal representative of the board or the directors in all civil actions brought by or against them. The legal representative may not represent the board of directors in any matter in which the board of directors and a member board of education are adverse parties, or in which the board of directors and any other board of education represented by that individual are adverse parties.

### **Procuring liability insurance**

The board of directors must procure a policy or policies of insurance insuring the board, the fiscal officer, and the legal representative against liability on account of damage or injury to persons and property. Before procuring the insurance the board must adopt a resolution setting forth the amount of insurance to be purchased, the necessity of the insurance, and a statement of its estimated premium cost. The insurance must be procured from one or more recognized insurance companies authorized to do business in Ohio. The cost of the insurance must be paid from the SSSD's special fund discussed below.

### **Changes to and dissolution of the SSSD**

**Amendment.** The agreement creating an SSSD may be amended pursuant to terms and procedures mutually agreed to by the member boards of education.

**New members.** A board of education may join an existing SSSD by adopting a resolution requesting to join and upon approval by the member boards of education of the SSSD. If a tax is levied in the SSSD as discussed below, a board of education may join the SSSD only after a majority of qualified electors in the school district voting on the question vote in favor of levying the tax throughout the school district. A board of education joining an existing district has the same powers, rights, and obligations under the agreement as other member boards of education.

**Withdrawal of members.** A member board of education may withdraw its school district from an SSSD by adopting a resolution. The withdrawal will take effect on the date provided in the resolution. If a tax is levied in the SSSD, the resolution must take effect not later than the first day of January following adoption of the resolution. Beginning with the first day of January following adoption of the resolution, any tax levied for the SSSD cannot be levied within the territory of the withdrawing school district. Any collection of tax levied in the territory of the withdrawing school district that has not been settled and distributed when the resolution takes effect must be divided, when collection is made and settled, among the remaining member school districts in proportion to the taxable

valuation of taxable property in those districts, and credited to their respective general funds.

**Dissolution of SSSD.** An agreement creating an SSSD must provide for the manner of the SSSD's dissolution. An SSSD ceases to exist when not more than one school district remains in the district. Once an SSSD ceases to exist, the levy of any tax for the SSSD cannot be extended on the tax lists in any tax year beginning after the SSSD's dissolution. The agreement must provide that, upon dissolution, any unexpended balance in the SSSD's special fund will be divided among the school districts that were members of the SSSD immediately before dissolution in proportion to the taxable valuation of property in the districts, and credited to their respective general funds.

**Tax levy to fund SSSD services**

(R.C. 3313.82(C)(2) and (3), 5705.01, 5705.219, and 5705.25)

**Resolution to levy tax**

If an SSSD board of directors desires to levy a tax in excess of the ten-mill limitation throughout the SSSD to fund the substance abuse prevention and intervention services, other behavioral health services, or autism services to students enrolled in the districts that make up the SSSD, the board must propose the levy to each of the member boards of education. The proposal must specify the rate or amount of the tax, the number of years the tax will be levied, and that the aggregate rate of tax will not exceed three mills per dollar of taxable value in the SSSD. If a majority of the member boards of education approves the proposal, the SSSD board of directors may adopt a resolution approved by a majority of the board's full membership declaring the necessity of levying the proposed tax throughout the SSSD for the purpose of funding the special services. The resolution must provide for the question of the tax to be submitted to the voters in the SSSD at a specified general, primary, or special election that is at least 75 days after the resolution is certified to the board of elections. The resolution must specify the rate or amount of the tax and the number of years the tax will be levied. The aggregate rate of tax levied by an SSSD at any time cannot exceed three mills per dollar of taxable value in the district.

The resolution must take effect immediately upon passage, and no publication of the resolution is necessary other than that provided in the notice of election.

**Effect of levy adoption, rejection, or expiration**

The bill provides that the adoption or rejection by the voters of a tax levy to fund an SSSD does not alter the duty of each school district member of the SSSD to provide special education and related services as required under law. On the expiration of an SSSD levy, the state, member school districts, and any other governmental entity is not obligated to provide replacement funding for the revenues under the expired levy. The tax levy, in whole or in part, must not be considered a levy for current operating expenses for purposes of the state school funding formula for any of the school district members of the SSSD.

**Application of existing tax levy law**

The bill makes the resolution and the tax levy subject to existing law governing the approval, renewal, and replacement of tax levies, including those governing the submission to the voters of tax levy questions in general and emergency school levies.

**Creation of SSSD special fund to hold tax levy proceeds**

The board of directors of each SSSD must create a special fund to hold the proceeds of the tax levy and any gifts, donations, bequests, or other grants of money coming into the possession of the SSSD. An SSSD and the board of directors are subject to Ohio's Uniform Depository Act.

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**HISTORY**

ACTION	DATE
Introduced	05-10-05
Reported, H. Finance & Appropriations	05-18-06

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