

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 598

Representative Huffman

Cosponsor: Representative Uecker

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A B I L L

To amend sections 2921.43, 3313.36, 3314.03, 1
3315.062, and 3326.11 and to enact section 2
3313.539 of the Revised Code to prohibit a public 3
school or an interscholastic athletic organization 4
from sanctioning or controlling fund-raising and 5
expenditures by head coaches or school booster 6
clubs under specified conditions and to permit 7
school booster clubs to pay compensation to 8
coaches. 9

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

Section 1. That sections 2921.43, 3313.36, 3314.03, 3315.062, 10
and 3326.11 be amended and section 3313.539 of the Revised Code be 11
enacted to read as follows: 12

Sec. 2921.43. (A) No public servant shall knowingly solicit 13
or accept, and no person shall knowingly promise or give to a 14
public servant, either of the following: 15

(1) Any compensation, other than as allowed by divisions (G), 16
(H), and (I) of section 102.03, division (C) of section 3313.539 17
of the Revised Code, or other provisions of law, to perform the 18
public servant's official duties, to perform any other act or 19

service in the public servant's public capacity, for the general 20
performance of the duties of the public servant's public office or 21
public employment, or as a supplement to the public servant's 22
public compensation; 23

(2) Additional or greater fees or costs than are allowed by 24
law to perform the public servant's official duties. 25

(B) No public servant for the public servant's own personal 26
or business use, and no person for the person's own personal or 27
business use or for the personal or business use of a public 28
servant or party official, shall solicit or accept anything of 29
value in consideration of either of the following: 30

(1) Appointing or securing, maintaining, or renewing the 31
appointment of any person to any public office, employment, or 32
agency; 33

(2) Preferring, or maintaining the status of, any public 34
employee with respect to compensation, duties, placement, 35
location, promotion, or other material aspects of employment. 36

(C) No person for the benefit of a political party, campaign 37
committee, legislative campaign fund, political action committee, 38
or political contributing entity shall coerce any contribution in 39
consideration of either of the following: 40

(1) Appointing or securing, maintaining, or renewing the 41
appointment of any person to any public office, employment, or 42
agency; 43

(2) Preferring, or maintaining the status of, any public 44
employee with respect to compensation, duties, placement, 45
location, promotion, or other material aspects of employment. 46

(D) Whoever violates this section is guilty of soliciting 47
improper compensation, a misdemeanor of the first degree. 48

(E) A public servant who is convicted of a violation of this 49

section is disqualified from holding any public office, 50
employment, or position of trust in this state for a period of 51
seven years from the date of conviction. 52

(F) Divisions (A), (B), and (C) of this section do not 53
prohibit a person from making voluntary contributions to a 54
political party, campaign committee, legislative campaign fund, 55
political action committee, or political contributing entity or 56
prohibit a political party, campaign committee, legislative 57
campaign fund, political action committee, or political 58
contributing entity from accepting voluntary contributions. 59

Sec. 3313.36. (A) By the adoption of a resolution, a board of 60
education may accept any bequest made to it by will or may accept 61
any gift or endowment upon the conditions and stipulations 62
contained in the will or connected with the gift or endowment. For 63
the purpose of enabling the board to carry out the conditions and 64
limitations upon which a bequest, gift, or endowment is made, it 65
may make all rules required to fully carry them into effect. ~~No~~ 66
~~such~~ Except for funds raised and expended under section 3313.539 67
of the Revised Code, no bequest, gift, or endowment shall be 68
accepted by the board if the conditions remove any portion of the 69
public schools from the control of the board. 70

(B) By the adoption of a resolution, a board may direct the 71
school district treasurer to pay the proceeds of any bequest, 72
gift, or endowment given to the district for the education 73
foundation fund or given without conditions or limitations into 74
the education foundation fund established by section 3315.40 of 75
the Revised Code. 76

Sec. 3313.539. (A) Notwithstanding anything in section 77
3313.47 of the Revised Code to the contrary, the board of 78
education of a school district shall not prohibit a school booster 79

organization or a head coach employed or engaged by the board from 80
raising funds for school athletic activities, including conducting 81
or instructing athletic camp fund-raisers and involving student 82
athletes in fund-raising activities, or in any way sanction those 83
fund-raising activities or prohibit or sanction the booster 84
organization's or head coach's maintenance or use of the funds 85
raised to pay for athletic equipment, compensation for coaches, or 86
other items directly benefiting the head coach's athletic program, 87
as long as the following conditions are satisfied: 88

(1) The head coach is not a signatory on an account 89
containing the funds raised and may not issue checks on such 90
account. 91

(2) The funds raised are maintained by any of the following: 92

(a) The district treasurer; 93

(b) An attorney licensed to practice law in Ohio, who shall 94
be designated the trustee of the funds; 95

(c) A certified public accountant who has received a 96
certificate under Chapter 4701. of the Revised Code, who shall be 97
designated the trustee of the funds; 98

(d) The treasurer of the booster organization, if that 99
organization is exempt from federal income tax under section 100
501(c)(3) of the Internal Revenue Code. 101

(3) If the funds are maintained by a person described in 102
division (A)(2)(b), (c), or (d) of this section, that person at 103
least annually provides to the district treasurer and the school 104
athletic director a report of the income, sources, and 105
expenditures of the funds. 106

(B) Funds raised in accordance with this section need not be 107
maintained in any district or school account and shall not be 108
subject to audit under Chapter 117. of the Revised Code as long as 109

the conditions prescribed by divisions (A)(1) to (3) of this 110
section are satisfied. 111

(C)(1) Notwithstanding anything to the contrary in section 112
3313.53 of the Revised Code, funds raised and maintained under 113
this section may be used to pay compensation to a licensed 114
individual or a nonlicensed individual to coach an activity, and 115
any individual may accept such compensation, as long as the head 116
coach certifies to the school athletic director all of the 117
following: 118

(a) The particular coaching position is needed. 119

(b) The compensation paid to the coach is equal to or less 120
than compensation that is or would be paid to a licensed 121
individual under a supplemental contract entered into under 122
section 3319.08 of the Revised Code for a similar coaching 123
position. 124

(c) The coaching position has been offered to employees of 125
the district before offered to any individual who is not an 126
employee of the district. 127

(2) If the funds used to pay compensation to a coach under 128
division (C) of this section are not maintained in any district or 129
school account, the compensation is not subject to the provisions 130
of Chapter 3307. or 3309. of the Revised Code or the rules of the 131
board of a retirement system established under either chapter. 132

(3) The funds paid as compensation to an individual under 133
division (C) of this section may be in addition to other amounts 134
paid to the individual by the district or school as an employee of 135
the district or school. 136

(4) Compensation paid to an individual under division (C) of 137
this section shall not be construed as a violation of division (E) 138
or (F) of section 102.03 of the Revised Code. 139

(5) As used in division (C) of this section, "licensed individual" and "nonlicensed individual" have the same meanings as in section 3313.53 of the Revised Code. 140
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(D) No school district, school, interscholastic conference, or organization that regulates interscholastic conferences or events shall have a rule, bylaw, or other regulation that conflicts with this section. 143
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Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction. 147
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(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following: 150
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(1) That the school shall be established as either of the following: 153
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(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003; 155
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(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003; 157
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(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum; 159
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(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests; 163
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(4) Performance standards by which the success of the school will be evaluated by the sponsor; 166
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(5) The admission standards of section 3314.06 of the Revised 168

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| Code and, if applicable, section 3314.061 of the Revised Code; | 169 |
| (6)(a) Dismissal procedures; | 170 |
| (b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student. | 171 172 173 174 175 176 |
| (7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves; | 177 178 |
| (8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code. | 179 180 181 182 183 184 |
| (9) The facilities to be used and their locations; | 185 |
| (10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code; | 186 187 188 189 190 191 |
| (11) That the school will comply with the following requirements: | 192 193 |
| (a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year; | 194 195 196 |
| (b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the | 197 198 |

school; 199

(c) The school will be nonsectarian in its programs, 200
admission policies, employment practices, and all other 201
operations, and will not be operated by a sectarian school or 202
religious institution; 203

(d) The school will comply with sections 9.90, 9.91, 109.65, 204
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 205
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.539, 206
3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.643, 3313.648, 207
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 208
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 209
3313.718, 3313.80, 3313.96, 3319.073, 3319.313, 3319.314, 210
3319.315, 3319.321, 3319.39, 3319.391, 3321.01, 3321.13, 3321.14, 211
3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, 212
and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 213
4123., 4141., and 4167. of the Revised Code as if it were a school 214
district and will comply with section 3301.0714 of the Revised 215
Code in the manner specified in section 3314.17 of the Revised 216
Code; 217

(e) The school shall comply with Chapter 102. and section 218
2921.42 of the Revised Code; 219

(f) The school will comply with sections 3313.61, 3313.611, 220
and 3313.614 of the Revised Code, except that for students who 221
enter ninth grade for the first time before July 1, 2010, the 222
requirement in sections 3313.61 and 3313.611 of the Revised Code 223
that a person must successfully complete the curriculum in any 224
high school prior to receiving a high school diploma may be met by 225
completing the curriculum adopted by the governing authority of 226
the community school rather than the curriculum specified in Title 227
XXXIII of the Revised Code or any rules of the state board of 228
education. Beginning with students who enter ninth grade for the 229
first time on or after July 1, 2010, the requirement in sections 230

3313.61 and 3313.611 of the Revised Code that a person must 231
successfully complete the curriculum of a high school prior to 232
receiving a high school diploma shall be met by completing the 233
Ohio core curriculum prescribed in division (C) of section 234
3313.603 of the Revised Code, unless the person qualifies under 235
division (D) or (F) of that section. Each school shall comply with 236
the plan for awarding high school credit based on demonstration of 237
subject area competency, adopted by the state board of education 238
under division (J) of section 3313.603 of the Revised Code. 239

(g) The school governing authority will submit within four 240
months after the end of each school year a report of its 241
activities and progress in meeting the goals and standards of 242
divisions (A)(3) and (4) of this section and its financial status 243
to the sponsor and the parents of all students enrolled in the 244
school. 245

(h) The school, unless it is an internet- or computer-based 246
community school, will comply with section 3313.801 of the Revised 247
Code as if it were a school district. 248

(12) Arrangements for providing health and other benefits to 249
employees; 250

(13) The length of the contract, which shall begin at the 251
beginning of an academic year. No contract shall exceed five years 252
unless such contract has been renewed pursuant to division (E) of 253
this section. 254

(14) The governing authority of the school, which shall be 255
responsible for carrying out the provisions of the contract; 256

(15) A financial plan detailing an estimated school budget 257
for each year of the period of the contract and specifying the 258
total estimated per pupil expenditure amount for each such year. 259
The plan shall specify for each year the base formula amount that 260
will be used for purposes of funding calculations under section 261

3314.08 of the Revised Code. This base formula amount for any year 262
shall not exceed the formula amount defined under section 3317.02 263
of the Revised Code. The plan may also specify for any year a 264
percentage figure to be used for reducing the per pupil amount of 265
the subsidy calculated pursuant to section 3317.029 of the Revised 266
Code the school is to receive that year under section 3314.08 of 267
the Revised Code. 268

(16) Requirements and procedures regarding the disposition of 269
employees of the school in the event the contract is terminated or 270
not renewed pursuant to section 3314.07 of the Revised Code; 271

(17) Whether the school is to be created by converting all or 272
part of an existing public school or is to be a new start-up 273
school, and if it is a converted public school, specification of 274
any duties or responsibilities of an employer that the board of 275
education that operated the school before conversion is delegating 276
to the governing board of the community school with respect to all 277
or any specified group of employees provided the delegation is not 278
prohibited by a collective bargaining agreement applicable to such 279
employees; 280

(18) Provisions establishing procedures for resolving 281
disputes or differences of opinion between the sponsor and the 282
governing authority of the community school; 283

(19) A provision requiring the governing authority to adopt a 284
policy regarding the admission of students who reside outside the 285
district in which the school is located. That policy shall comply 286
with the admissions procedures specified in sections 3314.06 and 287
3314.061 of the Revised Code and, at the sole discretion of the 288
authority, shall do one of the following: 289

(a) Prohibit the enrollment of students who reside outside 290
the district in which the school is located; 291

(b) Permit the enrollment of students who reside in districts 292

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| adjacent to the district in which the school is located; | 293 |
| (c) Permit the enrollment of students who reside in any other district in the state. | 294 295 |
| (20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code; | 296 297 298 299 |
| (21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code; | 300 301 302 |
| (22) A provision recognizing both of the following: | 303 |
| (a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations; | 304 305 306 307 |
| (b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action; | 308 309 310 311 312 313 314 |
| (23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code; | 315 316 317 318 319 320 |
| (24) The school will comply with section 3302.04 of the Revised Code, including division (E) of that section to the extent | 321 322 |

possible, except that any action required to be taken by a school district pursuant to that section shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of that section.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public school, alternative arrangements for current public school students who choose not to attend the school and teachers who choose not to teach in the school after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby

authorized to receive such payments as set forth in the contract 353
between the governing authority and the sponsor. The total amount 354
of such payments for oversight and monitoring of the school shall 355
not exceed three per cent of the total amount of payments for 356
operating expenses that the school receives from the state. 357

(D) The contract shall specify the duties of the sponsor 358
which shall be in accordance with the written agreement entered 359
into with the department of education under division (B) of 360
section 3314.015 of the Revised Code and shall include the 361
following: 362

(1) Monitor the community school's compliance with all laws 363
applicable to the school and with the terms of the contract; 364

(2) Monitor and evaluate the academic and fiscal performance 365
and the organization and operation of the community school on at 366
least an annual basis; 367

(3) Report on an annual basis the results of the evaluation 368
conducted under division (D)(2) of this section to the department 369
of education and to the parents of students enrolled in the 370
community school; 371

(4) Provide technical assistance to the community school in 372
complying with laws applicable to the school and terms of the 373
contract; 374

(5) Take steps to intervene in the school's operation to 375
correct problems in the school's overall performance, declare the 376
school to be on probationary status pursuant to section 3314.073 377
of the Revised Code, suspend the operation of the school pursuant 378
to section 3314.072 of the Revised Code, or terminate the contract 379
of the school pursuant to section 3314.07 of the Revised Code as 380
determined necessary by the sponsor; 381

(6) Have in place a plan of action to be undertaken in the 382
event the community school experiences financial difficulties or 383

closes prior to the end of a school year. 384

(E) Upon the expiration of a contract entered into under this 385
section, the sponsor of a community school may, with the approval 386
of the governing authority of the school, renew that contract for 387
a period of time determined by the sponsor, but not ending earlier 388
than the end of any school year, if the sponsor finds that the 389
school's compliance with applicable laws and terms of the contract 390
and the school's progress in meeting the academic goals prescribed 391
in the contract have been satisfactory. Any contract that is 392
renewed under this division remains subject to the provisions of 393
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 394

(F) If a community school fails to open for operation within 395
one year after the contract entered into under this section is 396
adopted pursuant to division (D) of section 3314.02 of the Revised 397
Code or permanently closes prior to the expiration of the 398
contract, the contract shall be void and the school shall not 399
enter into a contract with any other sponsor. A school shall not 400
be considered permanently closed because the operations of the 401
school have been suspended pursuant to section 3314.072 of the 402
Revised Code. Any contract that becomes void under this division 403
shall not count toward any statewide limit on the number of such 404
contracts prescribed by section 3314.013 of the Revised Code. 405

Sec. 3315.062. (A) The board of education of any school 406
district may expend moneys from its general revenue fund for the 407
operation of such student activity programs included in the 408
program of each school district as authorized by its board of 409
education. Such expenditure shall not exceed five-tenths of one 410
per cent of the board's annual operating budget. 411

(B) If more than fifty dollars a year is received through a 412
student activity program, the moneys from such program shall be 413
paid into an activity fund established by the board of education 414

of the school district. The board shall adopt regulations 415
governing the establishment and maintenance of such fund, 416
including a system of accounting to separate and verify each 417
transaction and to show the sources from which the fund revenue is 418
received, the amount collected from each source, and the amount 419
expended for each purpose. Expenditures from the fund shall be 420
subject to approval of the board. 421

This division does not apply to funds raised or expended in 422
accordance with section 3313.539 of the Revised Code. 423

(C) The board of education of any school district may 424
purchase accident insurance for pupils participating in school 425
athletic programs for which the school district is authorized to 426
expend public money. The board also may, to the extent it 427
considers necessary, establish a self-insurance plan for the 428
protection of such pupils against loss or expense resulting from 429
bodily injury or death by accident, or for the payment of any 430
deductible under a policy of accident insurance procured pursuant 431
to this division. 432

Sec. 3326.11. Each science, technology, engineering, and 433
mathematics school established under this chapter and its 434
governing body shall comply with sections 9.90, 9.91, 109.65, 435
121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 436
3301.0712, 3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 437
3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 438
3313.50, 3313.536, 3313.539, 3313.608, 3313.6012, 3313.6013, 439
3313.6014, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 440
3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 441
3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 442
3313.718, 3313.80, 3313.801, 3313.96, 3319.073, 3319.21, 3319.313, 443
3319.314, 3319.315, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 444
3319.45, 3321.01, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 445

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| 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters | 446 |
| 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., | 447 |
| 4123., 4141., and 4167. of the Revised Code as if it were a school | 448 |
| district. | 449 |
| Section 2. That existing sections 2921.43, 3313.36, 3314.03, | 450 |
| 3315.062, and 3326.11 of the Revised Code are hereby repealed. | 451 |