Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 555 of the 129th G.A. **Date**: November 29, 2012

Status: As Reported by House Education **Sponsor**: Reps. Stebelton and Butler

Local Impact Statement Procedure Required: No

Contents: Creates a new academic performance rating system for public schools, creates a new evaluation process for community school sponsors, and modifies other laws related to education

State Fiscal Highlights

- The bill modifies and adds to the duties of the State Board of Education and Ohio Department of Education (ODE) likely increasing ODE's administrative burden.
- If the new performance rating system established by the bill results in more school districts being subject to various sanctions for low performance, in some circumstances, ODE may incur increases in expenditures.

Local Fiscal Highlights

- Assuming the new performance rating system established by the bill is met with federal approval, the bill will likely result in fewer districts and buildings being subject to potentially costly federal sanctions.
- However, if the new system establishes higher standards, more school districts may be subject to various sanctions in state law for low performance while fewer may qualify for various privileges for high performance. Such sanctions, including various levels of intervention, may increase the costs of school districts and community schools.
- Due to the revised rating system, certain elements of school choice programs may be affected. For instance, more students may be eligible for Ed Choice scholarships, leading to increased deductions from their resident school districts and possibly minimal decreased expenditures for those districts.

Detailed Fiscal Analysis

Academic performance rating system

Overview

The bill revises the current academic performance rating system for school districts and school buildings. Currently, six academic performance ratings are used for school districts, individual buildings within districts, community schools, and STEM schools based on independent attainment of four metrics: (1) the performance indicators prescribed by the State Board of Education, (2) the performance index score, (3) meeting "adequate yearly progress" as measured under federal law, and (4) value-added student growth. The ratings range from "excellent with distinction" to "academic emergency."

Beginning with the 2012-2013 school year, the bill establishes a performance rating system under which the Ohio Department of Education (ODE) will create an annual performance profile for each public school, district, and the state as a whole consisting of "A," "B," "C," "D," or "F" letter grades on separate performance measures and, beginning with the report cards issued for the 2014-2015 school year, on overall performance. The new system will be phased in over four years. Once fully phased in (for the 2015-2016 school year), the system will use 15 performance measures, including new measures reflecting college and career readiness. A complete description of the changes to the performance rating system is given in the LSC bill analysis.

In most circumstances, the bill requires the State Board of Education to adopt performance criteria for each letter grade. In addition, ODE will need to collect, verify, and report additional data to calculate the additional performance measures. These requirements will increase ODE's administrative burden. In FY 2013, $3.6 million is appropriated specifically for the current accountability system and report cards. Additional appropriation is used for data collection. The bill also requires the Chancellor of the Board of Regents to prescribe a method for determining college readiness to be used in one of the new performance measures. This may result in a minimal increase in administrative costs for the Chancellor.

A new rating system is one of the reforms Ohio committed to in exchange for waivers from a number of requirements associated with the federal No Child Left Behind Act of 2001 (NCLB). Assuming the new system is met with federal approval, the bill will likely result in fewer districts and buildings being subject to potentially costly federal sanctions. Since the actual ratings under the new system cannot be predicted until the State Board adopts performance criteria, any effects of the bill are largely unknown. However, the intent of the federal waiver is to establish higher standards, so, presumably, the academic performance rating of many school districts may decline, at least in the short term. This means that more school districts may be subject to various sanctions for low performance and fewer districts are likely to meet

the criteria for the privileges afforded under current law. These effects are discussed in more detail below.

Federal waiver

On May 29, 2012, the U.S. Department of Education (USDOE) granted conditional approval to Ohio's request for waivers from a number of federal requirements associated with the No Child Left Behind Act of 2001 (NCLB), including how the state is to determine adequate yearly progress (AYP) to ensure that 100% of students are proficient in reading and mathematics by the end of the 2013-2014 school year and implementation of various school improvement, corrective, or restructuring actions for schools and districts that fail to make AYP for two consecutive years or more. Ohio's waivers are currently only in effect through the 2012-2013 school year. Approval of the waivers through the 2013-2014 school year is contingent on the enactment and implementation of legislation authorizing a revised letter grade rating system meeting federal approval. As the 2013-2014 requirement of 100% proficiency approaches, it is expected that the percentages of buildings and districts failing to meet AYP will increase substantially if a waiver is not in effect.

Assuming the new system is met with federal approval, the bill will likely result in fewer districts and buildings being subject to potentially costly federal sanctions, including the creation of an improvement plan, offering students supplemental educational services and the option to enroll in another school in the district or a community school that is meeting AYP, setting aside up to 20% of a district's Title I allocation for school choice-related transportation costs, and restructuring. In Ohio, approximately 42% of school buildings (including community schools) and approximately 60% of traditional school districts did not meet AYP for the 2011-2012 school year, according to preliminary report card data released by ODE in October 2012. Ohio's waiver proposal replaces AYP with annual measurable objectives that aim to cut achievement gaps in half over six years.

Sanctions and privileges

Though the federal waiver provides certain benefits for schools, the intent of the new system is to be more rigorous, providing a more accurate assessment of how each public school and district is performing. The effects from a more rigorous grading formula in state law are wide ranging. This is so because current law relies on school district and school building rating designations to prescribe various sanctions for low-performing districts and schools and various privileges for high-performing districts and schools. As a result, more school districts may be subject to various sanctions while fewer districts may qualify for the privileges afforded under current law. In some circumstances, these outcomes may lead to increased costs for the school district and ODE. For example, the new rating system may increase the number of school districts and school buildings subject to intervention, school districts and school buildings subject to ODE site evaluations, school buildings subject to restructuring (beginning with the 2014-2015 school year), and the number of academic distress commissions

created. In terms of privileges, fewer school districts may qualify for exemptions from certain state mandates, though no such exemptions are currently in effect.

School choice

Ed Choice Scholarship eligibility

Under the bill, more students may be eligible for the Educational Choice Scholarship Pilot Program (Ed Choice), which provides students who are assigned to certain low-performing schools with state-funded scholarships to nonpublic schools. Under the current state funding formula, the student is first counted in the average daily membership (ADM) of the district for funding purposes. Funding for the student, however, is deducted from the district's calculated state funding allocation and transferred to the nonpublic school. In FY 2013, the per pupil deduction amount is the lesser of the cost of tuition at the educating school and a maximum amount of $4,250 for students in kindergarten through eighth grade or $5,000 for students in ninth through twelfth grade.

The bill modifies the determination of whether a school is "low-performing" and adapts it to the new performance rating system.[1] If more schools are considered to be low-performing under the revised rating system, it is likely that more students will be eligible for Ed Choice scholarships. For FY 2015 and thereafter, the bill also requires ODE to conduct two application periods for students applying to receive Ed Choice scholarships. (Current law requires only one application period.) The addition of a second application period may result in more Ed Choice scholarships being awarded. If more students participate in the program, deductions from qualifying school districts will increase. Districts may also experience a decrease in expenditures due to educating fewer students.

Community schools

If a student leaves a traditional school district to attend a community school, the district's revenues and expenditures may both be affected. Funding for the student will be deducted from the school district and transferred to the community school. Since the district will no longer be responsible for educating the student, its expenditures may also decrease. Conversely, if a student were to leave a community school to attend a school in the student's resident school district, the funding for the student would no longer be deducted. Since the district would be responsible for educating the student, its expenditures may increase. Deductions for each community school student are at least $5,704 in FY 2013; deductions are higher for students receiving special education or career technical services.

The bill maintains current community school closure laws through the end of FY 2013. In FY 2014 and thereafter, the bill establishes new criteria by which to determine whether a community school is subject to closure. These criteria vary based

[1] Please see the LSC bill analysis for a complete description of the changes in Ed Choice eligibility.

on the grade levels that the school serves; for more information on the revised closure laws, please see the LSC bill analysis. If more community schools are considered low-performing under the new rating system, more community schools may be subject to closure, and students of these schools may return to district schools.

Alternatively, the rating system may create the opportunity for more community schools to open. Under continuing law, community schools are permitted to open only in "challenged" school districts. Because there may be more "challenged" districts in the state under the revised rating system, additional start-up community schools may be opened, and more students may leave district schools to attend these new community schools.

E-schools

Current law places a moratorium on the opening of new Internet- or computer-based community schools (e-schools) until January 1, 2013. The bill changes the expiration date of the moratorium to the 61st day after the effective date of the bill but maintains the limit of new e-schools that may open following the moratorium at five. Under current law, ODE is required to hold a lottery if more than five e-schools apply to open. The bill removes the lottery process and instead requires ODE to approve applications for new e-schools based on an applicant's experience and quality. ODE is also required to adopt rules prescribing measures for evaluating the experience and quality of an applicant. As a result, ODE may experience an increase in administrative costs.

Dropout prevention and recovery school report cards

The bill establishes a separate report card rating system for community schools that serve primarily students who are enrolled in dropout prevention and recovery programs. The three designations under the new system are "exceeds standards," "meets standards," or "does not meet standards." Under the bill, dropout prevention and recovery schools are rated according to several performance indicators adopted by the State Board of Education. The adoption of these indicators may result in minimal administrative costs. For more information about the performance indicators and how the schools are rated, please see the LSC bill analysis.

Beginning in FY 2015, ODE must include the rating designations on each dropout prevention and recovery school's report card. A school that has received a rating of "does not meet standards" in two of the three most recent school years is subject to closure. Through FY 2012, dropout prevention and recovery community schools were rarely subject to closure, as they were permitted to apply to ODE for exemption from community school closure criteria. Current law, however, states that if the General Assembly does not enact a report card rating system for dropout prevention and recovery community schools by March 31, 2013, the schools will be subject to the closure laws for traditional community schools. If more community schools close as a result of the bill and students return to their resident school districts, funding will no

longer be deducted from the school district. However, the district may incur minimal increased costs for educating additional students.

Community school sponsorship

Evaluation process

The bill establishes a new system for evaluating sponsors of community schools. Sponsors are rated "exemplary," "effective," or "ineffective," based on three components: the academic performance of the students enrolled in the sponsored schools, adherence by the sponsor to quality practices prescribed by ODE, and compliance with applicable laws and administrative rules. ODE may incur minimal administrative expenses for prescribing quality practices and for adopting rules prescribing standards for measuring sponsors' compliance with applicable laws and rules. Under the bill, new sponsors are assigned a rating of "emerging" for their first two consecutive years in operation. The bill also specifies that, prior to FY 2015, data measuring the academic performance of students enrolled in dropout prevention and recovery community schools will not be factored in when determining a sponsor's rating. However, in FY 2015 and thereafter, these data will be accounted for in a sponsor's rating.

Current law requires ODE to rank sponsors based on their composite performance index score; sponsors that fall into the bottom 20% are prohibited from sponsoring additional community schools. The bill, however, replaces existing law with a provision that prohibits any sponsor that has been rated "ineffective" from sponsoring additional community schools. Because the number of sponsors that will be rated "ineffective" is not known, it is unclear whether this provision will increase or decrease the number of sponsors that are prohibited from sponsoring additional community schools.

ODE sponsorship

The bill permits ODE's Office of Ohio School Sponsorship to assume sponsorship of a community school that has not yet opened but has entered into a contract with a sponsor prior to that sponsor being rated "ineffective" and thus prohibited from sponsoring additional schools. ODE may sponsor these schools for the lesser of two years or until the school's governing authority selects a new sponsor. Current law requires schools whose sponsors are prohibited from sponsoring new schools to secure a new sponsor before opening the school. To offset any administrative costs, existing law permits sponsors, including ODE, to charge a sponsorship fee to each sponsored community school of up to 3% of each school's operating revenues.

Educational service center sponsorship

The bill allows the governing board of an educational service center (ESC) to sponsor a start-up community school in any "challenged" school district in the state. (Under current law, an ESC may only sponsor a start-up community school that is located within its service region.) This provision may lead to a small increase in the

number of community schools sponsored by ESCs. Any costs incurred by an ESC for sponsoring a community school are likely to be offset by a 3% sponsorship fee charged to each sponsored school.

National Guard and war orphans scholarship programs

The bill allows the administrators of the Ohio National Guard Scholarship Program and the Ohio War Orphans Scholarship Program to apply for and receive funds, including grants, gifts, bequests, and contributions, from public and private sources. The bill, therefore, may result in increased revenues for these programs. Any funds received for the National Guard Scholarship Program must be deposited to the National Guard Scholarship Reserve Fund, which already exists. Any funds received for the War Orphans Scholarship Program must be deposited to the Ohio War Orphan Scholarship Fund, which is created by the bill. This new fund is to be used to operate the War Orphans Scholarship Program and provide War Orphans Scholarships. The bill specifies that investment earnings from the cash in the new fund must be deposited to the fund.

The Board of Regents (BOR) currently administers the Ohio National Guard Scholarship Program, whereas the Ohio War Orphans Scholarship Board administers the Ohio War Orphans Scholarship Program. BOR and the Scholarship Board may incur minimal expenses if they choose to solicit and accept grants or donations. However, the additional revenues from grants, gifts, and other contributions presumably will more than offset any additional expenses.

The bill also expands War Orphans Scholarship eligibility to include the children of any deceased or severely wounded service members that participated in an operation for which the Armed Forces Expeditionary Medal is awarded. The Armed Forces Expeditionary Medal is used to recognize more than 20 military operations between 1956 and 2003. Since major operations are already included in the War Orphans Scholarship Program under current law, there will likely not be a significant increase in scholarship applications due to this provision. The total cost to the state of the War Orphans Scholarship Program is limited by the appropriation made for the program. If appropriation levels are not sufficient to provide scholarships for all eligible students, awards may be proportionally reduced. As a result, if the number of scholarship recipients does increase from the expanded eligibility, state expenditures would not increase but award amounts may decrease.

War Orphans Scholarships may be used at both state-assisted and private institutions of higher education in Ohio. In FY 2013, awards for students of state-assisted two-year and four-year institutions are equal to 93% of the instructional and general fees and scholarships for students of private institutions are $5,575. War Orphans Scholarship recipients must be Ohio residents under the age of 25, full-time undergraduates, and maintaining a 2.0 grade point average (GPA). In FY 2012, 803 awards were provided at an 80% award level and the average scholarship amount for all scholarship recipients combined was $5,403.

Additional measures

The bill requires, not later than December 31, 2013, the State Board to adopt and specify eight measures for public schools and districts separate from the report card. ODE must report this information annually beginning with the 2013-2014 school year and make it available online for comparison purposes. This provision will increase ODE's administrative burden.

Recommendations

The bill requires the State Board of Education to submit a report to the General Assembly no later than August 31, 2013, with recommendations for a comprehensive statewide plan to intervene directly in and improve the performance of persistently low-performing schools and school districts. Also, the bill requires ODE to review the additional information included on the school district and building report cards, and submit to the Governor and the General Assembly recommendations for revisions to make the report cards easier to read and understand. These provisions may increase ODE's administrative burden.

Assessments

Under current law, the State Board is required to adopt a diagnostic assessment aligned with the academic standards and model curriculum for each of grades kindergarten through two in English language arts and mathematics and for third grade in English language arts. The bill separates the diagnostic assessments in English language arts into reading and writing assessments. There appears to be no fiscal effect from this provision as ODE already has developed separate reading, writing, and math diagnostic assessments in grades kindergarten through two and a writing assessment for third grade. In addition, ODE has already begun developing a new reading diagnostic screening measure for grades kindergarten through three for use in the 2013-2014 school year. For the 2012-2013 school year, schools are permitted to use the second grade reading screening measure for third grade or a comparable tool selected by the district.

Ohio Accountability Advisory Committee

The bill changes the name of the Ohio Accountability Task Force to the Ohio Accountability Advisory Committee and alters its membership. Under the bill, the duties of the Committee remain the same as under current law, except for the removal of a few tasks related to the implementation of the value-added progress dimension and a requirement to meet at least twice per year, instead of at least once per year as under current law. Task force members receive no compensation or reimbursement for their duties, an arrangement that the bill does not change for members of the Committee.