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Bill Analysis

Legislative Service Commission

H.B. 85

127th General Assembly
(As Introduced)

Rep. Webster

BILL SUMMARY

- Restructures the terms of office of the members of the Ohio Board of Regents.
- Makes the Board's appointment of the Chancellor subject to the approval of the Governor.
- Specifies that the Chancellor is a member of the Governor's cabinet.
- Expands the authority of the Board of Regents to regulate programs and to control undergraduate tuition at state institutions of higher education.
- Requires the Board of Regents to create a statewide community college system.
- Creates the Ohio Higher Education Purchasing Commission.

CONTENT AND OPERATION

Appointment of the Ohio Board of Regents

(R.C. 3333.01)

The Ohio Board of Regents consists of nine voting members appointed by the Governor with the advice and consent of the Senate. (In addition, the chairpersons of the House and Senate Education committees serve as ex officio, nonvoting members of the Board.) Each voting regent's full term of office is nine years. Currently, terms begin September 21 and are staggered so that three regents are appointed once every three years.¹ The terms of the current regents expire in

¹ A regent appointed to fill a vacancy holds office for the remainder of that term.

2008, 2011, and 2014. No person who has served a full nine-year term is eligible for reappointment.

The bill restructures the terms of the current voting members and establishes new appointment dates for successors. Beginning September 20, 2007, the terms of the nine members are staggered so that the Governor will appoint one new regent every year. Once fully implemented, each regent's full nine-year term will begin March 1 and expire on the last day of February nine years later.

The following table indicates the current expiration dates of the terms of the current regents, the new expiration date of that term under the bill, and the expiration date of that regent's successor.

**SUMMARY OF CURRENT AND NEW EXPIRATION DATES
FOR REGENTS' TERMS OF OFFICE**

Current Expiration Date	New Expiration Date	Expiration of Successor's Term
September 20, 2008	September 20, 2007 *	February 29, 2016
September 20, 2008	February 29, 2008 *	February 28, 2017
September 20, 2008	February 28, 2009	February 28, 2018
September 20, 2011	February 28, 2010 *	February 28, 2019
September 20, 2011	February 28, 2011 *	February 29, 2020
September 20, 2011	February 29, 2012	February 28, 2021
September 20, 2014	February 28, 2013 *	February 28, 2022
September 20, 2014	February 28, 2014 *	February 28, 2023
September 20, 2014	February 28, 2015	February 29, 2024

* The bill specifies that the Governor in office on that date determines which regent's term expires on that date.

Appointment of the Chancellor of the Board of Regents

(R.C. 3333.03)

The Board of Regents is required to appoint and prescribe the duties for a Chancellor who, as the administrative officer of the Board, serves at the Board's pleasure. The bill adds a requirement that the Board's appointment of the Chancellor is subject to approval by the Governor. Otherwise, the bill retains the current law regarding the relationship of the Board to the Chancellor and the

Chancellor's duties. Accordingly, under the bill, the Chancellor continues to serve at the pleasure of only the Board of Regents.

Current law, not changed by the bill, specifies that (1) the Chancellor is responsible for hiring and fixing the compensation of all professional, administrative, and clerical employees and staff necessary to assist the Board and the Chancellor in the performance of their duties, (2) the Chancellor must be a person qualified by training and experience to understand the problems and needs of the state in the field of higher education and to devise programs, plans, and methods of solving the problems and meeting the needs, and (3) neither the Chancellor nor any staff member or employee simultaneously may be a trustee, officer, or employee of any public or private college or university.

Chancellor as a Governor's cabinet member

(R.C. 3333.03(B))

The bill states that the Chancellor is a member of the Governor's cabinet. While not specifically called the "Governor's cabinet," the group of executive officers appointed by the Governor (with the advice and consent of the Senate) who serve at the pleasure of the Governor traditionally functions as the Governor's cabinet.² However, there does not appear to be any law preventing the Governor or the General Assembly from adding other officers to the cabinet.³

Powers and duties of the Board of Regents

Currently, the Board of Regents guides the development of higher education policy and coordinates policy implementation, but it does not exercise direct managerial control over institutions of higher education. Management of the institutions is left to their separate boards of trustees, which generally have the power to make all decisions necessary to carry out their respective educational missions. Among the Board of Regents' primary responsibilities are making policy recommendations, collecting data, providing fiscal oversight of public institutions of higher education, approving changes to institutional programs, and administering student financial aid programs. In distributing state funds to institutions of higher education, the Board establishes procedures for calculating the key components of the State Share of Instruction, based on a formula that is enacted by the General Assembly in each biennial budget act.

² See R.C. 121.03, not in the bill.

³ In fact, a separate statute specifies that the Lieutenant Governor is "a member of the Governor's cabinet" and presides at its meetings in absence of the Governor (R.C. 108.05, not in the bill).

The bill grants to the Board of Regents increased authority to direct higher education policy, to regulate programs, and to control instructional and general fees at state institutions of higher education.

Master plan for higher education

(R.C. 3333.04(A) and (B))

Under current law, the Board of Regents must make studies of state higher education policy and formulate a "master plan" for higher education "considering the needs of the people, the needs of the state, and the role of individual public and private institutions within the state in fulfilling these needs." The Board is further required to report to the Governor and the General Assembly annually on the findings of its studies and semiannually on enrollment numbers.

The bill adds that in formulating the master plan, the Board must "assess" state policy with the overall goal "to improve higher education for the state." It also specifies that the plan must be renewed and updated at least every two years and must include the following goals:

"(1) Seamless access to affordable, high-quality higher education for all Ohioans, including rigorous academic preparation in high school and ease of credit transfer regardless of where or when a student initially enrolls in an institution of higher education;

"(2) Student success and degree attainment relative to the needs of the state;

"(3) Identification and evaluation of emerging and existing academic programs of distinction and excellence;

"(4) Elimination of unnecessary duplication in programs, services, and facilities both statewide and regionally;

"(5) Achievement of Ohioans' scientific and technical competence to meet the workforce needs of the 21st-Century economy; [and]

"(6) Research and workforce development programs to create economic opportunities."

The bill requires the Board in its annual report to the Governor and the General Assembly to describe the implementation of the master plan, the progress made toward meeting the plan's goals ((1) through (6) above), and the impact of the plan on higher education funding. In its semiannual report on enrollment

numbers, under the bill, the Board must describe the impact of those numbers on state funding for each institution.

Regulation of degrees and programs

(R.C. 3333.04(E) to (G), 3333.07, 3333.10, 3333.99, and 3345.02)

Elimination of degrees and programs. Current law allows the Board of Regents only to "recommend" that state-assisted institutions of higher education eliminate programs if they constitute unnecessary duplication. The bill grants the Board the power to require that particular degrees and programs be eliminated and the power to enforce its decision. First, however, the Board must consult with the institutions and their boards of trustees on the matter. Once the Board has decided that a degree or program should be eliminated, it must provide a reasonable length of time for students already enrolled in the degree or program to complete it. But the institution may not enroll any new students in that degree or program. Accordingly, state operational support for the degree or program will be limited to the amount attributable to the students already enrolled, and continue only for the length of time set by the Board. All support, including support from other sources of money, must cease after that.

The Board of Regents may not order an institution to eliminate a program that the institution is required by another provision of the Revised Code to establish and maintain.

Additional programs. As in the case of the elimination of programs, under current law, the Board of Regents may recommend but cannot compel an institution to add a program. The bill grants the Board the power to "determine" that new programs be added by an institution. In making its determinations, the Board must "focus on increasing enrollments, degrees, and programs in the fields of science, technology, engineering, and mathematics."

Compliance by institutions. The bill specifically requires the governing board of each state institution of higher education to comply with a decision of the Board of Regents that a particular degree or program be eliminated or that a program be added. In the case of the elimination of a degree or program, the bill prohibits an institution from enrolling new students in that degree or program and prohibits the institution from using any other funds to support continuation of the degree or program.

Undergraduate instructional and general fees (tuition)

(R.C. 3333.45)

The bill requires the Board of Regents, by July 15 of each year, to establish a maximum *and minimum* amount for the combined in-state undergraduate instructional and general fees that may be charged by state institutions of higher education in the next academic year. The Board must establish a separate fee range for each type of state college (community colleges, state community colleges, technical colleges, and university branches) and a separate range for each of the 13 state universities⁴ and the Northeastern Ohio Universities College of Medicine. The bill, then, prohibits any state institution of higher education from charging fees that are outside of the applicable range established by the Board.

In establishing the fee ranges, the Board must consider the total amount of state operational support (on an FTE basis) an institution is estimated to receive and any other financial factors affecting the institution. With the Board's approval, an institution may set different fees for different programs, as long as each amount is within the Board's established range.

Statewide community college system

(R.C. 3333.04(C), (D), and (P), 3333.05, and 3345.02)

The bill authorizes the Board of Regents to create a "standardized statewide community college system to provide Ohioans with low-cost access to the first two years of college" anywhere throughout the state. In creating the system, the Board must make use of the facilities of existing technical colleges and university branches and of the services, including distance learning, provided by existing state-assisted institutions of higher education. Related to this new system, the Board is granted the power to approve or disapprove the "dissolution or consolidation" of branches or academic centers of state colleges and universities. (Under current law, the Board may approve or disapprove only the "establishment" of branches or academic centers of state colleges and universities.)

⁴ The 13 state universities are University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

Authority to withhold state funds

(R.C. 3345.02(C))

The bill grants the Board of Regents specific authority to withhold state operational support from any institution that fails to comply with the Board's decision to eliminate a degree or program, its determination to add a program, or its directive relating to the statewide community college system. The Board also may withhold operating funds if an institution fails to comply with a directive of the Ohio Higher Education Purchasing Commission (see below).

Miscellaneous new duties

(R.C. 3333.04(W), (X), and (Y))

The bill specifically authorizes the Board of Regents to expand programs dedicated to increasing access to postsecondary education. In doing so, the Board must work with the Student Access and Success Coordinating Council of Ohio to increase communication and collaboration in the effort to improve college access.⁵

The Board is given general authority to "administer contracts to execute the duties of the Board and the Chancellor."

Finally, the Board is specifically required to consult with representatives of institutions of higher education, business, and government and with community leaders as necessary to develop plans for carrying out the Board's duties.

Ohio Higher Education Purchasing Commission

(R.C. 3333.46 and 3345.02)

In general

The bill creates the Ohio Higher Education Purchasing Commission to identify areas in which joint purchasing on a statewide or regional basis may result in cost savings for state institutions of higher education. The Commission may consider the feasibility of joint purchasing of supplies, health insurance, and any services *other than instructional services*.

⁵ According to its web site, the "Student Access and Success Coordinating Council of Ohio (SASCCO) is a partnership among organizations dedicated to the idea of increasing the number of Ohioans who aspire to and successfully complete a postsecondary education" (see <http://regents.ohio.gov/OhioAccess/>).

Membership

The Commission consists of the following members:

- (1) Representatives of state institutions of higher education, appointed by the Board of Regents;
- (2) Employees of the Board of Regents, appointed by the Board; and
- (3) Representatives of the Department of Administrative Services, appointed by the Director of Administrative Services.

Operation

If the Commission determines that supplies or services should be jointly purchased, the Commission may direct the Department of Administrative Services or a particular institution to enter into a joint purchasing contract for the supplies or services. The Commission must provide advice in the negotiation of the contract and must designate which institutions are to be covered by the contract. Each institution may seek a waiver from the contract by appealing to the Commission. The Commission may grant a waiver only if it determines that the institution has provided sufficient evidence that the institution is able to procure similar supplies or services on its own at a lower cost.

The Commission also is required to provide model contracts for institutions to use when negotiating joint purchasing contracts. The bill specifically permits the Commission to use contracts negotiated by the Department of Administrative Services, the Inter-University Council Purchasing Group of Ohio, or the Midwestern Higher Education Commission. Presumably, the Commission may use other contracts as well.

HISTORY

ACTION	DATE
Introduced	02-28-07

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