



# Ohio Legislative Service Commission

Jason Phillips

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## Fiscal Note & Local Impact Statement

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**Bill:** Sub. H.B. 367 of the 130th G.A.

**Date:** December 17, 2014

**Status:** As Enacted

**Sponsor:** Reps. Driehaus and Sprague

**Local Impact Statement Procedure Required:** No

**Contents:** Modifies laws related to primary and secondary education and establishes requirements regarding controlled substances containing buprenorphine used for the purpose of treating drug dependence or addiction

### State Fiscal Highlights

- The bill requires the third grade reading assessment administered in the spring of the 2014-2015 school year to be the Ohio Achievement Assessment (OAA) for all students, rather than either the OAA or the new Partnership for the Assessment of Readiness for College and Careers (PARCC) assessment, depending on how a student fared on the third grade reading OAA given in the fall, as under current law. The additional cost for a full spring administration of the OAA is estimated to be over \$1.2 million. The Ohio Department of Education (ODE) indicates the test vendor will give the state a discount, amounting to about \$670,000, if the bill is enacted and the PARCC English language arts (ELA) tests are not administered to third graders. Thus, the net cost of this provision is estimated to be about \$530,000.
- The bill requires ODE to make available an end-of-course exam in biology. According to ODE, the cost to finish development of this exam could be up to \$1 million, depending on whether the test will be administered for the first time this school year or next. This cost will be paid for using the contract savings generated when work on the exam was suspended earlier this year.
- The bill exempts chartered nonpublic schools from state-mandated high school end-of-course exams in the 2014-2015 school year. The exemption does not apply to students attending a nonpublic school through a state scholarship program. This may reduce ODE's assessment system costs in FY 2015 by roughly \$500,000.
- The bill's assessment system changes will primarily impact expenditures from the GRF.
- The bill makes some minor adjustments to the way in which certain truant and high school students are counted for the purposes of the state foundation funding formula, likely resulting in a relatively small increase in such funding.

- The bill requires a license as a terminal distributor to possess or distribute controlled substances containing buprenorphine. As a result, the State Pharmacy Board would experience a potential gain of up to \$67,500 in license fee revenue that would be deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90). This revenue will be, at least partially, offset by an increase in investigation, enforcement and processing costs related to the new licenses.

## **Local Fiscal Highlights**

- The effects on individual school districts' state foundation funding associated with the bill's changes to the student count will depend mostly on the characteristics of the student, the district's state share index, and, in FY 2015, whether the district is subject to either of the formula's guarantee or gain cap provisions.
  - Some school districts and community schools may incur minimal costs to update their social studies high school curriculum to meet the bill's requirement that at least one-half of the two required social studies units include instruction in world history.
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## **Detailed Fiscal Analysis**

The bill makes various changes to a variety of education laws, most notably concerning assessments for high school and elementary students and the way in which student enrollment is counted for certain students for purposes of the state foundation funding formula. The bill also establishes requirements regarding controlled substances containing buprenorphine used for the purpose of treating drug dependence or addiction. Provisions with a fiscal effect are discussed below. Many provisions are clarifying or corrective in nature and have little or no fiscal effect.

### **Provisions related to assessments**

The bill changes the particular assessments required to be used as the third grade English language arts assessment in the spring of the 2014-2015 school year. The bill also makes several changes to the College and Work Ready Assessment System, Ohio's new system of high school assessments used for accountability purposes and as one determinant of eligibility for a high school diploma. The system replaces the Ohio Graduation Tests (OGTs) beginning with students that entered the ninth grade in the current 2014-2015 school year. Under current law, the system is comprised of a national college admissions exam provided to 11th grade students and seven end-of-course exams, two in English language arts, two in mathematics, and one each in physical science, American history, and American government. Assessment system costs are supported mostly by the GRF but also by some federal funds.

### **Third grade reading assessment**

For the 2014-2015 school year, current law enacted in H.B. 487 of the 130th General Assembly requires that the fall administration of the third grade reading assessment use the assessment administered the previous year, the Ohio Achievement Assessment (OAA) developed by the American Institutes for Research (AIR), and that the spring administration of the assessment to a student who does not attain a score high enough to be promoted to fourth grade on the fall assessment also use the OAA. However, current law requires the spring administration of the assessment to a student who *does* attain a score high enough to be promoted to fourth grade on the fall assessment to use the new assessment developed by the Partnership for the Assessment of Readiness for College and Careers (PARCC). The bill modifies this provision to require that the third grade reading assessment administered in the spring of the 2014-2015 school year be only the OAA, no matter how a student fared on the OAA administered in the fall. Consequently, the PARCC exam in English language arts (ELA) for third graders will not be administered this spring as a result of the bill.

The cost to administer the OAA in the spring will increase due to a higher student testing volume. According to information supplied by the Ohio Department of Education (ODE), the additional cost of a full spring administration of the third grade reading OAA is estimated at over \$1.2 million, based on the difference between the cost of the fall third grade reading OAA (about \$2.2 million) and the estimated cost of the partial spring administration under current law (a little under \$1 million based on the expectation that 35% to 40% of third graders would re-take the OAA). While the third grade ELA PARCC exam would not be administered this school year, a provision in Ohio's contract with PARCC's test vendor appears to indicate that the PARCC assessments given to third grade students in the spring will be invoiced at the full per-student price, which bundles the cost of both ELA and mathematics assessments, whether or not a student takes both tests. Yet, ODE indicates that, if the bill is enacted, the test vendor will give the state a discount of \$5.27 per student since the vendor will not need to perform scoring of the third grade ELA exam. With an estimated 127,000 third grade students taking one or both third grade assessments, the discount calculates to about \$670,000 (127,000 students x \$5.27 per student). Thus, the net cost of this provision is about \$530,000 (\$1,200,000 - \$670,000).

### **Science end-of-course exam**

The bill requires ODE to provide an end-of-course exam in biology. Specifically, for students entering the ninth grade in the current 2014-2015 school year, the bill specifies that the end-of-course exam in the area of science may be either physical science, as under current law, or biology. For students that enter the ninth grade in the following 2015-2016 school year and after, the exam in the area of science will be only biology. This change is in response to concerns that some schools may not offer a course specifically in physical science or may only offer the course during the seventh and

eighth grades instead of in the ninth grade, as is the norm. Biology is a course typically taken during the tenth grade and was one of the ten subjects originally slated for an end-of-course exam under the original graduation requirements system approved by the State Board in November 2013. Thus, ODE had begun developing an exam, including field tests in the spring of 2014, before work was suspended following the test's elimination by H.B. 487 of the 130th General Assembly.

ODE's assessment system costs will increase to complete development of operational forms and finalize test items. According to ODE, it is too late in the school year to complete development of both online and paper versions of the exam for administration this spring. However, an online-only version of the exam for this school year can be developed on a fast-track at an estimated cost of roughly \$1 million, which will be paid for using the contract savings generated when work on the exam was suspended earlier this year. Development costs would be less if administration of the test does not begin until the 2015-2016 school year, the first year most students falling under the new assessment system will take a biology course and thus, would be more likely to take the exam.

#### **National college admissions exam**

The bill modifies the requirements for the national college admissions exam given to 11th grade students. Instead of one assessment, the bill requires multiple assessments to be selected by the Superintendent of Public Instruction and the Chancellor of the Board of Regents, one of which will be selected by each school district or school to administer. As under current law, the state will pay the cost of the exams.

As a result of this provision, it may be that the state's cost for the assessments increases or decreases from what it would have been otherwise. Since the exam under current law is not scheduled to be selected until the spring of 2015, the fiscal effect of this provision is uncertain. The per student pricing of the leading college admissions test vendors, the College Board (which offers the SAT) and American College Testing, Inc. (which offers the ACT), is somewhat comparable, though there are various options and discounts offered by each vendor that affects the final per student price. Based on various media reports and contracts, the cost of the ACT administered on a statewide basis is either \$34 or \$49 per student, depending on if a writing component is included or not (most states contracting with ACT include the writing component), and the cost of the SAT School Day program<sup>1</sup> for only the SAT (i.e., excluding the PSAT and other College Board assessments) and for a single grade ranges from \$43 to \$50 per student, depending on the client's free and reduced price lunch percentage.

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<sup>1</sup> The SAT School Day program allows students to take the SAT in their home schools during the school week rather than on a Saturday in a testing site located outside of the school, as is the case otherwise.

## **End-of-course exam exemption for chartered nonpublic schools**

Under current law enacted in H.B. 487, all chartered nonpublic school students entering the ninth grade beginning in the current 2014-2015 school year must meet curriculum requirements as well as one of three assessment pathways in order to graduate. However, effective October 1, 2015, H.B. 487 exempts chartered nonpublic school students from taking the end-of-course exams as long as the schools publish certain performance data for each graduating class on the national college admissions exam that is part of the high school assessment system. Meanwhile, H.B. 487 created a committee to make recommendations regarding graduation and state-mandated testing requirements for such students by January 15, 2015.

The bill further exempts chartered nonpublic schools from administering the end-of-course exams in the 2014-2015 school year, though the exemption does not apply to students attending such a school under a state scholarship program. Because fewer end-of-course exams may be taken this fiscal year, ODE's assessment system costs for FY 2015 may decrease by roughly \$500,000.

## **Student enrollment**

The bill makes some adjustments to the way in which certain students are counted for the purposes of the state foundation funding formula. The circumstances addressed by these changes do not appear to be common, making any resulting increase in state foundation funding likely to be relatively small. Note that FY 2015 is the first year in which the state will be using an annualized, full-time equivalent (FTE) student enrollment method for counting students for the purposes of the formula. In general, students are counted based on the portion of the year they are enrolled under the new method. Formerly, districts counted their students over one week in October then calculated the daily average.

## **Withdrawal requirements**

Under current law, if a student fails to participate in learning opportunities and has not received an excused absence for 105 continuous hours, the school district must withdraw the student for the purposes of the student count. The bill eliminates this requirement. As described above, the new student count is based on enrollment and, with the exception of the "105-hour rule," not attendance. Thus, a student that is truant for extended periods of time may stay enrolled for a longer portion of the school year under the bill. If so, state foundation funding will increase in these circumstances, the amount of which will depend on the portion of the year that the student would otherwise have been withdrawn, the characteristics of the student, and the district's state share index, which measures local revenue generating capacity and ranges from 5% to 90%. In FY 2015, school districts receiving temporary transitional aid or subject to the gain cap will not receive any additional funding from this change.

### **Minimum credit hours for high school students**

According to ODE, to generate a full FTE in a district's student count, a student must be enrolled in learning opportunities for the entire day the student's grade is scheduled. If a student does not participate in a learning opportunity for one or more periods during the school day, the student's reported FTE must reflect this and would be less than one, which will impact the district's state foundation funding.

The bill requires ODE to consider a student in any of grades 9 to 12 as one FTE if the student is enrolled in at least five units of instruction per school year. In general, this change will increase state foundation funding to school districts for high school students that, under current law, would have been counted as less than one FTE due to the student being enrolled for less than a full school day. This situation applies to students who have been approved by their district to leave school early in order to work jobs unrelated to an instructional purpose. It also applies to seniors that are regularly granted early release or late arrival if they need less than a full-time load of credit hours in order to graduate. Like the provision above, school districts receiving temporary transitional aid or subject to the gain cap in FY 2015 will also not receive any additional funding from this change this fiscal year.

### **Career advising and mentoring grant program funding**

The bill reappropriates an amount equal to the unexpended, unencumbered portion of ODE line item 200629, Career Advising and Mentoring Program, at the end of FY 2015 for the same purpose for FY 2016. This line item's FY 2015 appropriation, funded through lottery proceeds, is \$10 million. This appropriation will be used to disburse competitive matching grants that provide funding for local networks of volunteers and organizations to sponsor career advising and mentoring for students in eligible school districts.

### **World history in social studies curriculum**

Under current law, the high school curriculum must include two units of social studies. The bill requires, for students entering the ninth grade on or after July 1, 2017, that the two units of social studies instruction include at least one-half unit of instruction in the study of world history and civilizations. Some school districts and community schools may incur minimal costs to update their social studies high school curriculum to meet this requirement.

### **Admission to school of protected children**

Under continuing law, school districts and nonpublic schools are required to see a child's birth certificate or certain documents that may be provided in lieu of a birth certificate at the time of initial entry to a school. While the school may still enroll a student for whom a birth certificate or other acceptable document is not presented, current law requires the school to notify local law enforcement of this fact and of the possibility that the student may be a missing child.

The bill clarifies that no public or private school is permitted to deny a protected child (i.e., a child in foster care or in a residential facility) admission to the school solely because the child does not present a birth certificate or other acceptable document upon registration for entry into the school, though the child's parent, custodian, or guardian must present a birth certificate or other acceptable document to the school within 90 days after the child's initial entry. Further, the bill provides an exemption to the missing child notification requirement for protected children that are not able to produce a birth certificate or other acceptable document right away. As a result of the bill, public districts and schools may need to provide missing child notification in fewer circumstances, possibly reducing administrative costs.

## **Controlled substances containing buprenorphine**

### **State Pharmacy Board**

The bill requires a license as a terminal distributor to possess or distribute controlled substances containing buprenorphine. According to the State Pharmacy Board, there would be approximately 450 applications for this license by providers that currently possess or distribute these medications. The current fee for a terminal distributor license is \$150. The State Pharmacy Board would experience a potential gain of up to \$67,500 in license fee revenue (450 x \$150). Revenue would be deposited into the Occupational Licensing and Regulatory Fund (Fund 4K90). There would be a minimal increase in administrative costs to the State Pharmacy Board to process the new licenses. In addition, there could be additional investigation and enforcement costs for the new licenses depending on the number of investigations.

### **State Medical Board**

The bill requires the State Medical Board to adopt rules that establish standards and procedures to be followed by physicians in the use of controlled substances in schedule III, IV, or V to treat opioid dependence or addiction. The bill permits the State Medical Board to limit the application of the rules to treatment provided through an office-based practice or other practice type or location specified by the State Medical Board. There would be a cost to the State Medical Board to adopt rules.

## **Health curriculum – instruction in prescription opioid abuse prevention**

Under current law, school districts' health curricula must include instruction on: the nutritional value of foods; the harmful effects of and legal restrictions against the use of drugs of abuse, alcoholic beverages, and tobacco; venereal disease education; in grades kindergarten through six, personal safety and assault prevention; and in grades seven through twelve, dating violence prevention. The bill adds prescription opioid abuse prevention to this list of required instruction. Some school districts may incur minimal costs to update their health curricula to meet the bill's requirements. The bill also requires the Governor's Cabinet Opiate Action Team to develop recommendations for the instruction in prescription opioid abuse prevention to be submitted to ODE by

July 1, 2015. Subsequently, ODE must publish these recommendations on its website. Any costs incurred by the Governor's Office or ODE to meet this requirement should not be significant.

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