

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: Sub. H.B. 477 DATE: March 9, 1998

STATUS: In House Education SPONSOR: Rep. Gardner

LOCAL IMPACT STATEMENT REQUIRED: No Minimal cost

CONTENTS: Establishes a guarantee score for the fourth-grade proficiency test and rules for retention, renders optional the tenth-grade proficiency test for tenth-graders and the ninth-grade proficiency test for eighth-graders, places certain limitations on student transfers, augments local professional development committees, makes certain changes regarding chartered non-public schools, revises school discipline laws, extends use of administrator contracts to certain types of employees, permits superintendents to nominate administrators, exempts purchase of used school buses from competitive bidding, permits a school board to enforce tuition payments, and other changes

State Fiscal Highlights

STATE FUND	FY 1999	FY 2000	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	Decrease of \$600,000 to \$800,000 per year

- Beginning FY 2003, the state would save up to \$120,000 per year on the administration costs of the tenth-grade proficiency test because of a small reduction in the number of tenth-graders who would take the test after it was made optional for that grade.
- Beginning FY 2003, the state would save from \$500,000 to \$700,000 per year in proficiency test development costs because, instead of having to make available to the public the previous year's tests, the Department of Education would have to make available only the banks of questions used to develop those tests.



Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
School districts			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	Minimal increase/ decrease

- The direct increased/decreased expenditures arising from the changes in the proficiency test requirements and from the other provisions of the bill are estimated to be minimal for the school districts.

Detailed Fiscal Analysis

The bill would make several revisions to existing statutes. These changes and their fiscal effects are as follows:

(1) Fourth-grade reading proficiency test guarantee: For the reading part of the fourth-grade proficiency test, the bill would have the state board of education designate a new threshold score, called the "guarantee" score. This score would be in addition to the current threshold score (the score needed to pass the test), which the bill would now call the "proficiency" score. Currently a proficiency score is designated for each of the five skills (including reading); these scores indicate fourth-grade levels of proficiency.

The bill does not indicate whether the reading guarantee score would be set higher or lower than the reading proficiency score. The guarantee score's level would be at the discretion of the state board. However, the bill would allow a school district to establish a guarantee score higher than that set by the board.

Current law concerning fourth-grade reading requirements was most recently changed by Am. Sub. S.B. 55, effective July 1, 1998. That act's relevant provisions on reading will apply to students entering fourth grade after July 1, 2001. However, H.B. 477 would affect certain of those provisions by substituting the reading guarantee score for the reading proficiency score as a criterion for certain actions, as follows:

- (a) Am. Sub. S.B. 55 requires that the fourth-grade reading test be given twice during that school year to those students who have not attained the proficiency score. The bill would substitute the guarantee score for the proficiency score in this requirement.
- (b) Am. Sub. S.B. 55 provides that, for students not achieving the proficiency score by the end of fourth grade, the school district will offer "intense remediation services" during the summer and will administer the reading test again that summer. The bill would substitute the guarantee score for the proficiency score in this requirement.
- (c) Am. Sub. S.B. 55 prohibits a district from promoting a student to the fifth grade unless he has attained the proficiency score on the reading test. The bill would substitute the guarantee score for the proficiency score in this requirement.

[Several other current-law provisions are relevant to the above provisions of the bill: (a) Beginning July 1, 1998, to assist students toward meeting the fourth-grade guarantee requirement, districts will assess the reading skills of first-, second- and third-grade students and provide reading intervention services to those reading below grade level. (b) The fourth-grade proficiency test, in all five parts (including reading), is currently administered to all fourth-grade students. For those who do not achieve the proficiency score on any part, current law provides for intervention during the succeeding school year. (c) Beginning in the summer of 1999, those students who do not attain the required proficiency scores on three or more of the five parts will be provided summer-school remediation.]

Fiscal effects: The bill's effect on the **state** would consist of changes in the cost of administering the proficiency testing program because of (1) any necessary changes in the program itself and (2) the switch from the proficiency score to the guarantee score as the "cut-score" for remediation and/or retention. However, it is estimated that the bill's effect in these areas would be minimal.

The administration costs are the costs incurred by the state in developing, publishing, mailing and scoring the tests and reporting the results. According to the bill, the program of testing would remain essentially the same as required by current law. Therefore, no additional costs or savings would arise from the program itself.

If the switch to the guarantee score were to cause a change in the number of fourth-graders requiring remediation, then the state might incur greater or lesser costs for the administration of the reading test during the summer remediation period. However, since a large part of the cost of administration is fixed (e.g., test development and publication), and since only a small number of students statewide would take the remediation programs, a change in the number of summer students taking the test would not be expected to significantly change the total cost to the state. However, for individual districts, the change could be more significant.

Information provided by the Department of Education as to the state's administration costs for the reading proficiency test program, the test's passing rates, and other factors includes the following:

- The number of fourth-graders (estimated by the Department of Education at the FY 1997 level of 135,000);
- The development costs of each reading test (estimated to be \$300,000 per year).
- The total cost to administer the reading test (estimated for 135,000 students during the fall of FY 2001 to be from \$650,000 to \$800,000);
- The total cost per student to administer the reading test (estimated for FY 2001 to be \$5 to \$6 per pupil for the administration of the reading test alone); since this value includes the fixed costs of development and publication, the incremental cost per each additional student would be some fraction of this value;
- The level of the "cut-score" (here, the guarantee score) for each administration of the test (to be determined; the FY 1995 original scaled score standard was 200);
- The number of students passing the reading test (estimated to be 85-90% at the first attempt and 50-55% at the second attempt, leaving approximately 7,000 students to take summer remediation);
- The cost of administering the reading test to the summer-remediation students (estimated at \$5 to \$6 per student times 7,000 students, or \$35,000 to \$40,000).

Since the bill would primarily affect only the number of students taking the reading test during the summer remediation period, the bill's fiscal effect would be determined as that change in the number of students times the above-mentioned fraction of the \$5-\$6 per-student cost. If

the guarantee score were set lower than the proficiency score, the number of remediation students would be expected to decline, as fewer students would fail. Thus, the cost of administration would be somewhat less. (As a rough example, if the lower guarantee score were to cause the number of remediation students to decline from 7,000 to 6,000, and the variable cost of administration were \$3 per pupil, then the bill's effect on the state would be a reduction in cost of only \$3,000, a minimal amount.)

The bill's fiscal effect on most **school districts** would also be minimal. The effect would consist of changes in the costs of the reading-remediation summer programs attended by those students who fail to gain the guarantee score on the second administration of the fourth-grade reading test less the cost of any fees the parents are charged. These costs would change if the bill's switch from the proficiency score to the guarantee score caused higher or lower numbers of students to take these remediation programs.

The costs of intervention and remediation are difficult to gauge. The Department of Education indicated that intervention can be anything from tutoring by student volunteers to summer school programs. Further, the most cost-effective approach might be to address reading problems earlier, during the students' formative years. This approach is covered by the current-law requirement for the districts to assess the reading skills of first-, second- and third-grade students and to provide reading intervention services to those reading below grade level.

Since current law already provides for these intervention programs in the primary grades and in the fourth-grade summer schools, the effect of the bill on the districts would be minimal unless the switch from proficiency score to guarantee score were to significantly change the number of students requiring reading remediation.

(2) Tenth-grade and eighth-grade proficiency tests: Several changes would be made by the bill:

- Current law (Am. Sub. S.B. 55, effective July 1, 1998) calls for tenth-grade students to be given the tenth-grade proficiency test once, after March 15 of the school year. Under the bill's provisions, beginning July 1, 2002 this administration of this five-part test to tenth-graders would no longer be required. However, upon request to the Department of Education, a school district would be allowed to administer the test to its tenth-graders in the month of March.
- The bill addresses the starting dates for the phase-in period of the twice-yearly administration of the tenth-grade proficiency test, which will now be required under Am. Sub. S.B. 55. These dates are essentially the same as in Am. Sub. S.B. 55, except that the dates for the administration of the test to tenth-graders (once-yearly) would now be optional under the bill, as noted above. The date for tenth-graders would be the school year beginning July 1, 2002; for eleventh-graders, the school year beginning July 1, 2003; for twelfth-graders, the school year beginning July 1, 2004.
- The bill would permit a district to continue to administer the ninth-grade proficiency test to eighth-graders, with the permission of the department.

- Further to the above changes, if a district were to choose to administer the tenth-grade test to its tenth-graders, the bill would then give the district the option to give the test to its eleventh-graders (the ones who failed it in the tenth grade) either once or twice, rather than the twice required under current law.

Fiscal effects: The potential overall fiscal effects upon the **state** and **school districts** are estimated to be minor. The specific effects of the above provisions would be as follows:

- Since the elimination of the required tenth-grade proficiency test in the tenth grade would not take place until FY 2003, there would be no effect on the **state** in fiscal years 1998 and 1999. Beginning FY 2003 the change would ordinarily enable the state to save the administration costs of the test, currently estimated to be \$17-\$18 per pupil for the 139,000 tenth-graders. However, the department estimates that up to 95% of the schools would elect to continue giving the test to tenth-graders, so the savings would be much less, on the order of \$120,000.

The **school districts** would also see no effects in fiscal years 1998 and 1999. Further, beginning in FY 2003, since 95% of the schools would be expected to elect to continue giving the test to tenth-graders, there would probably be little savings at the local level.

- Since, under the bill, the starting dates for the implementation of the voluntary testing of tenth-grade students and the required testing of eleventh- and twelfth-grade students would be essentially the same as under current law (Am. Sub. S.B. 55, effective July 1, 1998), this provision of the bill would have no fiscal effect on the **state**. For the same reasons, there would be no fiscal effect on the **school districts**.

(The department estimates that administration costs will be similar at all grade levels, at \$17-\$18 per pupil; thus, the cost for 125,000 juniors and 115,000 seniors would be approximately \$2.2 million and \$2.0 million, respectively.)

- If the districts were to voluntarily continue giving the ninth-grade test to eighth-graders, the costs to both the **state** and the **districts** would be the same as currently. If, however, the number of students taking the test was to decline, then savings could be realized. Currently the state's cost of administering the test is approximately \$5.20 per pupil for the 140,000 eighth-graders, or \$728,000. (In any case, the administration of the ninth-grade test to eighth-graders could continue for only two years, since the test would be discontinued after 2000.)
- The districts' option to give the tenth-grade test only once in the eleventh grade if it had been given to the same students in the tenth grade should have only a minimal fiscal effect upon the **state** and the **districts**, as the number of administrations would normally be the same as currently, until the students passed.

(3) Banks of proficiency test questions: Current law requires the Department of Education, beginning in 1999, to make the previous year's proficiency tests available to the public. The bill would eliminate this requirement. Instead, the department would be required to make available, beginning with the 1999-2000 school year, only the banks of questions used to develop the previous year's proficiency tests. Further, if a new grade-level test were to be

authorized, the banks of questions would not begin to be made available until at least three years following the first administration of that test.

Fiscal effects: The department indicated that the release of banks of questions would be less expensive to the **state** than releasing the test forms. The publicly released items from last year's banks would not have to be deleted; therefore, they could continue to be used in the development of future tests.

As an example, the development cost of the new graduation tests, which would be administered three times per year, is estimated to be \$0.9 million to \$1.0 million each year for at least two years. To release three forms of the tests each year, the department would have to continue the development at approximately this same annual cost. If only the banks of questions need be released, then the cost would fall to approximately one-third to one-half that amount after the first two years. (These estimates include the cost of providing the bank on CD-ROMs to the schools and libraries and, possibly, the Internet.) The department indicated that it has issued a request for bids for this development and will have a more accurate determination of the costs after the bids are reviewed.

(4) Chartered non-public school exemptions: The bill would allow a chartered non-public school to apply to the state board for approval to establish an innovative pilot program whose implementation requires exemptions from specific education statutes in Title 33 of the Revised Code or pursuant rules of the state board. Current law allows such applications by public schools, although that language includes the requirement of written consent by the teachers' union representative. This bill would not require such consent for chartered non-public schools. However, the chartered non-public school would not be exempted from minimum standards for special education or from rules governing state funding for certain administrative and auxiliary services.

Fiscal effects: This provision would have no fiscal effect on the **state** or **public school districts**. The effect on a given **chartered non-public school** would depend on which of the many statutory provisions and rules were to be exempted. The Department of Education indicated that the vast majority of applications from public school districts have concerned a desire to provide teachers an additional day of professional development at the expense of one day of required instruction. In that case, since teacher salaries are determined for the year, the financial effect of this type of exemption would be limited to a school's arrangements for the additional day (such as the use of substitute teachers or canceling school).

(5) Limitations on student transfers: The bill would impose certain limits on the transfer of a student from one school district to another. First, the bill would retain only one of the two currently allowable purposes for a transfer; that purpose is "to protect the student's physical or mental well-being". The other current purpose, "to deal with other extenuating circumstances deemed appropriate by the superintendents" of the two districts, would be eliminated. Second, while in general a transfer student is currently allowed to participate in his new school's extracurricular activities, the bill would preclude a student who has transferred more than one time in a school year from participation in such activities for the remainder of that year.

Fiscal effects: The fiscal effects on the **state** or **school districts** as a result of this provision of the bill would be minimal.

(6) School discipline laws: The bill would make several changes:

- Currently no pupil may be suspended unless he is sixteen or older, is provided written notice and is provided the opportunity for a hearing. The bill would allow in-school suspensions to be excused from these requirements.
- Current law requires expulsion of a pupil who brings a firearm or knife to a school or onto property owned or controlled by a school board. The bill would increase the scope of the relevant territories by adding "property at which an activity, event, or program sponsored by or in which the district is a participant was being conducted".
- If a pupil's presence poses a danger to persons or property on school premises, current law allows district or school administrators to remove him from curricular activities, extracurricular activities, or from the school premises; a teacher may remove him from curricular or extracurricular activities under the teacher's supervision. The bill would eliminate extracurricular activities from those from which the student may be removed.
- Current law allows a school board to adopt a policy authorizing the superintendent or other administrative personnel to suspend a student from extracurricular activities. The bill would allow the board to extend this authority to "personnel employed by the district to direct, supervise, or coach a pupil activity program", and would also change "suspend a student" to "prohibit a student from participating in".
- The bill would clarify and broaden the types of misconduct for which a student may be suspended, expelled or removed. The types may include misconduct that occurs off of district property but which is "connected to activities or incidents that have occurred on property owned or controlled by that district". Also included is misconduct that, regardless of where it occurs, is knowingly directed at a district official or employee or the property of such a person.

Fiscal effects: The direct fiscal effect upon the **state** or **school districts** as a result of these changes in the school discipline laws is estimated to be minimal. A potential indirect effect is increased litigation costs as a result of the broader reach of certain discipline laws.

(7) Employment contracts for other administrators: Current law allows a board of education to employ under contract assistant superintendents, principals, assistant principals and "other administrators". These other administrators are employees in positions for which the board requires administrator licenses. The bill would expand the definition of "other administrator" to include a "professional pupil services employee or administrative specialist or an equivalent", provided that the employee spend less than fifty percent of his time teaching or working with students. Thus, the bill would clarify the status of these employees.

Fiscal effects: In effect, the provision would reinstate language that had been deleted from law by a previous bill. There would be no direct fiscal effect upon the **state** or **school districts** as a

result of including these employees in the definition of "other administrator", since such personnel are already employed and the compensation would not be expected to change as a result of the bill.

(8) Nominations for administrative positions: The bill would make two changes to current law:

- Currently an administrator may be employed only after having been nominated by a district's superintendent, except that the board may vote to employ the individual despite the superintendent's refusal of such a nomination. The bill would eliminate from this process the requirement that the board must first consider two nominees for the position before voting.
- The bill would add language that allows a school district and its related educational service center to agree to authorize the district superintendent, in lieu of the ESC superintendent, to nominate assistant superintendents, principals, assistant principals and other administrators. As with current law, the new language requires the superintendent's nomination of such employees, yet allows the board to vote to reemploy an individual despite the refusal of a superintendent to nominate him.

Fiscal effects: There would be no direct fiscal effect upon the **state** or **school districts** as a result of these changes.

(9) Local professional development committees: The bill would change the structures of the committees, as follows:

- In any district, whether or not it has exclusive teacher representation, current law requires the committees to have a majority of teachers over administrators (e.g., three teachers, one principal and one other district employee appointed by the superintendent). The bill would instead require that there be an equal number of teachers and administrators.
- The bill would also require that either one teacher member or one administration member of a committee be non-voting during votes of approval of coursework plans of administrators or teachers, respectively.

Fiscal effects: There would be no direct fiscal effect upon the **state** or **school districts** as a result of these changes.

(10) Tuition payment enforcement: The bill would allow a school board, in the case of a pupil who owes tuition for attending the district's schools, to "enforce the payment of tuition . . . by withholding the grades, credits, or diploma of a pupil for whom all or a portion of the tuition has not been paid".

Fiscal effects: The direct fiscal effect upon the **state** or **school districts** as a result of these changes would be minimal, assuming the pupil's tuition would be paid at some time.

(11) The purchase of used school buses: The bill would exempt the purchase of used school buses from competitive bidding requirements. The requirement that new buses be purchased according to statutory competitive bidding requirements would remain.

Fiscal effects: The direct fiscal effect upon the **state** or **school districts** as a result of this exemption would be minimal. Those districts that decide to eliminate the bidding procedures might realize some minor reductions in costs (e.g., advertising). Potentially, the absence of competitive bidding might cause less expensive buses to become available for purchase by a district, thereby reducing the expenditure of capital funds.

(12) High school credit for advanced work: Current law (Am. Sub. S.B. 55, effective July 1, 1998) allows high schools to permit students below the ninth grade to take advanced work for high-school credit. The bill would limit this benefit to advanced work completed after the effective date of the bill (given in the bill as July 1, 1998). However, the bill would also add temporary language allowing such a student, with permission of the high school, to take such advanced work during the 1997-98 school year. Finally, the bill would include chartered non-public schools in the provision.

Fiscal effects: The direct fiscal effect of this provision upon the **state** or **school districts** would be minimal, since the courses, classrooms and teachers should already be made available to the relevant students by those high schools providing advanced-work programs under current law for the 1997-98 school year.

(13) Temporary and substitute teacher licenses: The bill would add temporary language to "notwithstanding" the Revised Code's effective date for the Administrative Code rule 3301-23-44, which was adopted by the state board on November 10, 1997 and which concerns temporary and substitute teacher licenses. Rather than Revised Code section 3319.22's current description of the effective date of such a new rule as the later of (a) the date of adoption by the second chamber of the General Assembly and (b) one year from the first day of January next succeeding the publication of the rule change, the bill would instead provide for the effective date of this new rule to be "the date on which such rule is approved by the second house of the General Assembly through the adoption of a concurrent resolution by a majority of the members of both the House of Representatives and the Senate".

Fiscal effects: There would be no direct fiscal effect upon the **state** or **school districts** as a result of these changes.