Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

H.B. 529

129th General Assembly
(As Introduced)

Reps. C. Hagan, Combs, Grossman, Duffey, Lynch, Ruhl, Hackett, McClain, Blair, Schuring, Henne

BILL SUMMARY

- Establishes procedures for removing fiscal officers of townships and municipal corporations, and county treasurers and county auditors, from office for misfeasance, malfeasance, or nonfeasance or for failure to make a settlement or pay over money as prescribed by law.

- Declares that if a municipal corporation's charter establishes a procedure for removal of officers that conflicts with the bill's removal procedure, the procedure in the charter prevails.

- Prohibits any individual removed from office under the bill's procedures from holding another public office for at least four years, and specifies that such an individual is not entitled to hold another public office until settlement is made or money is paid over that was the cause of the removal.

- Establishes education programs, taken before assuming office, and continuing education requirements, taken after assuming office, for township fiscal officers, auditors of municipal corporations, treasurers of municipal corporations, village fiscal officers, village clerk-treasurers, and the appointed heads of municipal corporation finance departments.

- Requires the Auditor of State, rather than the County Auditors Association of Ohio, to issue a certificate of completion or a notice of failure to complete to county auditors regarding their continuing education courses.

- Authorizes counties, municipal corporations, and townships to purchase professional indemnity insurance to cover claims not otherwise covered under general liability insurance policies that relate to the performance of their fiscal

officers' duties, but no insurance may be purchased if a fiscal officer does not complete education programs and continuing education courses.

- Creates fiscal accountability requirements for public offices of counties, municipal corporations, and townships and public schools that have been declared unauditable by the Auditor of State, including requiring them to submit an audit completion plan.

- Requires the fiscal officer or treasurer of a public school to be suspended until the Auditor of State or a public accountant has completed an audit of the public school.

- Requires the Office of Budget and Management and other state agencies to cease all state funding, other than benefit assistance to individuals, for a public office declared unauditable, that fails to make progress to bring its accounts into an auditable condition, until receiving notice that a financial audit was completed.

- Requires the Department of Education to cease making payments to a public school declared unauditable, if the school fails to make progress to bring its accounts into auditable condition, until receiving notice that a financial audit was completed.

- Requires that before assuming the duties of fiscal officer for a community school, the fiscal officer must be licensed by the State Board of Education as a treasurer or must obtain such licensure not later than one year after the bill's effective date.

- Requires the sponsor of a community school to provide to the governing authority and fiscal officer of the school a written report regarding the review of the financial and enrollment records of the school not later than ten days after the review.

- Prohibits a community school, on or after the bill's effective date, from opening for operation in any school year unless the governing authority of the school has posted a surety bond in the amount of $50,000 with the Auditor of State.

- Requires that each college-preparatory boarding school have a designated fiscal officer who may be required by rule of the Auditor of State to execute a bond before entering upon duties as a fiscal officer.

- Increases the level of offense for dereliction of duty, from a second degree misdemeanor to a fifth degree felony.

- Bars a public servant who is a fiscal officer, including a school fiscal officer, and who is convicted of or pleads guilty to dereliction of duty from holding any public office, employment, or position of trust in Ohio for four years, and specifies that such a

public servant is not entitled to hold another public office until repayment or restitution required by the court is satisfied.

- Requires that whenever a county auditor or county treasurer fails to perform the duties of office for 30 consecutive days, except in the case of sickness or injury confirmed by the filing of a physician's certificate, the office must be deemed vacant.

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CONTENT AND OPERATION

Removing fiscal officers from office

Removal procedures in continuing law generally permit the removal of persons holding office in a political subdivision of the state for misconduct in office,[1] or of officers of a municipal corporation for certain violations of law, including misfeasance or malfeasance in office.[2] The bill establishes removal procedures that apply specifically

[1] R.C. 3.07 to 3.10, not in the bill.

[2] R.C. 733.72 to 733.77, not in the bill.

to county auditors, county treasurers, township fiscal officers, village fiscal officers, village clerk-treasurers, auditors of municipal corporations, and treasurers of municipal corporations.[3] But if a municipal corporation's charter establishes a procedure for the removal of officers from office that conflicts with the removal procedures established by the bill, the procedure for the removal of officers in the charter prevails.[4]

The bill eliminates an existing statute for removal of county auditors from office for dereliction of duty;[5] instead, the procedures discussed below apply to the removal of a county auditor from office. The statute being eliminated by the bill, which requires immediate suspension of the county auditor before a complaint is filed or a hearing is held, is similar to a statute for the removal of a county treasurer that was ruled unconstitutional by the Ohio Supreme Court because it was incompatible with Ohio Constitution, Art. II, § 38.[6] That constitutional provision requires that the due process protections of a complaint and hearing be afforded to an officer before removing the officer from office.

The bill also amends existing statutes for removal of county treasurers and affords county treasurers a hearing before removal from office, as discussed below.[7]

Reasons for removal

Under the bill, if a county auditor, county treasurer, township fiscal officer, village fiscal officer, village clerk-treasurer, auditor of a municipal corporation, or treasurer of a municipal corporation, through misfeasance, malfeasance, or nonfeasance, fails to make a settlement or to pay over money as prescribed by law, the following authorities are required to cause suit to be instituted against the officer and the officer's surety or sureties for the amount due, with a 10% penalty on that amount:

(1) In the case of a county auditor, the county treasurer or board of county commissioners;

(2) In the case of the county treasurer, the board of county commissioners or the county auditor;

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[3] R.C. 319.26 for removal of county auditors, R.C. 321.37 and 321.38 for removal of county treasurers, R.C. 507.15 for removal of township fiscal officers, and R.C. 733.78 for removal of village fiscal officers, village clerk-treasurers, auditors of municipal corporations, and treasurers of municipal corporations.

[4] R.C. 733.78(H).

[5] R.C. 319.26(A) and repeal of R.C. 319.25.

[6] *Ziegler v. Zumbar*, 129 Ohio St.3d 240, 951 N.E.2d 405 (2011).

[7] R.C. 321.37 and 321.38(A).

(3) In the case of township fiscal officers, the board of township trustees; and

(4) In the case of village fiscal officers, village clerk-treasurers, auditors of municipal corporations, or treasurers of municipal corporations, the legislative authority of the municipal corporation.

For purposes of this analysis, these various fiscal officers against whom complaints for removal are filed will be referred to collectively as the "offending officer."

Filing the complaint for removal and removal proceedings

A suit must be instituted by the filing of a complaint for the removal of the offending officer with the court of common pleas of the county in which the offending officer against whom the complaint is filed resides. The suit has precedence over all civil business. The judge or clerk of the court of common pleas must cause to be served upon the offending officer the complaint and a notice of hearing, at least ten days before the hearing upon the complaint. The hearing must be held not later than 30 days after the date of the filing of the complaint. The judge may suspend the offending officer pending the hearing.

The offending officer is entitled, with or without counsel, to appear and introduce evidence at the hearing. The offending officer is not entitled to representation by the prosecuting attorney and is personally and solely responsible for payment of attorney's fees and expenses incurred, notwithstanding any other provision of the Revised Code. But if a judge or jury rules against removal from office and the complaint is dismissed, the court must award reasonable attorney's fees to the offending officer.

Removal proceedings must be tried by the judge, unless a jury trial is demanded in writing by the offending officer against whom the complaint was filed. If a jury trial is so demanded, the jury must be composed of 12 individuals who satisfy the qualifications of a juror specified in existing law for courts of common pleas. If nine or more jurors find one or more of the charges in the complaint are true, the jury must return a finding for the removal of the offending officer. If less than nine jurors find that the charges in the complaint are true, the jury must return a finding that the complaint be dismissed. Any finding of the jury must be filed with the clerk of the court and be made a matter of public record. Removal proceedings tried by a judge also are a matter of public record, and a full detailed statement of the reason for removal must be filed with the clerk of the court and be made a matter of public record.

Appeals

The decision of the court of common pleas for the removal of an offending officer may be reviewed on appeal by the court of appeals on questions of law. The transcript of the record and the notice of appeal must be filed in the court of appeals not more than 30 days after the decision is rendered and the journal entry is made by the court of common pleas. The notice of appeal may be filed only after leave has been granted by the court of appeals for good cause shown at a hearing of which the attorneys for both the offending officer and the party that filed the complaint has been notified. The decision of the court of appeals in refusing to allow a notice of appeal to be filed, or in passing upon the merits of the case in the appellate proceedings, is final.

The court of appeals has jurisdiction to hear the case at any place in the judicial district in which the court of appeals may be sitting. The court of appeals must hear the case not more than 30 court days after the filing of the notice of appeal. If the court of appeals hears the case in any county within its judicial district other than the county in which the offending officer against whom the complaint was filed resides, the court of appeals must transmit its findings, with the reasons for its findings, to the clerk of the court of common pleas of the county in which the offending officer resides, with instructions to the clerk to make the findings of the court a matter of record upon the journal of the court in that county.

In all cases before the court of appeals involving the removal under the bill of an offending officer, the offending officer has the right of review or appeal to the Ohio Supreme Court on leave first obtained, and the Court must hear the case not more than 30 court days after leave has been granted. In all other respects, the hearing must follow the regular procedure in appealable cases that originate in the court of appeals.

Subpoenas, fees, and expenses

In removal proceedings instituted under the bill, the court of common pleas and the court of appeals may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process is to be served by the sheriff of the county in which a witness resides. Witness fees and other fees in connection with the removal proceedings must be the same as in civil cases, and the expenses incurred in removal proceedings must be paid out of the general revenue fund of the county, township, or municipal corporation, as appropriate.

Filling vacancies after final decision for removal

Immediately following a final decision that the offending officer who is a county auditor, county treasurer, or township fiscal officer must be removed from office, the

vacancy must be filled as provided in continuing law.[8] Immediately following a final decision that a village fiscal officer, village clerk-treasurer, auditor of a municipal corporation, or treasurer of a municipal corporation must be removed from office, the legislative authority of the municipal corporation, upon a majority vote, may appoint a successor, who must give bond and take the oath of office prescribed for the officer and, so long as otherwise qualified under law, must serve the remainder of the removed fiscal officer's unexpired term.[9]

Ban on holding public office

Any individual removed from office under the bill's procedures is not entitled to hold another public office for at least four years following the date of the final decision, and is not entitled to hold another public office until settlement is made or the money is paid over that was the cause of the suit for removal from office being instituted.

Education programs and continuing education for fiscal officers

For county auditors

Currently, a county auditor must attend and successfully complete at least 24 hours of continuing education courses, 16 hours of which must be completed during the first year of the auditor's term of office, and eight hours of which must be completed by the end of the four-year term. At least two hours of ethics and substance-abuse training must be included in the total 24 hours of required courses. A course must be approved by the County Auditors Association of Ohio (CAAO), which also records and verifies completion of required course work for each county auditor and sends the number of hours completed to the Auditor of State and the Tax Commissioner.

The bill does not change this continuing education requirement, except that the bill requires the Auditor of State, rather than the CAAO, to issue a certificate of completion to each county auditor who completes the continuing education courses, and to issue a notice of failure to complete to any county auditor who fails to complete at least 16 hours of those courses during the first year of the term of office or to complete a total of at least 24 hours of those courses by the end of that term. Continuing law provides that this notice is for informational purposes only, and does not affect any individual's ability to hold the office of county auditor.[10]

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[8] R.C. 305.02 for county auditor and county treasurers, and R.C. 503.24 for township fiscal officers, neither of which are in the bill.

[9] R.C. 733.78(F).

[10] R.C. 319.04.

For county treasurers

Continuing law requires that newly elected county treasurers complete 13 hours of education programs *before* taking office, and, after completing one year in office, take not less than 24 hours of continuing education during each biennial cycle. The bill does not revise any of these requirements; they are presented here solely for purposes of comparison to the other education programs and continuing education requirements in the bill.[11]

For fiscal officers of townships and municipal corporations

The bill requires that township fiscal officers, auditors of municipal corporations, treasurers of municipal corporations, village fiscal officers, village clerk-treasurers, and, in the case of a municipal corporation that does not have an elected fiscal officer, the appointed head of the municipal corporation finance department, to successfully complete education programs and continuing education courses.[12] To enhance the background and working knowledge of these township or municipal fiscal officers in governmental finance, the bill requires that the Auditor of State conduct education programs for individuals elected for the first time to the office of township fiscal officer, or elected or appointed for the first time to one of the municipal fiscal offices, and conduct biennial continuing education courses for individuals who continue to hold that office. The bill permits the Ohio Township Association (OTA) and the Ohio Municipal League (OML), respectively, to conduct the education programs and biennial continuing education courses. Similar initial training also may be provided to any township fiscal officer who is appointed to fill a vacancy, or to any municipal fiscal officer who is appointed to fill a vacancy or who is elected at a special election. In conjunction with the OTA or OML, as appropriate, the Auditor of State must determine the manner and content of the education programs and continuing education courses in governmental finance.

Newly elected township or municipal fiscal officers must take at least 13 hours of education programs *before* taking office. A township or municipal fiscal officer who participates in a permissive training or educational program for new township fiscal officers, city auditors, or village clerks held by the Auditor of State under continuing law[13] may apply those hours taken *before* taking office to the 13 hours of education programs.

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[11] R.C. 321.46, and 321.47, not in the bill.

[12] R.C. 507.12 and 733.81.

[13] R.C. 117.44, not in the bill.

The bill requires each township or municipal fiscal officer who is newly elected or newly appointed to a full term of office to attend and successfully complete at least 16 hours of continuing education courses during the first year of the officer's term of office, and to complete at least another eight hours of continuing education courses by the end of that term. A township or municipal fiscal officer must include at least two hours of ethics and substance abuse training in the total 24 hours of required courses. Each township or municipal fiscal officer who is elected or appointed to a subsequent term of office must attend and successfully complete 24 hours of continuing education courses in each subsequent term of office. To be counted toward the required 24 hours, a course must be approved or conducted by the OTA or OML, as appropriate, or be conducted by the Auditor of State. A township or municipal fiscal officer who teaches an approved course is entitled to credit for the course in the same manner as if the officer had attended the course.

A certified public accountant who serves as a township or municipal fiscal officer may apply, to the required 24 hours of continuing education, any hours of continuing education taken to fulfill the Accountancy Board's existing continuing education requirements,[14] if completed *after* being elected as a township fiscal officer or elected or appointed as a municipal fiscal officer. Similarly, a township or municipal fiscal officer may apply, to the required 24 hours of continuing education, any hours of continuing education provided by the Treasurer of State under an existing continuing education program[15] if the hours are completed *after* being elected or appointed as a township or municipal fiscal officer.

The Auditor of State, during the regular financial audit of a township or municipal corporation, must verify the completion of education programs (taken before assuming office) and of continuing education courses (taken after assuming office) for the township fiscal officer or for each of the municipal corporation's fiscal officers. The Auditor of State must issue a certificate of completion to each township or municipal fiscal officer who completes the education programs and continuing education courses. The Auditor of State must issue a "failure to complete" notice to any township or municipal fiscal officer who is required to complete education programs and continuing education courses, but who fails to do so. The notice is for informational purposes only and does not affect any individual's ability to hold the office of township or municipal fiscal officer.

For a township fiscal officer, each board of township trustees, and for a municipal fiscal officer, the legislative authority of the municipal corporation, must

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[14] R.C. 4701.11, not in the bill.

[15] R.C. 135.22, not in the bill.

approve a reasonable amount requested by the fiscal officer to cover the costs the officer is required to incur to meet the bill's requirements, including registration fees, lodging and meal expenses, and travel expenses.

Indemnity insurance for performance of fiscal officer's duties

The bill authorizes the legislative authority of a county, municipal corporation, or township to purchase a policy or policies of professional indemnity insurance to protect the county, municipal corporation, or township against claims not otherwise covered under general liability insurance policies that are related to the performance of the fiscal officer's duties. The bill defines "fiscal officer" as a county auditor, county treasurer, township fiscal officer, village fiscal officer, village clerk-treasurer, auditor of a municipal corporation, or treasurer of a municipal corporation.[16]

If a fiscal officer does not complete the continuing education courses required under continuing law, or the education programs and continuing education courses required by the bill, the board of county commissioners (for county auditors and treasurers), the board of township trustees (for township fiscal officers), and the legislative authority of a municipal corporation (for village fiscal officers, village clerk-treasurers, auditors of municipal corporations, and treasurers of municipal corporations) may not purchase a policy or policies of professional indemnity insurance.[17]

Unauditable counties, municipal corporations, townships, and public schools

Declaration

Continuing law authorizes the Auditor of State or a public accountant auditing a public office to declare the public office unauditable if its accounts, records, files, or reports have been improperly maintained.[18] If a public office of a county, municipal corporation, or township; a school district; a community school; a science, technology, engineering, and mathematics (STEM) school; or a college-preparatory board school (CPB school) has been declared unauditable under that continuing law, the bill requires that the Auditor of State post notice of the unauditability on the Auditor's web site and provide written notice of the unauditability to the following:

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[16] R.C. 9.831.

[17] R.C. 319.04, 321.46(E), 507.12(D), and 733.81(E).

[18] R.C. 117.41, not in the bill.

(1) For a public office, to the legislative authority of the county, municipal corporation, or township.

(2) For a school district, to the district and Department of Education.

(3) For a community school, to the community school, the school's sponsor, and the Department of Education.

(4) For a STEM school, to the school and the Department of Education.

(5) For a CPB school, to the school and the Department of Education.[19]

As defined in continuing law, the term "public office," as it applies to counties, municipal corporations, or townships, is an organized body, office, agency, institution, or entity of a county, municipal corporation, or township established by the laws of Ohio for the exercise of any function of government.[20]

Uncodified law already requires that the Auditor of State provide written notification of a declaration that a community school is unauditable. The bill makes that law permanent by placing it in the Revised Code and amends the declaration procedure as described below.[21]

For purposes of this analysis, school districts, community schools, STEM schools, and CPB schools will be referred to as "public schools" and the district board of a school district, the sponsor of a community school, the governing body of a STEM school, and the board of trustees of a CPB school will be referred to as the "governing body."

Suspension of public school treasurer or fiscal officer

If a school district's current treasurer, a community school's current fiscal officer, a STEM school's current treasurer, or a CPB school's current fiscal officer held that position during any year for which the respective school is unauditable, upon receipt of the notification, the district board of education of the school district, the governing authority of the community school, the governing body of the STEM school, or the board of trustees of the CPB school must suspend the treasurer or fiscal officer until the Auditor of State or a public accountant has completed an audit of the public school, except that if a community school has an operator and the operator employs the fiscal

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[19] R.C. 117.411, 3313.30, 3314.51, and 3328.37.

[20] R.C. 117.01, not in the bill.

[21] R.C. 3314.51; repeal of Section 267.50.70 of Am. Sub. H.B. 153 of the 129th General Assembly.

officer or if the fiscal officer is employed by the CPB school's operator, the operator must suspend the fiscal officer for that period.

Suspension of a treasurer or fiscal officer may be with or without pay, as determined by the entity imposing the suspension, based on the circumstances that prompted the Auditor of State's declaration of unauditability. The entity imposing the suspension must appoint a person to assume the duties of the treasurer or fiscal officer during the period of the suspension. If the appointee is not licensed as a school district treasurer by the State Board of Education under existing law,[22] the appointee must be approved by the Superintendent of Public Instruction before assuming the duties of the treasurer or fiscal officer. The State Board of Education may take action under its continuing authority[23] to suspend, revoke, or limit the license of a treasurer or fiscal officer who has been suspended in this manner.

No community school contracts

Notwithstanding any provision of law to the contrary, the sponsor of a community school declared unauditable is prohibited under continuing law from entering into contracts with any additional community schools. The bill applies this prohibition to a period of between 90 days after the date of the declaration and the date the Auditor of State or a public accountant has completed the financial audit, rather than a period of until the financial audit is completed.[24]

Written response

Not later than 45 days after receiving a notice that a public office of a county, municipal corporation, or township, or a public school, has been declared unauditable, the legislative authority of the county, municipal corporation, or township, or the governing body of the public school must provide a written response to the Auditor of State that includes all of the following:

♦ An overview of the process the legislative authority or the governing body will use to review and understand the circumstances that led to the public office of the county, municipal corporation, or township, or the public school, becoming unauditable.

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[22] R.C. 3301.074, not in the bill.

[23] R.C. 3319.31, not in the bill.

[24] R.C. 3315.51(C).

♦ A plan for providing to the Auditor of State documentation necessary to complete an audit of the public office or public school, and for ensuring that all financial documents are available in the future.

♦ The actions the legislative authority or governing body will take to ensure that the plan is implemented.

Withholding funding

If the public office or public school fails to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditable condition within 90 days after being declared unauditable, the Auditor of State, in addition to requesting that legal action be filed by the Attorney General under continuing law,[25] must notify the Office of Budget and Management (OBM) and any other state agency from which the public office receives state funding, or must notify, for a public school, the appropriate entities designated in (2) through (5) in "**Declaration**," above, of that failure.

If the Auditor of State or a public accountant subsequently is able to complete a financial audit of the public office, the Auditor of State must notify OBM and any other state agency from which the public office receives state funding that the audit has been completed, or must notify the public school governing bodies to which the Auditor of State sent a notice of failure.

Notwithstanding any provision of law to the contrary, upon notification by the Auditor of State that the public office of a county, municipal corporation, or township, or a public school, has failed to make reasonable efforts and continuing progress to bring its accounts, records, files, or reports into an auditable condition following a declaration that the public office or public school is unauditable, OBM and any other state agency that received the notice must immediately cease all state funding for that public office, other than benefit assistance to individuals, and must withhold the state funding until receiving subsequent notification from the Auditor of State that a public accountant or the Auditor of State was able to complete a financial audit of the public office. Likewise, upon receiving the notice, the Department must immediately cease all payments to the public school until receiving subsequent notification from the Auditor of State that a public accountant or the Auditor of State was able to complete a financial

[25] R.C. 117.42, not in the bill.

audit of the public school, at which time the Department must release all funds withheld from the public school.[26]

Community schools

Fiscal officer to be licensed as treasurer

The bill requires that before assuming the duties of fiscal officer for a community school, the fiscal officer must be licensed by the State Board of Education as a treasurer under existing law,[27] except that any person serving as fiscal officer of a community school on the bill's effective date who is not licensed as a treasurer under that existing law must obtain such licensure not later than one year after that effective date. No community school can allow a person to serve as fiscal officer who is not licensed by the State Board of Education as a treasurer.[28]

Written reports of record reviews

Continuing law requires that a representative of the sponsor of a community school meet with the governing body or fiscal officer of the school and review the financial and enrollment records of the school at least once a month. The bill requires the sponsor to provide the governing body and fiscal officer with a written report regarding the review not later than ten days after each review.[29]

Posting of surety bond

The bill prohibits a community school, on or after the bill's effective date, from opening for operation in any school year unless the governing body of the school has posted a surety bond in the amount of $50,000 with the Auditor of State. In lieu of a surety bond, a community school governing body may deposit with the Auditor of State $50,000 cash as a guarantee of payment. The bond or cash guarantee must be used, in the event the school closes, to pay the Auditor of State any moneys owed by the school for the costs of any types of audits conducted by the Auditor of State or a public accountant.

Immediately upon the filing of a surety bond or the deposit of cash, the Auditor of State must deliver the bond or cash to the Treasurer of State, who must hold it in

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[26] R.C. 117.411, 3313.30, 3314.51, 3326.211, and 3328.37; codification of Section 267.50.70 of Am. Sub. H.B. 153 of the 129th General Assembly.

[27] R.C. 3301.074, not in the bill.

[28] R.C. 3314.011.

[29] R.C. 3314.023.

trust. The Treasurer of State is responsible for the safekeeping of all surety bonds filed or cash deposited. The Auditor of State must notify the Department of Education when the school's governing body has filed the bond or deposited the cash guarantee.

When the Auditor of State finds that a community school has closed and cannot pay for the costs of audits, the Auditor of State must declare the surety bond or cash deposit forfeited. The Auditor of State must certify the amount of forfeiture to the Treasurer of State, who must pay money from the named surety or from the school's cash deposit as needed to reimburse the Auditor of State or public accountant for costs incurred in conducting audits of the school.[30]

Fiscal officer requirement for college-preparatory boarding schools

The bill requires that each college-preparatory boarding school have a designated fiscal officer. The Auditor of State may require by rule that the fiscal officer of any college-preparatory boarding school, before entering upon duties as fiscal officer, execute a bond in an amount and with surety to be approved by the school's board of trustees, payable to the state, conditioned for the faithful performance of all the official duties required of the fiscal officer. The bond must be deposited with the school's board of trustees, and a copy of the bond must be certified by the board and filed with the county auditor.

Before assuming the duties of fiscal officer, the fiscal officer of a college-preparatory boarding school must be licensed by the State Board of Education as a treasurer under continuing law. A college-preparatory boarding school cannot allow a person to serve as fiscal officer who is not so licensed.[31]

Disqualification from holding public office for dereliction of duty

Continuing law prohibits public servants, among other officials, from failing to perform specific duties listed in the law. Whoever violates the law is guilty of dereliction of duty. The bill increases the level of the offense for dereliction of duty, from a second degree misdemeanor to a fifth degree felony.[32]

The bill provides that a public servant who is a county treasurer, county auditor, township fiscal officer, auditor of a municipal corporation, treasurer of a municipal corporation, village fiscal officer, village clerk-treasurer, school district treasurer, fiscal

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[30] R.C. 3314.50.

[31] R.C. 3328.16.

[32] R.C. 2921.44(F).

officer of a community school established under the Community School Law,[33] treasurer of a science, technology, engineering, and mathematics school established under the STEM School Law,[34] or fiscal officer of a college-preparatory boarding school established under the College Preparatory Boarding School Law,[35] and who is convicted of or pleads guilty to dereliction of duty is disqualified from holding any public office, employment, or position of trust in Ohio for four years following the date of conviction or of entry of the plea, and is not entitled to hold another public office until any repayment or restitution required by the court is satisfied. The bill includes in the definition of "public servant" a fiscal officer employed by the operator of a community school or by the operator of a college-preparatory boarding school.[36]

Vacancy in county auditor or county treasurer's office

The bill requires that whenever any county auditor or county treasurer fails to perform the duties of office for 30 consecutive days, except in the case of sickness or injury, the office must be deemed vacant. Continuing law requires the county auditor and county treasurer to cause to be filed with the board of county commissioners a physician's certificate of the officer's sickness or injury. The bill requires that if the certificate is not filed with the board within ten days after the expiration of 30 consecutive days, the office must be deemed vacant.[37]

HISTORY

ACTION	DATE
Introduced	05-01-12

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[33] R.C. Chapter 3314.

[34] R.C. Chapter 3326.

[35] R.C. Chapter 3328.

[36] R.C. 2921.44(G) and (H).

[37] R.C. 305.03.