



To: State Board of Education  
Re: Legislative Update  
Date: May 25, 2012

## **State Activity**

### **Senate Activity**

The Senate met on Wednesday and accepted the conference committee report on [House Bill 487](#) (Amstutz, R-Wooster), the mid-biennium budget review, by a vote of 24-8.

The Senate met on Thursday and passed [House Bill 375](#) (Butler, R-Oakwood), to allow school districts to sell real property to private, nonprofit institutions of higher education. The Senate accepted an amendment to the bill that would allow a school district with more than 30,000 students that is declared to be effective in the performance ratings for the 2009-2010 and 2010-2011 school years to sell real property exceeding \$10,000 that the board owns in its corporate capacity and is within six-tenths of a mile of a casino facility to any party. The bill passed by a vote of 27-4. The bill will now go back to the House for consideration of the Senate amendments.

### **House Activity**

The House met on Tuesday and passed [House Bill 377](#) (Duffey, R-Worthington and Stinziano, D-Columbus), to require the boards of trustees of state universities and the Northeast Ohio Medical University to adopt a resolution to grant or not grant student members voting power and the authority to attend executive session, by a vote of 77-19.

The House met on Wednesday and accepted the conference committee report on [House Bill 487](#) (Amstutz, R-Wooster), the mid-biennial budget review by a vote of 56-38.

The House met on Thursday and passed [House Bill 543](#) (Anielski, R-Walton Hills), to enact the "Jason Flatt Act" to require public schools to train staff in youth suicide awareness and prevention, by a vote of 96-0.

### **Introduced Bills**

[House Bill 555](#) (Stebelton, R-Lancaster and Butler, R-Oakwood), to revise the current academic performance ratings system for public schools with a system under which districts and schools are assigned letter grades

## **This Week's Committees**

### **House Bill 487 Conference Committee**

The [House Bill 487](#) (Amstutz, R-Wooster) Conference Committee met on Tuesday and issued their report. The following education related provisions are contained in the the bill:

- Waives the adoption and signing contract deadlines for new conversion community schools that open in the 2012-2013 school year, but specifies that a copy of the adopted and signed contract

must be filed with the Superintendent of Public Instruction prior to the school's opening and that the school open no later than September 30, 2012

- Requires each school district, educational service center, and county boards of developmental disabilities serving preschool children with disabilities to participate in the Step Up to Quality Program and be rated by July 1, 2018.
- Eliminates the income-based reduction required by current law for scholarships under the Cleveland Scholarship Program
- With regard to the Cleveland Scholarship Program specifies that the net tuition amount is the tuition amount minus any financial aid, tuition discounts, and adjustments to which the student is entitled. Further specifies that, if tuition discounts are offered to multiple students from the same family, but not all of the students are scholarship recipients, the scholarship amount is based on the lowest tuition to which the family is entitled
- Authorizes ODE, upon approval by the U.S. Department of Education of the state's application for a waiver from certain requirements of the federal No Child Left Behind Act, to implement the changes contained in the application, except for any changes related to the school district and building report cards
- Extends from March 1, 2012 to June 30, 2012 the existence of the Digital Learning Task Force
- Specifies that the Digital Learning Task Force must monitor the implementation of its recommendations submitted in a March 1, 2012 report until the Task Force ceases to exist
- Requires the Digital Learning Task Force to report on the progress of digital learning in Ohio schools and to provide recommendations for enhancing digital learning by June 30, 2012
- Allows any school district real property that was sold under the terms of Section 206.10.21 of HB 66 of the 126<sup>th</sup> General Assembly to be used for residential development as well as for commercial development
- Until December 31, 2012, permits a school district to offer real property to a state university, rather than first having to offer to sell the property to community schools, if the university has an in-state undergraduate student enrollment of more than 17,000 but less than 22,000 and the property is within 100 yards of a university facility. Provides that the district's offer to the state university may be either to exchange that property for in-kind services, educational programs, or other assistance, or to sell the property for money.
- The Auditor of State's set-aside in GRF line item 200422, School Management Assistance, is reduced from \$1.3 million to \$1.0 million for FY 2013. This subsequently increases the remaining appropriation for ODE to provide fiscal technical assistance to school district management personnel by \$300,000.
- GRF line item 200550, Foundation Funding, is increased by \$6,190,467 for FY 2013. A set-aside for school choice programs in that line item is increased by that same amount (from \$12.5 million to \$18.7 million). The bill also allows increased flexibility to use the set-aside for "school choice programs" rather than for "the Cleveland school choice program."
- GRF line items 200100, Personal Services, 200320, Maintenance and Equipment, and 200416, Career-Technical Education Match, are consolidated into 200321, Operating Expenses, for FY 2013. The new line item's total appropriation for FY 2013 is \$500,000 less than the combined total was for 200100, 200320, and 200416. The new line item is required to support the same activities as the line items being consolidated, including the career-technical education state match.
- Up to \$600,000 of unexpended, unencumbered balances of FY 2012 ODE GRF appropriations are to be reappropriated for FY 2013 to GRF line item 200455, Community Schools and Choice Programs, to provide STEM schools with matching funds for industry workforce development

initiatives. If unexpended, unencumbered balances total less than \$600,000, the Superintendent of Public Instruction is required to identify GRF encumbrances from FY 2012 and prior years that are no longer needed and to certify those encumbrances to the Director of the Office of Budget and Management (OBM) who will then cancel the encumbrances and appropriate that amount to GRF line item 200455, Community Schools and Choice Programs.

- \$13 million is appropriated to Fund 7018 (Lottery Profits Education Reserve Fund), line item 200686, Third Grade Reading Guarantee, for FY 2013 to make competitive grants to school districts and community schools to support reading intervention efforts that assist students in meeting the third grade reading guarantee (the third grade reading guarantee is included as a component of S.B. 316 which is still pending). The Superintendent is required to award the grants pursuant to a competitive process to be established by the Superintendent.
- Appropriation is reduced for various non-GRF line items to better align expected revenue with authorized spending levels.

### **House Health and Aging Committee**

The House Health and Aging Committee met on Wednesday and held their second hearing on [House Bill 543](#) (Anielski, R-Walton Hills), to enact the “Jason Flatt Act” to require public schools to train staff in youth suicide awareness and prevention. The following witnesses offered proponent testimony before the committee favorably reported the bill.

- Georgette Constantinou, Akron Children’s Hospital
- Eileen McGervey, Ohio School Counselor Association

### **Senate Education Committee**

The Senate Education Committee met on Wednesday and held their second hearing on [House Bill 437](#) which would increase the number of miles a school board may authorize its motor vehicles for out of state travel. The following witnesses offered proponent testimony prior to the committee favorably reported the bill.

- Dan Dodd, Ohio Association of Independent Schools
- Debe Terhar
- Bradley Pethel, Western Reserve Academy

### **House Education Committee**

The House Education Committee met on Tuesday, Wednesday and Thursday and held hearings on [House Bill 525](#) (Williams, D-Cleveland and Amstutz, R-Wooster), which would revise management of municipal school districts and community schools located within municipal school districts to levy property taxes the revenue of which may be shared with qualifying community schools. The following offered testimony:

- Cuyahoga Community College
- Bill Miles, Cincinnati Public Schools Assistant Superintendent
- Eve Fulton, Cincinnati Public Schools Board of Education
- Ohio Education Association
- Ohio School Boards Association
- Ohio Association of School Business Officials
- Buckeye Association of School Administrators

The committee also held hearings on [Senate Bill 316](#) (Lehner, R-Kettering), the Education MBR. The committee received testimony from the following:

- Buckeye Association of School Administrators

- Ohio Association of School Business Officials
- Ohio School Boards Association
- Ohio Education Association

The committee accepted amendments that made the following changes to the bill before passing the bill by a vote of 15-8:

#### **ESC Agreements**

- Beginning with the 2012-2013 school year, permits a school district with more than 16,000 students that enters into an agreement with an educational service center for services for which the state provides per-pupil funding, to opt out of receiving supervisory services. If the district opts out of those services, it is not required to pay for them through the deduction of supervisory units from the district's state aid account.

#### **Workforce Development**

- Requires that a local workforce development plan identify performance character traits, including respect, honesty, integrity, task-excellence, responsibility, resilience, that are necessary to obtain and succeed in projected employment opportunities with businesses in the local area

#### **Kindergarten Entrance**

- Allows a school district or community school to admit to kindergarten or first grade a child who is not yet the required age, if the child is recommended for early admission in accordance with the district's or school's acceleration policy
- Requires a child to be evaluated for early admission upon referral by an educator employed by the district or school, a preschool teacher who knows the child, or a pediatrician or psychologist who knows the child
- Repeals the requirement that a child be issued a waiver by a pupil personnel services committee in order to be admitted to first grade without completing kindergarten
- Repeals the authorization of early admission for children who meet established standards on standardized tests

#### **Educational Choice Scholarship Program**

- Allows an Educational Choice Scholarship to be used at an "approved nonpublic school" that:
  - Is in the process of becoming chartered and has received a letter of preliminary approval to operate from ODE within the last three years; and
  - By April 1 prior to the school year for which the school intends to begin enrolling scholarship students, files with the Superintendent of Public Instruction either:
    - A surety bond or letter of credit in an amount equal to one-half of the amount of Educational Choice Scholarship funds the school expects to receive for the school year; or
    - A guarantee in the amount of \$1 million from a person or organization with a net worth of at least \$5 million.
- Qualifies a student for an Educational Choice Scholarship if the student will be enrolling in school in Ohio for the first time in the school year for which the scholarship is sought and the school district or district building the student would otherwise attend qualifies for scholarships

#### **Early Childhood Education**

- Replaces the Senate-passed provision, that requires ODE and the Governor's Director of 21<sup>st</sup> Century Education to develop legislative recommendations regarding the state's policies on reading readiness for children from birth through third grade, with a requirement that the State Board of Education and the Early Childhood Advisory Council jointly develop legislative recommendations on the state's policies on literacy education of children from birth to third

grade. The joint recommendations are due to the Governor and members of the General Assembly, namely members of the General Assembly's Children's Caucus, not later than February 28, 2013.

#### **Ohio School Facilities Commission**

- Removes the bill's provision giving priority over "next ten" districts for Expedited Local Partnership (ELLP) school districts offered early state funding. The amendment is silent on whether the "next ten" districts have priority over the ELLP districts, however. (The bill authorizes the School Facilities Commission to offer state funding under the main Classroom Facilities Assistance Program (CFAP) to ELLP districts earlier than they would otherwise be eligible for state funds based on their wealth percentiles. The bill also specifies that these ELLP districts do not have priority over districts for which earlier funding offers lapsed, districts only partially served under pre-1997 programs, urban districts, and districts receiving funding under the Exceptional Needs Program. Although the amendment removes "next ten" districts from the list of districts over which ELLP districts would have priority, it does not correspondingly add "next ten" districts to the list of districts with stated priority over ELLP districts. Each fiscal year, the Commission must determine which districts are likely the "next ten districts" to be offered CFAP funding, after all of the priority districts have been funded.)
- Removes the bill's condition that lapsed districts must have received new conditional approvals from the Commission in order to have priority under the bill, but apparently, as a result of the amendment, their priority might not depend on whether they have received new conditional approvals for their projects from the Commission

#### **Gifted Education**

- Repeals the provision enacted in 2011 by HB 153 authorizing a school district principal or any other person employed by and assigned to a school district school to also serve as the school district's gifted education coordinator, if qualified to do so under State Board of Education rules
- Requires ODE to issue a request for proposal for the establishment of a start-up community school in each of the 16 regions of the educational regional service system to serve primarily identified gifted students. ODE must select an educational service center (ESC), school district, another community school, STEM school, institution of higher education, or a consortium of such entities to establish and operate each of the new community schools in accordance with prescribed criteria. The criteria are:
  - Capacity to provide the necessary facilities, appropriated personnel, and other resources
  - Capability to serve identified gifted students in the region through one or more facilities
  - Evidence that the entity will work collaboratively with other school districts and community schools in the region
  - Evidence of an appropriate governance structure for the school
  - A memorandum of understanding with an entity eligible to sponsor community schools, and
  - Intent to open the community school by September 30, 2014

Subject to approval by the state Superintendent, the school may operate under an alternative funding formula or alternate method to transmit payment for students enrolled in the school, as long as neither results in a deduction from a student's resident school district that is greater than it would be under current law, a tuition charge for a student, or denial of admission to any identified gifted student in the state. If no entity responds to the request for proposal or submits a proposal that meets the criteria, ODE may select an ESC, school district, institution of higher education, or STEM school to establish and operate the school for each region, in which case ODE's Office of School Sponsorship may serve as the school's sponsor.

## **STEM**

- Allows the STEM Committee to approve one or more STEM schools to serve only gifted students
- Exempts STEM schools, and STEM programs awarded grants by the STEM Committee, from the prohibitions in current law against restricting participation based on intellectual ability or other measures of achievement or aptitude, if the schools or programs serve only gifted students

## **Blended Learning**

- Includes chartered nonpublic schools in the bill's list of schools that may operate a blended learning model, and likewise requires chartered nonpublic schools that plan to commence or cease operating a blended program to notify ODE by July 1 of the school year for which the change is effective
- Extends to chartered nonpublic schools the bill's requirement that schools already operating a blended learning program on the bill's effective date notify ODE within 90 days after the bill's effective date and request classification as a blended learning school
- Changes the bill's definition of blended learning from "the delivery of instruction in a combination of time in a supervised physical location away from home and online delivery whereby the student has some element of control over time, place, path, or pace of learning," to "a formal education program in which a student learns in part through online delivery of content and instruction with some element of student control over time, place, path, or pace, and in part at a supervised location away from home"
- Reinstates the Senate provisions that require the State Board of Education to formulate standards for the operation of blended learning programs with the following changes:
  - Specifically instructs the State Board to "revise" its existing operating standards for school districts and chartered nonpublic schools to include standards for blended learning programs, rather than "adopt" standards for such programs as under the Senate provision;
  - Replaces the Senate provision that one of the operating standards must provide for student-to-teacher ratios whereby no blended learning classroom is required to have more than one teacher for every 125 students, with a standard that provides for "exemptions from student-to-teacher ratios";
  - Revises the operating standard that provides for "the licensing of teachers, administrators, and other professional personnel and their assignment according to training and qualification" to include the stipulation: "in support of differentiated and distributed staffing"; and
  - States that the State Board, in addition to providing standards for, must also state exemptions from the following: "the licensing of teachers, administrators, and other professional personnel and their assignment according to training and qualifications; efficient and effective instructional materials and equipment, including library facilities; the proper organization, administration, and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; buildings, grounds, and health and sanitary facilities and services; admission of pupils, and such requirements for their promotion from grade to grade as will ensure that they are capable and prepared for the level of study to which they are certified; requirements for graduation; and such other factors as the board finds necessary."

## **Hybrid Community Schools**

- Authorizes the establishment of hybrid community schools that provide both remote, technology-based instruction and classroom-based instruction, so long as the governing

authority of that school has entered into a contract with an operator that has operated a community school in the state for not less than five continuous school years

- Permits existing community schools to restructure themselves as hybrid community schools if the school has entered into a contract with an operator that has operated a community school for at least five continuous school years
- Requires that the allocation of each hybrid community school's student's instructional time between classroom-based and technology-based instruction be determined individually by the student's education team
- Specifies that a hybrid community school is not an internet or computer-based school but still requires hybrid schools to comply with all community school law provisions, including most that apply only to e-schools
- Specifies that state payments to hybrid schools are to be structured like payments to "brick and mortar" community schools, not e-schools
- Specifies between e-schools and hybrid schools by changing the definition of "blended learning" to specify the online learning must be conducted at a supervised location away from home
- Requires students of a hybrid school to attend a designated site regularly that is within a 20 mile radius of their district of residence

#### **Dropout Prevention and Recovery**

- Replaces the bill's provisions requiring the State Board, by March 31, 2013, to adopt academic performance indicators specifically for dropout prevention and recovery programs operated by school districts and community schools for use in rating them on the annual report cards, with new stipulations for a separate rating system specifically for community schools that operate dropout prevention and recovery programs to be used beginning with the 2014-2015 school year. The amendment's provisions do the following:
  - Requires the State Board, by December 31, 2014, to adopt rules prescribing a new rating system for dropout prevention and recovery programs that meet the amendment's specification;
  - Specifies that the rating system use the following performance metrics: four-year, five-year, six-year, seven-year and eight-year graduation rates; the percentage of twelfth-grade students currently enrolled in a school who are within three months of their 22<sup>nd</sup> birthday and have attained the passing score on all of the applicable state high school achievement assessments by their 22<sup>nd</sup> birthday; and growth in annual student achievement in reading and mathematics as measured by separate nationally norm-referenced assessments prescribed by the State Board
  - Specifies that the rating designations be "exceeds standards," "meets standards," and "does not meet standards";
  - Requires ODE, in developing the rating system, to gather data from community schools that operate dropout prevention and recovery programs and to consult with stakeholder groups;
  - Requires community schools that operate dropout prevention and recovery programs to supply requested data to ODE for use in developing the rating system
  - Prohibits ODE from applying the current report card rating system to community schools that operate dropout prevention and recovery programs for the 2012-2013 and 2013-2014 school years, pending development of the new rating system
- Removes the Senate provision that cancels dropout recovery community schools' exemption from the law requiring closure of low-performing community schools once new report cards for these schools are issued

## **Community Schools**

- Revises an uncodified provision enacted in HB 153 to permit a community school to operate from or in a residential care facility
- Eliminates the requirement that ODE combine with district's student performance data, the comparable data for all community schools sponsored by the school district, instead of only conversion community schools sponsored by the district
- Reinstates the exception for conversion schools that primarily enroll students between 16 and 22 years of age who dropped out of high school or are at risk of dropping out of high school due to poor attendance, disciplinary problems, or suspensions
- Eliminates the requirement that ODE include the students attending community schools sponsored by a school district in the district's enrollment count on the district's report card
- Removes the bill's provisions permitting a single individual to be a member of the governing authority of up to five community schools at the same time under certain conditions and a single governing authority to direct up to five separate community schools under certain conditions. Increases the number, from two to three, of governing authorities of start-up community schools on which a person can serve at the same time
- Reinstates the current law requiring a single pool of all sponsors, rather than separate pools for sponsors of conversion schools and for sponsors of start-up schools as prescribed by the Introduced and Senate versions
- Makes permanent the exclusion from the ranking calculations of community schools that operate dropout prevention and recovery programs
- Reinstates the Senate version's exclusion from the ranking calculations of community schools that have been in operation for less than two full school years
- Restores current law making permanent the exemption for community schools that operate dropout prevention and recovery programs from the provisions of law requiring closure for low academic performance ratings

## **State Board of Education Meetings**

- Repeals the requirement of current law that the State Board of Education hold regular meetings every three months, and instead requires the State Board to annually adopt a calendar by March 31 indicating the dates on which it will hold its regular meetings for the following fiscal year. Allows notice of special meetings of the State Board to be delivered to Board members by regular mail, and permits a designee of the Board president to give the notice.

## **Teacher Evaluations**

- Extends from April 1 to May 1 the deadline for employers to complete teacher evaluations
- Specifies, with respect to the bill's provision allowing the State Board of Education to update its teacher evaluation framework periodically, that the update must be adopted by resolution
- Removes students who are "habitual truants" (a student who has unexcused absences of 5 or more consecutive days, 7 or more days in a month, or 12 or more days in a school year) from exclusion in calculating student academic growth on teacher evaluations
- Specifies that ODE, instead of the State Board, must establish guidelines for the teacher evaluation report containing the number of teachers receiving each evaluation rating, aggregated by the teacher preparation programs from which the teachers graduated and graduation year and deletes the reference to the Education Management Information System
- Allows administrative specialists to conduct teacher evaluations, if they work for the teacher's employer or a third party hired by the employer to do evaluations

- Requires only one annual evaluation of teachers on limited or extended limited contracts and requires at least three formal observations of teachers on limited or extended limited contracts as part of the evaluation process
- Specifies that the requirements regarding teacher evaluation prevail over collective bargaining agreements entered into on or after the bill's effective date

#### **Teacher Retesting**

- Removes the following provisions from the bill:
  - The requirement for an employer to develop a professional improvement plan for a teacher who is rated "ineffective" on an evaluation for the first time;
  - The requirement, upon a second consecutive "ineffective" rating, for the teacher to complete at least 12 hours of professional development and, if required by the employer, to take an exam of content knowledge selected by ODE; and
  - Authority for an employer to terminate a teacher if the teacher does not complete the professional development or content knowledge exam, receives an "ineffective" rating on the teacher's next evaluation after the professional development or fails the exam
- Reinstates current law, enacted in 2011 by HB 153 and repealed by the bill, requiring teachers of core subject areas to take tests to prove their expertise to teach the subjects and grade levels to which they are assigned. The testing requirement applies to school district teachers who received an "ineffective" rating on evaluations for two of the three most recent school years and community school and STEM school teachers who work in a building that is ranked in the lowest 10% of all public school buildings according to performance index score. The tests teachers must take are exams of content knowledge selected by ODE.

#### **Expenditure Standards**

- Removes the deadline for ODE to present proposed reporting standards to the State Board of Education, but moves the date that the State Board must adopt those standards to December 31, 2012, instead of July 1, 2013, as under the bill, and July 1, 2012, as under current law. Requires school districts, community schools, and STEM schools to begin reporting data in accordance with the standards on July 1, 2013.

#### **Selling of School District Property**

- Adds nonprofit colleges and universities and chartered nonpublic schools to the list of entities that may purchase real property of a school district directly without purchasing it at a public auction
- Specifies that, when offering the right of first refusal to community schools and college-preparatory boarding schools to purchase school district real property that a district is seeking to sell, the appraised fair market value of the property must be determined by an appraisal that is not more than one year old
- Reinstates, with changes, the Senate provisions adding both college-preparatory boarding schools and community schools not already located in a particular school districts to the entities that may purchase or lease the school district's real property, under the current law that requires a district to offer for sale or lease to community schools real property that it has not used for two years. The amendment's changes to the Senate provisions are the following:
  - Omits the Senate provision permitting sale or lease to persons or groups proposing to establish new community schools to be located in the districts
  - Specifies that the appraised fair market value of the property must be determined by an appraisal that is not more than one year old
  - Omits the Senate requirement that any unused property sold or leased to a community school be used only for operating the community school

### **Third Grade Reading Guarantee**

- Requires ODE, instead of the student's principal as currently in the bill, to determine whether a student demonstrates an acceptable level of performance on an alternative standardized reading assessment to qualify for exemption from retention
- Requires the alternative intervention service providers be screened either by a school district or ODE
- Requires school districts and community schools to provide retained third-graders who have been identified as gifted in field other than reading with instruction in those fields that is commensurate with the student's achievement levels
- Requires the Superintendent of Public Instruction annually to report to the Governor and General Assembly the number and percentage of students in grades K-4 reading below grade level, types of intervention services provided, and an evaluation, if available, of the efficacy of those services all aggregated by district
- Clarifies that performance data to determine a high-performing teacher to whom retained students must be assigned only be considered when available
- Requires not less than 90 minutes of reading instruction daily for students on a reading intervention plan
- In exemptions from retention for the third grade reading guarantee, revises the periods of time in which a student received intensive reading remediation from "for more than two school years" or "at least two school years" to "during at least two school years" in both cases

### **Miscellaneous**

- Prohibits substitutes, adult education instructors who are scheduled to work the full-time equivalent of less than 120 days per school year, and persons who are employed on an as-needed, seasonal, or intermittent basis from accruing sick leave under the Department of Administrative Services- Personnel Law
- States that a legislative authority enacting a tax increment financing (TIF) resolution must notify a joint vocational school district of pending TIF legislation according to the same time requirements as apply to other school districts
- Includes the Ohio Association of Career and Technical Education and the Ohio Association of Career Technical Superintendents as organizations with which the State Board of Education must consult when approving annual report cards for joint vocational school districts
- Requires ODE, by December 31, 2012, to issue a report to the Governor and General Assembly on the compliance of school districts and community schools with the requirement of current law to have students with disabilities undergo a comprehensive eye exam within three months after beginning to receive special education and related services. Specifies that the report must include data from the 2010-2011 and 2011-2012 school years on the total number of students enrolled in each school district or community school who were subject to the requirement to undergo an eye exam and the total number of those students whom the district of school can verify received the exam.
- For the 2012-2013 school year, extends from 60 to 75 days after administration of the state achievement assessments the deadline to report individual scores to school districts. However, retains current law's ultimate deadline of June 15 by specifying that scores may not be reported later than June 15, 2013.

### **Next Week's Committees**

There will be no committee meetings next week.

**Federal Activity**

There is no federal update this week.