

As Passed by the House

**126th General Assembly
Regular Session
2005-2006**

Sub. S. B. No. 56

**Senators Mumper, Wachtmann, Harris, Cates, Jacobson
Representatives Coley, C. Evans, D. Evans, Gibbs, Hood, Setzer, Widowfield**

—

A B I L L

To amend section 3318.31 of the Revised Code and to 1
amend Section 41.21 of Am. Sub. H.B. 95 of the 2
125th General Assembly and to amend Section 41.13 3
of Am. Sub. H.B. 95 of the 125th General Assembly, 4
as subsequently amended, to enact as a separate 5
act the provision of law exempting employees of 6
the Ohio School Facilities Commission from the 7
collective bargaining law, to make adjustments to 8
the Department of Education's fiscal year 2005 9
budget, and to make an appropriation. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3318.31 of the Revised Code be 11
amended to read as follows: 12

Sec. 3318.31. (A) The Ohio school facilities commission may 13
perform any act and ensure the performance of any function 14
necessary or appropriate to carry out the purposes of, and 15
exercise the powers granted under, Chapter 3318. of the Revised 16
Code, including any of the following: 17

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 18
the Revised Code, rules for the administration of programs 19

authorized under Chapter 3318. of the Revised Code. 20

(2) Contract with, retain the services of, or designate, and 21
fix the compensation of, such agents, accountants, consultants, 22
advisers, and other independent contractors as may be necessary or 23
desirable to carry out the programs authorized under Chapter 3318. 24
of the Revised Code, or authorize the executive director to 25
perform such powers and duties. 26

(3) Receive and accept any gifts, grants, donations, and 27
pledges, and receipts therefrom, to be used for the programs 28
authorized under Chapter 3318. of the Revised Code. 29

(4) Make and enter into all contracts, commitments, and 30
agreements, and execute all instruments, necessary or incidental 31
to the performance of its duties and the execution of its rights 32
and powers under Chapter 3318. of the Revised Code, or authorize 33
the executive director to perform such powers and duties. 34

(B) The commission shall appoint and fix the compensation of 35
an executive director who shall serve at the pleasure of the 36
commission. The executive director shall supervise the operations 37
of the commission and perform such other duties as delegated by 38
the commission. The executive director also shall employ and fix 39
the compensation of such employees as will facilitate the 40
activities and purposes of the commission, who shall serve at the 41
pleasure of the executive director. ~~The employees of the~~ 42
~~commission shall be exempt from Chapter 4117. of the Revised Code~~ 43
~~and shall not be public employees as defined in section 4117.01 of~~ 44
~~the Revised Code. The employees of the commission shall be exempt~~ 45
~~from Chapter 4117. of the Revised Code and shall not be public~~ 46
~~employees as defined in section 4117.01 of the Revised Code.~~ 47

(C) The attorney general shall serve as the legal 48
representative for the commission and may appoint other counsel as 49
necessary for that purpose in accordance with section 109.07 of 50

the Revised Code. 51

Section 2. That existing section 3318.31 of the Revised Code 52
is hereby repealed. 53

Section 3. The amendment to section 3318.31 of the Revised 54
Code as made in Am. Sub. H.B. 405 of the 124th General Assembly 55
was held to violate the one-subject rule of Ohio Constitution, 56
Article II, Section 15(D), in *State, ex rel. Ohio Civil Service* 57
Employees Assoc., AFSCME, Local 11, AFL-CIO v. SERB (2004), 104 58
Ohio St.3d 122, 818 N.E.2d 688. The purpose of the amendment of 59
section 3318.31 of the Revised Code by this act is to re-enact 60
this amendment in a measure that does not violate the one-subject 61
rule of the Ohio Constitution. 62

Section 4. That Section 41.21 of Am. Sub. H.B. 95 of the 63
125th General Assembly be amended to read as follows: 64

Sec. 41.21. LOTTERY PROFITS EDUCATION RESERVE FUND 65

(A) There is hereby created the Lottery Profits Education 66
Reserve Fund (Fund 018) in the State Treasury. At no time shall 67
the amount to the credit of the fund exceed \$75,000,000. 68
Investment earnings of the Lottery Profits Education Reserve Fund 69
shall be credited to the fund. Notwithstanding any provisions of 70
law to the contrary, for fiscal years 2004 and 2005, there is 71
appropriated to the Department of Education, from the Lottery 72
Profits Education Reserve Fund, an amount necessary to make loans 73
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 74
Revised Code. All loan repayments from loans made in fiscal years 75
1992, 1993, 1994, 1995, 1996, 1997, 1998, or 1999 shall be 76
deposited into the credit of the Lottery Profits Education Reserve 77
Fund. 78

(B) Notwithstanding any other provisions of law to the contrary, in fiscal year 2005, up to \$30,000,000 shall be transferred from the Lottery Profits Education Reserve Fund (Fund 018) to the Lottery Profits Education Fund (Fund 017). The amounts transferred are hereby appropriated to appropriation item 200-612, Base Cost Funding.

~~(B)~~(C)(1) On or before July 15, 2003, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 2003 exceed \$637,722,600. The amount so certified shall be distributed in fiscal year 2004 pursuant to division ~~(C)~~(D) of this section.

(2) On or before July 15, 2004, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 2004 exceed \$637,900,000. The amount so determined shall be distributed in fiscal year 2005 pursuant to division ~~(D)~~(E) of this section.

The Director of Budget and Management shall annually certify the amounts determined pursuant to this section to the Speaker of the House of Representatives and the President of the Senate.

~~(C)~~(D) In fiscal year 2004, if there is a balance in the Lottery Profits Education Fund, the moneys shall be allocated as provided in this division. Any amounts so allocated are appropriated.

An amount equal to five per cent of the estimated lottery profits of \$637,722,600 in fiscal year 2003 or the amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Lottery Profits Education Reserve Fund within the limitations specified in division (A) of this section and be reserved and shall not be available for allocation or distribution

during fiscal year 2004. Any amounts exceeding \$75,000,000 shall 110
be distributed pursuant to division ~~(E)~~(F) of this section. 111

~~(D)~~(E) In fiscal year 2005, if there is a balance in the 112
Lottery Profits Education Fund, the moneys shall be allocated as 113
provided in this division. Any amounts so allocated are 114
appropriated. 115

An amount equal to five per cent of the estimated lottery 116
profits transfers of \$637,900,000 in fiscal year 2004 or the 117
amount remaining in the fund, whichever is the lesser amount, 118
shall be transferred to the Lottery Profits Education Reserve Fund 119
within the limitations specified in division (A) of this section 120
and be reserved and shall not be available for allocation or 121
distribution during fiscal year 2005. Any amounts exceeding 122
\$75,000,000 shall be distributed pursuant to division ~~(E)~~(F) of 123
this section. 124

~~(E)~~(F) In the appropriate fiscal year, any remaining amounts 125
after the operations required by division ~~(C)~~(D) or ~~(D)~~(E) of this 126
section, respectively, shall be transferred to the Public School 127
Building Fund (Fund 021) and such amount is appropriated to 128
appropriation item CAP-622, Public School Buildings, in the School 129
Facilities Commission. 130

Section 5. That existing Section 41.21 of Am. Sub. H.B. 95 of 131
the 125th General Assembly is hereby repealed. 132

Section 6. That Section 41.13 of Am. Sub. H.B. 95 of the 133
125th General Assembly, as most recently amended by Sub. H.B. 434 134
of the 125th General Assembly, be amended to read as follows: 135

Sec. 41.13. SPECIAL EDUCATION ENHANCEMENTS 136

Of the foregoing appropriation item 200-540, Special 137
Education Enhancements, up to \$44,204,000 in fiscal year 2004 and 138

up to \$45,441,712 in fiscal year 2005 shall be used to fund 139
special education and related services at county boards of mental 140
retardation and developmental disabilities for eligible students 141
under section 3317.20 of the Revised Code. Up to \$2,452,125 shall 142
be used in each fiscal year to fund special education classroom 143
and related services units at institutions. 144

Of the foregoing appropriation item 200-540, Special 145
Education Enhancements, up to \$2,906,875 in each fiscal year shall 146
be used for home instruction for children with disabilities; up to 147
\$1,462,500 in each fiscal year shall be used for parent mentoring 148
programs; and up to \$2,783,396 in each fiscal year may be used for 149
school psychology interns. 150

Of the foregoing appropriation item 200-540, Special 151
Education Enhancements, \$3,406,090 in each fiscal year shall be 152
used by the Department of Education to assist school districts in 153
funding aides pursuant to paragraph (A)(3)(c)(i)(b) of rule 154
3301-51-04 of the Administrative Code. 155

The remainder of the foregoing appropriation item 200-540, 156
Special Education Enhancements, after all other set asides in this 157
section, in each fiscal year ~~2004 and \$78,384,498 in fiscal year~~ 158
~~2005~~ shall be distributed by the Department of Education to county 159
boards of mental retardation and developmental disabilities, 160
educational service centers, and school districts for preschool 161
special education units and preschool supervisory units in 162
accordance with section 3317.161 of the Revised Code. The 163
Department may reimburse county boards of mental retardation and 164
developmental disabilities, educational service centers, and 165
school districts for related services as defined in rule 166
3301-51-11 of the Administrative Code, for preschool occupational 167
and physical therapy services provided by a physical therapy 168
assistant and certified occupational therapy assistant, and for an 169
instructional assistant. To the greatest extent possible, the 170

Department of Education shall allocate these units to school 171
districts and educational service centers. The Controlling Board 172
may approve the transfer of unallocated funds from appropriation 173
item 200-501, Base Cost Funding, to appropriation item 200-540, 174
Special Education Enhancements, to fully fund existing units as 175
necessary or to fully fund additional units. The Controlling Board 176
may approve the transfer of unallocated funds from appropriation 177
item 200-540, Special Education Enhancements, to appropriation 178
item 200-501, Base Cost Funding, to fully fund the special 179
education weight cost funding. 180

The Department of Education shall require school districts, 181
educational service centers, and county MR/DD boards serving 182
preschool children with disabilities to document child progress 183
using research-based indicators prescribed by the Department and 184
report results annually. The reporting dates and methodology shall 185
be determined by the Department. 186

Of the foregoing appropriation item 200-540, Special 187
Education Enhancements, \$315,000 in each fiscal year shall be 188
expended to conduct a demonstration project involving language and 189
literacy intervention teams supporting student acquisition of 190
language and literacy skills. The demonstration project shall 191
demonstrate improvement of language and literacy skills of at-risk 192
learners under the instruction of certified speech pathologists 193
and educators. Baseline data shall be collected and comparison 194
data for fiscal year 2004 and fiscal year 2005 shall be collected 195
and reported to the Governor, OhioReads Council, Department of 196
Education, and the General Assembly. 197

Of the foregoing appropriation item 200-540, Special 198
Education Enhancements, up to \$500,000 in each fiscal year shall 199
be used for the Research-Based Reading Mentoring Program. 200

Of the foregoing appropriation item 200-540, Special 201
Education Enhancements, \$600,000 in each fiscal year shall be used 202

to support the Bellefaire Jewish Children's Bureau. 203

Section 7. That existing Section 41.13 of Am. Sub. H.B. 95 of 204
the 125th General Assembly, as most recently amended by Sub. H.B. 205
434 of the 125th General Assembly, is hereby repealed. 206

Section 8. All items in this section are hereby appropriated 207
as designated out of moneys in the state treasury to the credit of 208
the General Revenue Fund. For all appropriations made in this act, 209
those in the first column are for fiscal year 2004, and those in 210
the second column are for fiscal year 2005. The appropriations 211
made in this act are in addition to any other appropriations made 212
for the 2003-2005 biennium. 213

Appropriations

EDU DEPARTMENT OF EDUCATION 214

General Revenue Fund 215

GRF 200-501 Base Cost Funding	\$	0	\$	150,000,000	216
-------------------------------	----	---	----	-------------	-----

TOTAL GRF General Revenue Fund	\$	0	\$	150,000,000	217
--------------------------------	----	---	----	-------------	-----

TOTAL ALL BUDGET FUND GROUPS	\$	0	\$	150,000,000	218
------------------------------	----	---	----	-------------	-----

Section 9. Within the limits set forth in this act, the 220
Director of Budget and Management shall establish accounts 221
indicating the source and amount of funds for each appropriation 222
made in this act, and shall determine the form and manner in which 223
appropriation accounts shall be maintained. Expenditures from 224
appropriations contained in this act shall be accounted for as 225
though made in Am. Sub. H.B. 95 of the 125th General Assembly. 226

The appropriations made in this act are subject to all 227
provisions of Am. Sub. H.B. 95 of the 125th General Assembly that 228
are generally applicable to General Revenue Fund appropriations. 229

Section 10. TAXABLE VALUE ADJUSTMENTS 230

Notwithstanding division (B) of section 3317.026, division 231
(B) of section 3317.027, and division (C) of section 3317.028 of 232
the Revised Code, the Department of Education shall make the 233
payments required under sections 3317.026, 3317.027, and 3317.028 234
of the Revised Code for fiscal year 2005 on or before July 31, 235
2005. 236

Section 11. (A) As used in this section: 237

(1) "Foundation aid" means payments made by the Department of 238
Education to school districts at least monthly in accordance with 239
Chapter 3317. of the Revised Code and transfers made by the 240
Department on behalf of educational entities that are included as 241
"Other Adjustments" on the Department's Form SF-3. 242

(2) "Nonfoundation aid" means all other subsidy payments to 243
school districts not described in division (A)(1) of this section. 244

(B) If, in fiscal year 2005, appropriations from the General 245
Revenue Fund and the Lottery Profits Education Fund for foundation 246
aid are projected to be insufficient to fully fund calculated 247
foundation aid to school districts, the Superintendent of Public 248
Instruction shall do all of the following: 249

(1) Review and identify any non-General Revenue Fund sources 250
available for use to fund the variance between calculated 251
foundation aid and current appropriations for foundation aid from 252
the General Revenue Fund and the Lottery Profits Education Fund. 253
If the Superintendent identifies such amounts, the Superintendent 254
shall request Controlling Board approval for the transfer of cash 255
from the non-General Revenue Fund sources to the General Revenue 256
Fund. 257

(2) Review and identify any available General Revenue Fund 258
administrative appropriations from which transfers may be made to 259
fund the variance between calculated foundation aid and current 260

appropriations for foundation aid from the General Revenue Fund 261
and the Lottery Profits Education Fund. If the Superintendent 262
identifies such amounts, the Superintendent shall request 263
Controlling Board approval for the transfer of appropriations. 264

(3) Review and identify any nonfoundation aid appropriations 265
from the General Revenue Fund that may be transferred to fund the 266
variance between calculated foundation aid and current 267
appropriations for foundation aid from the General Revenue Fund 268
and the Lottery Profits Education Fund. If the Superintendent 269
identifies such amounts, the Superintendent shall request 270
Controlling Board approval for the transfer of appropriations. 271

Section 12. Sections 4 through 12 of this act are not subject 272
to the referendum. Therefore, under Ohio Constitution, Article II, 273
Section 1d and section 1.471 of the Revised Code, those sections 274
go into immediate effect when this act becomes law. 275