

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 332

Senator Roberts

Cosponsors: Senators Fedor, Mason, Miller, D., Morano, Sawyer, Miller, R.

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A B I L L

To amend sections 117.11, 3314.03, 3314.072, and 1
3314.19 and to enact sections 117.103 and 3314.40 2
of the Revised Code regarding the application of 3
the Public Records Law and Public Audit Law to 4
community school sponsors and operators and 5
sanctions for community schools in arrears on 6
workers' compensation payments. 7

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

Section 1. That sections 117.11, 3314.03, 3314.072, and 8
3314.19 be amended and sections 117.103 and 3314.40 of the Revised 9
Code be enacted to read as follows: 10

Sec. 117.103. (A) As used in this section: 11

(1) "Community school" means a school established under 12
Chapter 3314. of the Revised Code. 13

(2) "Operator" has the same meaning as in section 3314.014 of 14
the Revised Code. 15

(B) The auditor of state annually shall audit each community 16
school operator and each community school sponsor described in 17
division (C)(1) of section 3314.02 or section 3314.021 of the 18

Revised Code or Section 6 of Am. Sub. H.B. 364 of the 124th 19
general assembly. In the case of a nonpublic operator or sponsor, 20
the audit shall cover only those accounts, reports, records, and 21
files regarding the operator's or sponsor's receipt or expenditure 22
of public funds relating to the operation or sponsorship of a 23
community school. 24

Sec. 117.11. (A) Except as otherwise provided in this 25
division and in sections 117.103, 117.112, and 117.113 of the 26
Revised Code, the auditor of state shall audit each public office 27
at least once every two fiscal years. The auditor of state shall 28
audit a public office each fiscal year if that public office is 29
required to be audited on an annual basis pursuant to "The Single 30
Audit Act of 1984," 98 Stat. 2327, 31 U.S.C.A. 7501 et seq., as 31
amended. In the annual or biennial audit, inquiry shall be made 32
into the methods, accuracy, and legality of the accounts, 33
financial reports, records, files, and reports of the office, 34
whether the laws, rules, ordinances, and orders pertaining to the 35
office have been observed, and whether the requirements and rules 36
of the auditor of state have been complied with. Except as 37
otherwise provided in this division or where auditing standards or 38
procedures dictate otherwise, each audit shall cover at least one 39
fiscal year. If a public office is audited only once every two 40
fiscal years, the audit shall cover both fiscal years. 41

(B) In addition to the annual or biennial audit provided for 43
in division (A) of this section, the auditor of state may conduct 44
an audit of a public office at any time when so requested by the 45
public office or upon the auditor of state's own initiative if the 46
auditor of state has reasonable cause to believe that an 47
additional audit is in the public interest. 48

(C)(1) The auditor of state shall identify any public office 49

in which the auditor of state will be unable to conduct an audit 50
at least once every two fiscal years as required by division (A) 51
of this section and shall provide immediate written notice to the 52
clerk of the legislative authority or governing board of the 53
public office so identified. Within six months of the receipt of 54
such notice, the legislative authority or governing board may 55
engage an independent certified public accountant to conduct an 56
audit pursuant to section 117.12 of the Revised Code. 57

(2) When the chief fiscal officer of a public office notifies 58
the auditor of state that an audit is required at a time prior to 59
the next regularly scheduled audit by the auditor of state, the 60
auditor of state shall either cause an earlier audit to be made by 61
the auditor of state or authorize the legislative authority or 62
governing board of the public office to engage an independent 63
certified public accountant to conduct the required audit. The 64
scope of the audit shall be as authorized by the auditor of state. 65

(3) The auditor of state shall approve the scope of an audit 66
under division (C)(1) or (2) of this section as set forth in the 67
contract for the proposed audit before the contract is executed on 68
behalf of the public office that is to be audited. The independent 69
accountant conducting an audit under division (C)(1) or (2) of 70
this section shall be paid by the public office. 71

(D) If a uniform accounting network is established under 72
section 117.101 of the Revised Code, the auditor of state or a 73
certified public accountant employed pursuant to this section or 74
section 115.56 or 117.112 of the Revised Code shall, to the extent 75
practicable, utilize services offered by the network in order to 76
conduct efficient and economical audits of public offices. 77

(E) The auditor of state shall, in accordance with division 78
(A)(3) of section 9.65 of the Revised Code and this section, audit 79
an annuity program for volunteer fire fighters established by a 80
political subdivision under section 9.65 of the Revised Code. As 81

used in this section, "volunteer fire fighters" and "political
subdivision" have the same meanings as in division (C) of section
9.65 of the Revised Code.

Sec. 3314.03. A copy of every contract entered into under
this section shall be filed with the superintendent of public
instruction.

(A) Each contract entered into between a sponsor and the
governing authority of a community school shall specify the
following:

(1) That the school shall be established as either of the
following:

(a) A nonprofit corporation established under Chapter 1702.
of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter
1702. of the Revised Code, if established after April 8, 2003;

(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;

(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;

(4) Performance standards by which the success of the school
will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised
Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(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 111
legitimate excuse fails to participate in one hundred five 112
consecutive hours of the learning opportunities offered to the 113
student. 114

(7) The ways by which the school will achieve racial and 115
ethnic balance reflective of the community it serves; 116

(8) Requirements for financial audits by the auditor of 117
state. The contract shall require financial records of the school 118
to be maintained in the same manner as are financial records of 119
school districts, pursuant to rules of the auditor of state, and 120
the audits shall be conducted in accordance with section 117.10 of 121
the Revised Code. 122

(9) The facilities to be used and their locations; 123

(10) Qualifications of teachers, including a requirement that 124
the school's classroom teachers be licensed in accordance with 125
sections 3319.22 to 3319.31 of the Revised Code, except that a 126
community school may engage noncertificated persons to teach up to 127
twelve hours per week pursuant to section 3319.301 of the Revised 128
Code; 129

(11) That the school will comply with the following 130
requirements: 131

(a) The school will provide learning opportunities to a 132
minimum of twenty-five students for a minimum of nine hundred 133
twenty hours per school year; 134

(b) The governing authority will purchase liability 135
insurance, or otherwise provide for the potential liability of the 136
school; 137

(c) The school will be nonsectarian in its programs, 138
admission policies, employment practices, and all other 139
operations, and will not be operated by a sectarian school or 140

religious institution; 141

(d) The school will comply with sections 9.90, 9.91, 109.65, 142
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 143
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 144
3313.6012, 3313.6013, 3313.6014, 3313.643, 3313.648, 3313.66, 145
3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 146
3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.80, 147
3313.96, 3319.073, 3319.313, 3319.314, 3319.315, 3319.321, 148
3319.39, 3319.391, 3321.01, 3321.13, 3321.14, 3321.17, 3321.18, 149
3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and 150
Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., 151
and 4167. of the Revised Code as if it were a school district and 152
will comply with section 3301.0714 of the Revised Code in the 153
manner specified in section 3314.17 of the Revised Code; 154

(e) The school shall comply with Chapter 102. and section 155
2921.42 of the Revised Code; 156

(f) The school will comply with sections 3313.61, 3313.611, 157
and 3313.614 of the Revised Code, except that for students who 158
enter ninth grade for the first time before July 1, 2010, the 159
requirement in sections 3313.61 and 3313.611 of the Revised Code 160
that a person must successfully complete the curriculum in any 161
high school prior to receiving a high school diploma may be met by 162
completing the curriculum adopted by the governing authority of 163
the community school rather than the curriculum specified in Title 164
XXXVIII of the Revised Code or any rules of the state board of 165
education. Beginning with students who enter ninth grade for the 166
first time on or after July 1, 2010, the requirement in sections 167
3313.61 and 3313.611 of the Revised Code that a person must 168
successfully complete the curriculum of a high school prior to 169
receiving a high school diploma shall be met by completing the 170
Ohio core curriculum prescribed in division (C) of section 171
3313.603 of the Revised Code, unless the person qualifies under 172

division (D) or (F) of that section. Each school shall comply with 173
the plan for awarding high school credit based on demonstration of 174
subject area competency, adopted by the state board of education 175
under division (J) of section 3313.603 of the Revised Code. 176

(g) The school governing authority will submit within four 177
months after the end of each school year a report of its 178
activities and progress in meeting the goals and standards of 179
divisions (A)(3) and (4) of this section and its financial status 180
to the sponsor and the parents of all students enrolled in the 181
school. 182

(h) The school, unless it is an internet- or computer-based 183
community school, will comply with section 3313.801 of the Revised 184
Code as if it were a school district. 185

(12) Arrangements for providing health and other benefits to 186
employees; 187

(13) The length of the contract, which shall begin at the 188
beginning of an academic year. No contract shall exceed five years 189
unless such contract has been renewed pursuant to division (E) of 190
this section. 191

(14) The governing authority of the school, which shall be 192
responsible for carrying out the provisions of the contract; 193

(15) A financial plan detailing an estimated school budget 194
for each year of the period of the contract and specifying the 195
total estimated per pupil expenditure amount for each such year. 196
The plan shall specify for each year the base formula amount that 197
will be used for purposes of funding calculations under section 198
3314.08 of the Revised Code. This base formula amount for any year 199
shall not exceed the formula amount defined under section 3317.02 200
of the Revised Code. The plan may also specify for any year a 201
percentage figure to be used for reducing the per pupil amount of 202
the subsidy calculated pursuant to section 3317.029 of the Revised 203

Code the school is to receive that year under section 3314.08 of 204
the Revised Code. 205

(16) Requirements and procedures regarding the disposition of 206
employees of the school in the event the contract is terminated or 207
not renewed pursuant to section 3314.07 of the Revised Code; 208

(17) Whether the school is to be created by converting all or 209
part of an existing public school or is to be a new start-up 210
school, and if it is a converted public school, specification of 211
any duties or responsibilities of an employer that the board of 212
education that operated the school before conversion is delegating 213
to the governing board of the community school with respect to all 214
or any specified group of employees provided the delegation is not 215
prohibited by a collective bargaining agreement applicable to such 216
employees; 217

(18) Provisions establishing procedures for resolving 218
disputes or differences of opinion between the sponsor and the 219
governing authority of the community school; 220

(19) A provision requiring the governing authority to adopt a 221
policy regarding the admission of students who reside outside the 222
district in which the school is located. That policy shall comply 223
with the admissions procedures specified in sections 3314.06 and 224
3314.061 of the Revised Code and, at the sole discretion of the 225
authority, shall do one of the following: 226

(a) Prohibit the enrollment of students who reside outside 227
the district in which the school is located; 228

(b) Permit the enrollment of students who reside in districts 229
adjacent to the district in which the school is located; 230

(c) Permit the enrollment of students who reside in any other 231
district in the state. 232

(20) A provision recognizing the authority of the department 233

of education to take over the sponsorship of the school in 234
accordance with the provisions of division (C) of section 3314.015 235
of the Revised Code; 236

(21) A provision recognizing the sponsor's authority to 237
assume the operation of a school under the conditions specified in 238
division (B) of section 3314.073 of the Revised Code; 239

(22) A provision recognizing both of the following: 240

(a) The authority of public health and safety officials to 241
inspect the facilities of the school and to order the facilities 242
closed if those officials find that the facilities are not in 243
compliance with health and safety laws and regulations; 244

(b) The authority of the department of education as the 245
community school oversight body to suspend the operation of the 246
school under section 3314.072 of the Revised Code if the 247
department has evidence of conditions or violations of law at the 248
school that pose an imminent danger to the health and safety of 249
the school's students and employees and the sponsor refuses to 250
take such action; 251

(23) A description of the learning opportunities that will be 252
offered to students including both classroom-based and 253
non-classroom-based learning opportunities that is in compliance 254
with criteria for student participation established by the 255
department under division (L)(2) of section 3314.08 of the Revised 256
Code; 257

(24) The school will comply with section 3302.04 of the 258
Revised Code, including division (E) of that section to the extent 259
possible, except that any action required to be taken by a school 260
district pursuant to that section shall be taken by the sponsor of 261
the school. However, the sponsor shall not be required to take any 262
action described in division (F) of that section. 263

(25) Beginning in the 2006-2007 school year, the school will 264

open for operation not later than the thirtieth day of September 265
each school year, unless the mission of the school as specified 266
under division (A)(2) of this section is solely to serve dropouts. 267
In its initial year of operation, if the school fails to open by 268
the thirtieth day of September, or within one year after the 269
adoption of the contract pursuant to division (D) of section 270
3314.02 of the Revised Code if the mission of the school is solely 271
to serve dropouts, the contract shall be void. 272

(B) The community school shall also submit to the sponsor a 273
comprehensive plan for the school. The plan shall specify the 274
following: 275

(1) The process by which the governing authority of the 276
school will be selected in the future; 277

(2) The management and administration of the school; 278

(3) If the community school is a currently existing public 279
school, alternative arrangements for current public school 280
students who choose not to attend the school and teachers who 281
choose not to teach in the school after conversion; 282

(4) The instructional program and educational philosophy of 283
the school; 284

(5) Internal financial controls. 285

(C) A contract entered into under section 3314.02 of the 286
Revised Code between a sponsor and the governing authority of a 287
community school may provide for the community school governing 288
authority to make payments to the sponsor, which is hereby 289
authorized to receive such payments as set forth in the contract 290
between the governing authority and the sponsor. The total amount 291
of such payments for oversight and monitoring of the school shall 292
not exceed three per cent of the total amount of payments for 293
operating expenses that the school receives from the state. 294

(D) The contract shall specify the duties of the sponsor 295
which shall be in accordance with the written agreement entered 296
into with the department of education under division (B) of 297
section 3314.015 of the Revised Code and shall include the 298
following: 299

(1) Monitor the community school's compliance with all laws 300
applicable to the school and with the terms of the contract; 301

(2) Monitor and evaluate the academic and fiscal performance 302
and the organization and operation of the community school on at 303
least an annual basis; 304

(3) Report on an annual basis the results of the evaluation 305
conducted under division (D)(2) of this section to the department 306
of education and to the parents of students enrolled in the 307
community school; 308

(4) Provide technical assistance to the community school in 309
complying with laws applicable to the school and terms of the 310
contract; 311

(5) Take steps to intervene in the school's operation to 312
correct problems in the school's overall performance, declare the 313
school to be on probationary status pursuant to section 3314.073 314
of the Revised Code, suspend the operation of the school pursuant 315
to section 3314.072 of the Revised Code, or terminate the contract 316
of the school pursuant to section 3314.07 of the Revised Code as 317
determined necessary by the sponsor; 318

(6) Have in place a plan of action to be undertaken in the 319
event the community school experiences financial difficulties or 320
closes prior to the end of a school year. 321

(E) Upon the expiration of a contract entered into under this 322
section, the sponsor of a community school may, with the approval 323
of the governing authority of the school, renew that contract for 324
a period of time determined by the sponsor, but not ending earlier 325

than the end of any school year, if the sponsor finds that the 326
school's compliance with applicable laws and terms of the contract 327
and the school's progress in meeting the academic goals prescribed 328
in the contract have been satisfactory and the sponsor has 329
received confirmation from the bureau of workers' compensation 330
that the school does not owe any workers' compensation premiums 331
under Chapter 4123. of the Revised Code. Any contract that is 332
renewed under this division remains subject to the provisions of 333
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 334

(F) If a community school fails to open for operation within 335
one year after the contract entered into under this section is 336
adopted pursuant to division (D) of section 3314.02 of the Revised 337
Code or permanently closes prior to the expiration of the 338
contract, the contract shall be void and the school shall not 339
enter into a contract with any other sponsor. A school shall not 340
be considered permanently closed because the operations of the 341
school have been suspended pursuant to section 3314.072 of the 342
Revised Code. Any contract that becomes void under this division 343
shall not count toward any statewide limit on the number of such 344
contracts prescribed by section 3314.013 of the Revised Code. 345

Sec. 3314.072. The provisions of this section are enacted to 346
promote the public health, safety, and welfare by establishing 347
procedures under which the governing authorities of community 348
schools established under this chapter will be held accountable 349
for their compliance with the terms of the contracts they enter 350
into with their school's sponsors and the law relating to the 351
school's operation. Suspension of the operation of a school 352
imposed under this section is intended to encourage the governing 353
authority's compliance with the terms of the school's contract and 354
the law and is not intended to be an alteration of the terms of 355
that contract. 356

(A) If a sponsor of a community school established under this chapter suspends the operation of that school pursuant to procedures set forth in this section, the governing authority shall not operate that school while the suspension is in effect. Any such suspension shall remain in effect until the sponsor notifies the governing authority that it is no longer in effect. The contract of a school of which operation is suspended under this section also may be subject to termination or nonrenewal under section 3314.07 of the Revised Code.

(B) If at any time conditions at the school do not comply with a health and safety standard established by law for school buildings or the sponsor determines that the school is more than one year overdue in its workers' compensation premiums under Chapter 4123. of the Revised Code, the sponsor shall immediately suspend the operation of the school pursuant to procedures set forth in division (D) of this section. If the sponsor fails to take action to suspend the operation of a school to which this division applies, the department of education may take such action.

(C)(1) For any of the reasons prescribed in division (B)(1)(a) to (d) of section 3314.07 of the Revised Code, the sponsor of a community school established under this chapter may suspend the operation of the school only if it first issues to the governing authority notice of the sponsor's intent to suspend the operation of the contract. Such notice shall explain the reasons for the sponsor's intent to suspend operation of the contract and shall provide the school's governing authority with five business days to submit to the sponsor a proposal to remedy the conditions cited as reasons for the suspension.

(2) The sponsor shall promptly review any proposed remedy timely submitted by the governing authority and either approve or disapprove the remedy. If the sponsor disapproves the remedy

proposed by the governing authority, if the governing authority 389
fails to submit a proposed remedy in the manner prescribed by the 390
sponsor, or if the governing authority fails to implement the 391
remedy as approved by the sponsor, the sponsor may suspend 392
operation of the school pursuant to procedures set forth in 393
division (D) of this section. 394

(D)(1) If division (B) of this section applies or if the 395
sponsor of a community school established under this chapter 396
decides to suspend the operation of a school as permitted in 397
division (C)(2) of this section, the sponsor shall promptly send 398
written notice to the governing authority stating that the 399
operation of the school is immediately suspended, and explaining 400
the specific reasons for the suspension. The notice shall state 401
that the governing authority has five business days to submit a 402
proposed remedy to the conditions cited as reasons for the 403
suspension or face potential contract termination. 404

(2) Upon receipt of the notice of suspension prescribed under 405
division (D)(1) of this section, the governing authority shall 406
immediately notify the employees of the school and the parents of 407
the students enrolled in the school of the suspension and the 408
reasons therefore, and shall cease all school operations on the 409
next business day. 410

Sec. 3314.19. The sponsor of each community school annually 411
shall provide the following assurances in writing to the 412
department of education not later than ten business days prior to 413
the opening of the school: 414

(A) That a current copy of the contract between the sponsor 415
and the governing authority of the school entered into under 416
section 3314.03 of the Revised Code has been filed with the state 417
office of community schools established under section 3314.11 of 418
the Revised Code and that any subsequent modifications to that 419

contract will be filed with the office; 420

(B) That the school has submitted to the sponsor a plan for 421
providing special education and related services to students with 422
disabilities and has demonstrated the capacity to provide those 423
services in accordance with Chapter 3323. of the Revised Code and 424
federal law; 425

(C) That the school has a plan and procedures for 426
administering the achievement tests and diagnostic assessments 427
prescribed by sections 3301.0710 and 3301.0715 of the Revised 428
Code; 429

(D) That school personnel have the necessary training, 430
knowledge, and resources to properly use and submit information to 431
all databases maintained by the department for the collection of 432
education data, including the education management information 433
system established under section 3301.0714 of the Revised Code in 434
accordance with methods and timelines established under section 435
3314.17 of the Revised Code; 436

(E) That all required information about the school has been 437
submitted to the Ohio education directory system or any successor 438
system; 439

(F) That the school will enroll at least the minimum number 440
of students required by division (A)(11)(a) of section 3314.03 of 441
the Revised Code in the school year for which the assurances are 442
provided; 443

(G) That all classroom teachers are licensed in accordance 444
with sections 3319.22 to 3319.31 of the Revised Code, except for 445
noncertificated persons engaged to teach up to twelve hours per 446
week pursuant to section 3319.301 of the Revised Code; 447

(H) That the school's fiscal officer is in compliance with 448
section 3314.011 of the Revised Code; 449

(I) That the school has complied with section 3319.39 of the Revised Code with respect to all employees and that the school has conducted a criminal records check of each of its governing authority members;

(J) That the school holds all of the following:

(1) Proof of property ownership or a lease for the facilities used by the school;

(2) A certificate of occupancy;

(3) Liability insurance for the school, as required by division (A)(11)(b) of section 3314.03 of the Revised Code, that the sponsor considers sufficient to indemnify the school's facilities, staff, and governing authority against risk;

(4) A satisfactory health and safety inspection;

(5) A satisfactory fire inspection;

(6) A valid food permit, if applicable.

(K) That the sponsor has conducted a pre-opening site visit to the school for the school year for which the assurances are provided;

(L) That the school has designated a date it will open for the school year for which the assurances are provided that is in compliance with division (A)(25) of section 3314.03 of the Revised Code;

(M) That the sponsor has requested and received from the bureau of workers' compensation an accounting of the school's payment of its annual workers' compensation premiums under Chapter 4123. of the Revised Code through the first day of July of the school year for which the assurances are provided;

(N) That the school has met all of the sponsor's requirements for opening and any other requirements of the sponsor.

Sec. 3314.40. Each nonpublic operator of a community school 479
and each nonpublic entity that sponsors a community school shall 480
comply with section 149.43 of the Revised Code as if it were a 481
public office with respect to all records pertaining to the 482
management or sponsorship of the school. 483

Section 2. That existing sections 117.11, 3314.03, 3314.072, 484
and 3314.19 of the Revised Code are hereby repealed. 485