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*Bill Analysis*  
*Legislative Service Commission*

## **S.B. 141**

127th General Assembly  
(As Introduced)

**Sens. Padgett, Schuring, Gardner**

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### **BILL SUMMARY**

- Clarifies that the Department of Education's authority to oversee and monitor community school sponsors applies to all sponsors, regardless of whether they must initially be approved by the Department for sponsorship.
- Permits the Department of Education to place a sponsor in probationary status or to suspend or restrict the sponsor's authority to sponsor community schools for failure to intervene to correct problems at a school.
- Requires that for an entity that sponsors or operates out-of-state schools to be approved to sponsor community schools in Ohio, at least one of those out-of-state schools must perform as well as Ohio schools in continuous improvement (rather than academic watch, as under current law).
- Requires the sponsor of each community school to provide annual assurances to the Department of Education regarding the school's compliance with certain laws and the preparedness of the school's staff and facilities for the upcoming school year.
- Requires the Department of Education's annual report on community schools to include the performance of community school sponsors.

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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. 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 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;
- (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>

The Department of Education may take over sponsorship of community schools, but only in specified exigent circumstances.

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<sup>1</sup> R.C. 3314.02(A)(3), not in the bill. The "Big-Eight" districts are Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown.

<sup>2</sup> R.C. 3314.015(B)(1) and 3314.02(C)(1)(a) through (f), latter section not in the bill.

### **Oversight of sponsors**

(R.C. 3314.015, 3314.021, and 3314.027)

Under current law, the Department of Education is responsible for overseeing community school sponsors. Its responsibilities in this regard include approving entities to sponsor start-up community schools and monitoring the effectiveness of those sponsors in their oversight of the schools they sponsor.<sup>3</sup> Furthermore, the Department may revoke its approval of a sponsor if the State Board of Education finds that the sponsor is not in compliance with or is no longer willing to comply with its contract with a community school or the Department's rules for sponsorship. If a sponsor's approval is revoked, it can no longer sponsor community schools and its existing schools must secure new sponsors.

However, there are certain sponsors that are not subject to initial Department approval. Specifically, entities that were already sponsoring community schools as of April 8, 2003, when the approval requirement became law, are exempt from ever having to be approved by the Department.<sup>4</sup> Current law also grants an exemption from Department approval to the successor of the University of Toledo board of trustees or its designee as a sponsor of community schools.<sup>5</sup> These grandfathered sponsors may continue to sponsor existing and new community schools in conformance with all other provisions of the Community School Law and their contracts with the schools.

### **Oversight of grandfathered sponsors**

(R.C. 3314.015(A) and (C), 3314.021(D), and 3314.027)

Although current law charges the Department of Education with overseeing community school sponsors, it is not explicit whether that oversight authority

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<sup>3</sup> As required by continuing law, the Department has adopted rules containing criteria and procedures for approving sponsors, for oversight of sponsors, and for revocation of a sponsor's approval (Ohio Administrative Code Chapter 3301-102).

<sup>4</sup> The requirement for sponsors to be approved by the Department was enacted in Sub. H.B. 364 of the 124th General Assembly. Section 6 of that act, which exempted the grandfathered sponsors from approval, is codified as R.C. 3314.027 by this bill.

<sup>5</sup> The successor must be a federally tax-exempt entity that has assets of at least \$500,000 and that is an education-oriented entity, as determined by the Department. Unlike other federally tax-exempt sponsors, however, it is not required to have been in existence for at least five years prior to becoming a sponsor. (R.C. 3314.02(C)(1)(f), not in the bill, and 3314.021.)

extends to grandfathered sponsors. The bill explicitly states that *any and all* sponsors are under the oversight of the Department, regardless of whether they must initially be approved for sponsorship. It also permits the Department to revoke a sponsor's "authority" to sponsor schools, rather than its approval for sponsorship, which broadens the applicability of the sanction to cover all sponsors. As under current law, the revocation must follow a finding by the State Board of Education that the sponsor is not complying with, or is unwilling to comply with, its contract with a community school or the Department's sponsorship rules.

**Additional sanctions**

(R.C. 3314.015(D) and (E), 3314.021(D), and 3314.027)

The bill also establishes new sanctions that the Department may impose prior to revoking a sponsor's authority to sponsor. These sanctions explicitly apply to both grandfathered sponsors and sponsors subject to Department approval. Under the new sanctions, the Department may declare a sponsor to be in probationary status if the sponsor fails to take any of the following actions that the Department determines are warranted:

(1) Take steps to intervene in a community school's operation to correct problems in the school's performance;

(2) Declare the school to be in probationary status for (a) failure to meet student performance requirements stated in the contract with the school, (b) failure to meet generally accepted standards of fiscal management, (c) violation of the contract or state or federal law, or (d) other good cause;

(3) Suspend the school's operation for any of the reasons in (2) or for violation of health or safety standards for school buildings;

(4) Terminate the school's contract.<sup>6</sup>

When the Department declares a sponsor to be in probationary status, it must send the sponsor written notice of that fact, including the reasons for the probation and the probation's length. Within ten business days after the notice, the sponsor must submit reasonable remedies to the Department. If the Department finds the remedies satisfactory, the sponsor must implement them with monitoring by the Department.

However, if the Department finds that the proposed remedies are not satisfactory or finds that the sponsor is not implementing previously approved

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<sup>6</sup> See R.C. 3314.07, 3314.072, and 3314.073 (none in the bill).

remedies, the Department may suspend the sponsor's authority to sponsor community schools. The suspension may be total or the Department may partially restrict the sponsorship authority by (1) limiting the geographic area in which the sponsor may sponsor schools, (2) reducing the number of schools the sponsor may sponsor, or (3) limiting the types of schools the sponsor may sponsor. The Department also may require the sponsor to submit additional reports beyond those otherwise mandated by law. The decision of the Department to suspend or restrict a sponsor's authority to sponsor schools, or to revoke the sponsor's sponsorship authority altogether, may be appealed under the Administrative Procedure Act.<sup>7</sup>

If the Department suspends or restricts a sponsor's authority to sponsor schools, it must assign another sponsor to each community school the sponsor can no longer sponsor. The new sponsor must be approved by the Department for sponsorship and must agree to sponsor the school. The term of the new sponsor's sponsorship lasts until the *earliest* of the following: (1) the Department rescinds the original sponsor's suspension or restriction, (2) the school secures another permanent sponsor, or (3) the school's contract with its original sponsor expires.

#### **Approval of out-of-state sponsors**

(R.C. 3314.015(B)(1))

Under current law, the Department of Education may approve an entity that sponsors or operates schools in another state to sponsor community schools in Ohio only if one or more of the entity's out-of-state schools performs as well as or better than Ohio schools in academic watch. The bill requires instead that at least one of the out-of-state schools perform comparably to or better than Ohio schools in *continuous improvement*.<sup>8</sup>

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<sup>7</sup> See R.C. Chapter 119., especially R.C. 119.12 (not in the bill).

<sup>8</sup> Generally, a school in academic watch does not make the federal standard of adequate yearly progress (AYP) and either meets 31%-49% of the performance indicators established by the State Board of Education or has a performance index score of 70-79. A school in continuous improvement either (1) makes AYP, meets less than 75% of the State Board's performance indicators, and has a performance index score of 0 to 89 or (2) does not make AYP and either meets 50%-74% of the performance indicators or has a performance index score of 80 to 89. (R.C. 3302.03(B), not in the bill.)

### Sponsor assurances

(R.C. 3314.19)

The bill requires the sponsor of each community school to provide annual assurances to the Department of Education regarding the school's compliance with certain laws and the preparedness of the school's staff and facilities for the upcoming school year. These assurances must be submitted no later than ten business days before the school's opening day. Specifically, the sponsor must assure that:

(1) A current copy of the contract between the sponsor and the school's governing authority has been filed with the Department's Office of Community Schools and that any future modifications to the contract will also be filed;

(2) The school has submitted to the sponsor a plan for providing special education to disabled students and demonstrates the capacity to provide those services in accordance with state and federal law;

(3) The school has a plan for administering the state achievement tests and diagnostic assessments;

(4) School personnel have the training, knowledge, and resources to properly use and submit education data to all Department databases;

(5) All required information about the school has been submitted to the Ohio Educational Directory System;<sup>9</sup>

(6) The school will enroll at least the statutory minimum of 25 students in the coming school year;<sup>10</sup>

(7) All classroom teachers are properly licensed by the State Board of Education;

(8) The school's fiscal officer holds a valid school district treasurer or business manager license or has completed the requisite number of hours of continuing education in school accounting;<sup>11</sup>

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<sup>9</sup> The Ohio Educational Directory System is a Department database that contains contact information for school districts, public and nonpublic schools, and educational service centers.

<sup>10</sup> See R.C. 3314.03(A)(11)(a), not in the bill.

<sup>11</sup> See R.C. 3314.011, not in the bill.

(9) The school has conducted criminal records checks on all employees responsible for the care, custody, or control of a child and on all governing authority members. Current law does not require community schools to conduct criminal records checks of governing authority members; therefore, this provision appears to be a new requirement.

(10) The school holds (a) proof of property ownership or a lease for its facilities, (b) a certificate of occupancy, (c) liability insurance that the sponsor considers sufficient to indemnify the school's facilities, staff, and governing authority against risk, (d) a satisfactory health and safety inspection, (e) a satisfactory fire inspection, and (f) a valid food permit, if applicable;

(11) The sponsor has conducted a pre-opening site visit to the school;

(12) The school has designated an opening date for the school year that, unless the school solely serves dropouts, is no later than September 30; and

(13) The school has met all other requirements of the sponsor.

**Annual report on community schools**

(R.C. 3314.015(A)(4))

Continuing law requires the Department of Education to issue an annual report on community schools regarding their financial condition and the effectiveness of their academic programs, operations, and legal compliance. The bill further requires the report to address the performance of community school sponsors.

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**HISTORY**

ACTION	DATE
Introduced	04-10-07

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