



Jennifer Stump

*Bill Analysis*  
*Legislative Service Commission*

**S.B. 110**  
126th General Assembly  
(As Introduced)

**Sens. Fedor, Schuring, Roberts, Brady**

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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.
- Requires teachers hired after July 1, 2002, to teach core academic subjects in community schools that receive federal Title I funds to be "highly qualified."
- Permits the Superintendent of Public Instruction to impose a civil penalty on the chief fiscal officer of a community school's sponsor (in addition to the school's fiscal officer as under current law) for the school's failure to report accurate Education Management Information System (EMIS) data.
- Increases the amount of the civil penalty (from \$100 under current law) to \$2,000 for the first incident, \$3,000 for the second incident, and \$5,000 for the third incident.
- Requires the Department of Education to request the sponsor of a community school with EMIS violations to terminate or not renew the school's contract and, if the sponsor fails to do so, to revoke its approval of the sponsor and assume sponsorship of the school.
- Requires the Department to conduct annual audits of each community school's EMIS data regarding proficiency and achievement test scores.
- Directs community school fiscal officers to file teacher salary schedules with the Superintendent of Public Instruction.
- Requires each community school report card to include the number of students who have withdrawn from the school during the year.

- Allows the Superintendent of Public Instruction to fine community schools \$1,000 per day for failure to cooperate in studies conducted by the Department of Education or the Legislative Office of Education Oversight.
- Establishes the Joint Study Committee on Ohio's Community Schools to recommend legislation to improve 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. 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.

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 academic watch or academic emergency, or (3) a school district in the original community school pilot project area (Lucas County).<sup>1</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) An educational service center;

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<sup>1</sup> The "Big-Eight" districts are Akron, Canton, Dayton, Cincinnati, Cleveland, Columbus, Toledo, and Youngstown. (R.C. 3314.02(A)(3).)

(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>2</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>3</sup>

There is currently a statewide limit of 225 start-up community schools sponsored by entities other than the school districts in which they are located. That cap is set to expire July 1, 2005.<sup>4</sup>

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

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

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 1.**) 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.

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<sup>2</sup> R.C. 3314.015(B)(1) and 3314.02(C)(1)(a) through (f).

<sup>3</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.

<sup>4</sup> R.C. 3314.013(A)(3).

<sup>5</sup> Continuing law 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).)

**Highly qualified teachers**

(R.C. 3314.03(A)(10) and 3314.22)

**Background**

The federal No Child Left Behind Act of 2001 (NCLB) requires public school teachers who teach core academic subjects to be "highly qualified." Core academic subjects include English, reading or language arts, math, science, foreign languages, civics and government, economics, arts, history, and geography. Teachers hired after the start of the 2002-2003 school year who teach in a program supported by federal Title I funds must be highly qualified upon employment.<sup>6</sup> Generally by the end of the 2005-2006 school year, however, *all* public school teachers of core academic subjects, whether newly hired or continuing educators, must be highly qualified. To be highly qualified under NCLB, a teacher must (1) hold a bachelor's degree, (2) have obtained full state certification, and (3) demonstrate subject matter competency.<sup>7</sup>

Am. Sub. S.B. 2 of the 125th General Assembly, effective June 9, 2004, incorporated many of the NCLB requirements regarding highly qualified teachers into state law. That act requires teachers hired after July 1, 2002, to teach a core academic subject in a school district-operated school receiving Title I funds to be highly qualified. A highly qualified teacher, as defined by that act, is a classroom teacher who (1) holds a bachelor's degree and (2) is fully licensed or is participating in an alternative licensure route in which the teacher receives professional development and mentoring, teaches for not longer than three years, and demonstrates satisfactory progress toward becoming fully licensed.<sup>8</sup> In addition, the teacher must fulfill at least *one* of the following requirements:

<b>Option</b>	<b>If Teaching in Grades K to 6</b>	<b>If Teaching in Grades 7 to 12</b>
<b>Test</b>	Pass a test of subject matter and professional knowledge required for licensure.	Pass a test of subject matter knowledge required for licensure.

<sup>6</sup> *Title I funds serve the educational needs of low-income and other at-risk students.*

<sup>7</sup> *34 C.F.R. § 200.55 and 200.56.*

<sup>8</sup> *R.C. 3319.074, not in the bill.*



Option	If Teaching in Grades K to 6	If Teaching in Grades 7 to 12
<b>Educational Credentials</b>	Receive a graduate degree or advanced certification in the teacher's teaching assignment.	Successfully complete either an undergraduate major, coursework equivalent to a major, a graduate degree, or advanced certification in each subject area in which the teacher teaches.
<b>Score on Ohio Highly Qualified Teacher Rubric</b>	Achieve 100 points on the Ohio Highly Qualified Teacher Rubric developed by the Ohio Department of Education. <sup>9</sup>	Same.
<b>Professional Development Program</b>	Complete an individualized professional development program approved by the teacher's local professional development committee that includes 90 hours of high quality professional development incorporating grade-appropriate academic subject matter knowledge, teaching skills, and state academic content standards.	Same.

***The bill***

Under current state law, teachers in community schools must meet the same requirements for licensure as teachers working in district schools. However, while NCLB's teacher quality provisions appear to apply to teachers in community schools, the state provisions for highly qualified teachers enacted by Am. Sub. S.B. 2 do not appear to apply to those teachers.

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<sup>9</sup> *The Ohio Department of Education has created a rubric to enable teachers to determine whether they satisfy the highly qualified teacher requirements. The rubric is a point-based evaluation that considers a teacher's years of experience in a particular content area, college coursework in this content area, college coursework in pedagogy related to the content area, professional development in the teacher's content area, professional activities in the teacher's content area, whether the teacher has received specific teaching awards, and whether the teacher has been published. The rubric is available at <http://www.ode.state.oh.us/teaching-profession/pdf/HQTRubric.pdf>.*

The bill explicitly requires community school teachers to be highly qualified in the same manner as teachers employed by school districts. Therefore, under the bill, community school teachers hired after July 1, 2002, to teach core academic subjects in a Title I school must have a bachelor's degree, be fully licensed or participating in an alternative licensure route, and fulfill one of the options outlined in the table above. Presumably, a community school that receives Title I funds must release from employment any teacher hired after July 1, 2002, who does not meet these requirements or otherwise remove the teacher from an assignment that involves providing instruction in a core subject area.

The bill maintains the current law requiring community schools to employ only classroom teachers who are licensed in compliance with licensure rules of the State Board of Education, but further requires community schools to comply with any other State Board rules that require teachers to teach in the subject areas or grade levels for which they are licensed. Under the bill, community schools, like school districts, may employ persons with one-year conditional teaching permits issued by the State Board.<sup>10</sup> This authority does not appear to be a substantive change because current law already authorizes such employment. Finally, the bill retains existing authority for community schools to employ nonlicensed persons who hold temporary permits to teach up to 12 hours a week.<sup>11</sup>

### **Data reporting by community schools**

Continuing law requires 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 Education. 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 of Education. 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

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<sup>10</sup> *Continuing law authorizes the State Board to issue one-year conditional teaching permits for teaching in grades 7 to 12 or for employment as an intervention specialist to work with students with special needs. Applicants for a conditional teaching permit must agree to seek an alternative educator license, which is a precursor to a provisional educator license, in the same subject area upon expiration of the conditional permit. Applicants for the permits also must have a bachelor's degree, successfully complete a basic skills test, have completed certain specified coursework, and agree to participate in a mentoring program. (R.C. 3319.302 and 3319.304, neither section in the bill.)*

<sup>11</sup> *The State Board may issue 12-hour permits, valid for one year, to persons with at least a bachelor's degree, or five years of work experience, in the subject the person will teach (R.C. 3319.301, not in the bill, and Ohio Administrative Code 3301-23-41).*

not modify the actual data required to be reported by statute. The fiscal officer of each community school is responsible for submitting EMIS data.<sup>12</sup>

**Penalties for failure to report EMIS data**

(R.C. 3314.17(C) and 3314.18)

Under current law, a community school fiscal officer may be subject to a civil fine of \$100 imposed by the Superintendent of Public Instruction for (1) willfully failing to report EMIS 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>13</sup> In addition, the Department must withhold increasing percentages of state funding from a community school that misses EMIS reporting deadlines or does not make a good faith effort to report accurate data.

The bill makes several changes to the penalties for community schools that fail to report EMIS data as required. First, in addition to fining the community school's fiscal officer as under current law, the bill authorizes the Superintendent of Public Instruction to impose a fine on the chief fiscal officer of the school's sponsor. Second, the bill increases the amounts of these fines. Under the bill, fines for both officers are \$2,000 for the first incident of noncompliance, \$3,000 for the second incident, and \$5,000 for the third incident. Third, the bill specifies that the fines are in addition to any withholding of state aid to the community school required by current law for failure to report EMIS data properly.

Finally, when the Superintendent determines that a community school has failed to comply with EMIS requirements for a third time, the Department must notify the sponsor's governing authority of the violation and request the sponsor to terminate the school's contract within a period of time specified by the Department.<sup>14</sup> If the sponsor does not terminate the contract by the deadline, the

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<sup>12</sup> R.C. 3301.0714, not in the bill and 3314.17.

<sup>13</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>14</sup> *Under continuing law, a violation of state law is one of the reasons for which a sponsor may terminate or not renew a community school's contract prior to the contract's expiration. At least 90 days prior to the termination or nonrenewal, the sponsor must provide written notice of the proposed action to the school. The school may request a hearing before the sponsor prior to a final decision. If a contract is terminated, the termination is effective the later of 90 days after the school is notified of the intent to*

Department must revoke its approval of the sponsor, which is not subject to appeal. The Department then must assume sponsorship of the community school and terminate the school's contract itself. Similar procedures apply whenever the Superintendent finds that a community school failed to report EMIS data during the school year preceding the year in which the school's contract with its sponsor expires. In that case, if the sponsor does not take action to not renew the contract at the Department's request, the Department must take that action after assuming sponsorship of the school and revoking its approval of the sponsor.

In any case where the Department revokes a sponsor's approval for failure to ensure EMIS compliance, the Department must assume sponsorship of all other schools, besides the offending school, sponsored by the same entity. As under current law, the Department's sponsorship of those schools lasts until the schools secure new sponsors but no more than two school years.

#### **Audits of test scores**

(R.C. 3314.19)

Under the bill, the Department of Education must conduct annual audits of each community school's EMIS data regarding proficiency and achievement test scores of the students enrolled in the school at the end of the school year. If the data is inaccurate or incomplete, the Department must notify the school and provide technical assistance in correcting the problem. This assistance must be timely enough for the school to revise its data so that the correct data is included in the school's report card (see below).

#### **Community school report cards**

(R.C. 3314.012)

The Department of Education issues annual report cards for each community school that has been open at least two full school years. These report cards contain information on the school's academic and financial performance. The bill requires each report card also to include the number of students who have withdrawn from the community school, either voluntarily or involuntarily, during the year. Although current law requires that the report cards be distributed to the parents of students enrolled in the school, the bill further specifies that a copy of the report card must be mailed to each parent by February 1.

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*terminate the contract or, if the school appeals the sponsor's decision to the State Board, the date determined by the State Board. If a community school's contract is terminated, the school is prohibited from entering into a contract with another sponsor. (R.C. 3314.07(B), not in the bill.)*

### **Teacher salary schedule**

(R.C. 3314.12)

As required of school districts under continuing law, the bill requires each community school's fiscal officer to file a copy of the school's current teacher salary schedule with the Superintendent of Public Instruction. The schedule must be filed annually by October 15.

### **Participation in studies**

(R.C. 3314.21)

Under the bill, the governing authorities and employees of community schools must respond to information requests and otherwise participate in studies conducted by either the Department of Education or the Legislative Office of Education Oversight (LOEO).<sup>15</sup> The Superintendent of Public Instruction may fine a school \$1,000 for each day of noncompliance, which must be deducted from the school's state aid. LOEO's director may notify the Superintendent when a school is not cooperating with a request for information.

### **Annual report on community schools**

(R.C. 3314.015(A)(3))

Continuing law requires the Department of Education to issue an annual report on Ohio's community schools, including their academic programs, operations, legal compliance, and financial condition. Currently, this report is distributed to the Governor, the Speaker of the House, the President of the Senate, and the chairpersons of the House and Senate education committees. The bill adds the House and Senate minority leaders and the Legislative Office of Education Oversight (LOEO) to the list of recipients. It also requires the Department to attach a copy of each community school's most recent report card to the report.

### **Joint Study Committee on Ohio's Community Schools**

(Section 3)

The bill creates a legislative committee, called the Joint Study Committee on Ohio's Community Schools, to recommend legislation for improving community schools. Four of the committee's members must be members of the

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<sup>15</sup> Continuing law specifies that a community school's contract with its sponsor must require the school to provide LOEO with data it needs to complete studies or research requested by the General Assembly (R.C. 3314.03(A)(11)(g)).

Senate, appointed by the President of the Senate, and four must be members of the House, appointed by the Speaker of the House. Of the members from each chamber, two must be from the majority party and two must be from the minority party. A ninth member, appointed by the Senate President to serve as the chairperson of the committee, must be from the Senate's majority party. Committee members must be appointed within 90 days after the bill's effective date. Members receive no compensation.

Prior to recommending legislation, the committee must examine (1) the existing Community School Law, (2) publications about community schools, (3) community school operations and procedures, and (4) any other information on community schools deemed relevant by the committee. The committee's recommendations must be submitted no later than two years after committee members are initially appointed. Copies of the recommendations must be provided to the Speaker and Minority Leader of the House and the President and Minority Leader of the Senate. Upon issuance of its report, the committee ceases to exist.

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## COMMENT

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 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.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-17-05	p. 339

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