

**As Introduced**

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

**S. B. No. 89**

**Senator Gardner**

**Cosponsors: Senators Buehrer, Coughlin, Mumper**

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**A B I L L**

To amend section 3314.03 and to enact section 1  
3313.621 of the Revised Code to prohibit public 2  
schools from opening for instruction prior to 3  
Labor Day except in specified circumstances. 4

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

**Section 1.** That section 3314.03 be amended and section 5  
3313.621 of the Revised Code be enacted to read as follows: 6

**Sec. 3313.621.** This section does not apply to any school that 7  
meets the requirement of section 3313.48 or 3313.481 of the 8  
Revised Code regarding the yearly minimum number of days or hours 9  
it must be open for instruction by requiring students to be in 10  
attendance throughout the entire school year, including summer but 11  
excluding authorized breaks. 12

(A) Beginning in the 2007-2008 school year, except as 13  
provided in division (B) of this section, no board of education of 14  
a city, exempted village, local, or joint vocational school 15  
district shall permit the schools under its control to open for 16  
instruction with students in attendance prior to Labor day in any 17  
school year. Workshops, orientation, or other activities in 18  
preparation for the opening of school may be held prior to Labor 19

day for teachers or administrators. 20

(B) With the approval of the department of education, a board of education may permit a school under its control to open prior to Labor day in any school year if the scheduling needs of the school will be affected by a construction or renovation project of at least five hundred thousand dollars in value that will be underway at the school or another facility operated by the board. 21  
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(C) Nothing in this section shall be construed to prohibit a school district from operating a summer school program. 27  
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(D) Any board of education of a school district that, prior to the effective date of this section, entered into a collective bargaining agreement under Chapter 4117. of the Revised Code that establishes a date prior to Labor day on which the schools of the district will open for instruction with students in attendance shall not be required to comply with this section until the expiration of that agreement. Each collective bargaining agreement entered into or renewed on or after the effective date of this section shall comply with this section. 29  
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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. 38  
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(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following: 41  
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(1) That the school shall be established as either of the following: 44  
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(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003; 46  
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(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003; 48  
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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;

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

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

(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.

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

(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 80  
twelve hours per week pursuant to section 3319.301 of the Revised 81  
Code; 82

(11) That the school will comply with the following 83  
requirements: 84

(a) The school will provide learning opportunities to a 85  
minimum of twenty-five students for a minimum of nine hundred 86  
twenty hours per school year; 87

(b) The governing authority will purchase liability 88  
insurance, or otherwise provide for the potential liability of the 89  
school; 90

(c) The school will be nonsectarian in its programs, 91  
admission policies, employment practices, and all other 92  
operations, and will not be operated by a sectarian school or 93  
religious institution; 94

(d) The school will comply with sections 9.90, 9.91, 109.65, 95  
121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 96  
3301.0712, 3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 97  
3313.6012, 3313.6013, 3313.6014, 3313.621, 3313.643, 3313.648, 98  
3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 99  
3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 100  
3313.718, 3313.80, 3313.96, 3319.073, 3319.313, 3319.314, 101  
3319.315, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 102  
3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 103  
5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 104  
4123., 4141., and 4167. of the Revised Code as if it were a school 105  
district and will comply with section 3301.0714 of the Revised 106  
Code in the manner specified in section 3314.17 of the Revised 107  
Code; 108

(e) The school shall comply with Chapter 102. and section 109  
2921.42 of the Revised Code; 110

(f) The school will comply with sections 3313.61, 3313.611, 111  
and 3313.614 of the Revised Code, except that for students who 112  
enter ninth grade for the first time before July 1, 2010, the 113  
requirement in sections 3313.61 and 3313.611 of the Revised Code 114  
that a person must successfully complete the curriculum in any 115  
high school prior to receiving a high school diploma may be met by 116  
completing the curriculum adopted by the governing authority of 117  
the community school rather than the curriculum specified in Title 118  
XXXIII of the Revised Code or any rules of the state board of 119  
education. Beginning with students who enter ninth grade for the 120  
first time on or after July 1, 2010, the requirement in sections 121  
3313.61 and 3313.611 of the Revised Code that a person must 122  
successfully complete the curriculum of a high school prior to 123  
receiving a high school diploma shall be met by completing the 124  
Ohio core curriculum prescribed in division (C) of section 125  
3313.603 of the Revised Code, unless the person qualifies under 126  
division (D) or (F) of that section. Each school shall comply with 127  
the plan for awarding high school credit based on demonstration of 128  
subject area competency, adopted by the state board of education 129  
under division (J) of section 3313.603 of the Revised Code. 130

(g) The school governing authority will submit within four 131  
months after the end of each school year a report of its 132  
activities and progress in meeting the goals and standards of 133  
divisions (A)(3) and (4) of this section and its financial status 134  
to the sponsor and the parents of all students enrolled in the 135  
school. 136

(h) The school, unless it is an internet- or computer-based 137  
community school, will comply with section 3313.801 of the Revised 138  
Code as if it were a school district. 139

(12) Arrangements for providing health and other benefits to 140  
employees; 141

(13) The length of the contract, which shall begin at the 142

beginning of an academic year. No contract shall exceed five years 143  
unless such contract has been renewed pursuant to division (E) of 144  
this section. 145

(14) The governing authority of the school, which shall be 146  
responsible for carrying out the provisions of the contract; 147

(15) A financial plan detailing an estimated school budget 148  
for each year of the period of the contract and specifying the 149  
total estimated per pupil expenditure amount for each such year. 150  
The plan shall specify for each year the base formula amount that 151  
will be used for purposes of funding calculations under section 152  
3314.08 of the Revised Code. This base formula amount for any year 153  
shall not exceed the formula amount defined under section 3317.02 154  
of the Revised Code. The plan may also specify for any year a 155  
percentage figure to be used for reducing the per pupil amount of 156  
the subsidy calculated pursuant to section 3317.029 of the Revised 157  
Code the school is to receive that year under section 3314.08 of 158  
the Revised Code. 159

(16) Requirements and procedures regarding the disposition of 160  
employees of the school in the event the contract is terminated or 161  
not renewed pursuant to section 3314.07 of the Revised Code; 162

(17) Whether the school is to be created by converting all or 163  
part of an existing public school or is to be a new start-up 164  
school, and if it is a converted public school, specification of 165  
any duties or responsibilities of an employer that the board of 166  
education that operated the school before conversion is delegating 167  
to the governing board of the community school with respect to all 168  
or any specified group of employees provided the delegation is not 169  
prohibited by a collective bargaining agreement applicable to such 170  
employees; 171

(18) Provisions establishing procedures for resolving 172  
disputes or differences of opinion between the sponsor and the 173

governing authority of the community school; 174

(19) A provision requiring the governing authority to adopt a 175  
policy regarding the admission of students who reside outside the 176  
district in which the school is located. That policy shall comply 177  
with the admissions procedures specified in sections 3314.06 and 178  
3314.061 of the Revised Code and, at the sole discretion of the 179  
authority, shall do one of the following: 180

(a) Prohibit the enrollment of students who reside outside 181  
the district in which the school is located; 182

(b) Permit the enrollment of students who reside in districts 183  
adjacent to the district in which the school is located; 184

(c) Permit the enrollment of students who reside in any other 185  
district in the state. 186

(20) A provision recognizing the authority of the department 187  
of education to take over the sponsorship of the school in 188  
accordance with the provisions of division (C) of section 3314.015 189  
of the Revised Code; 190

(21) A provision recognizing the sponsor's authority to 191  
assume the operation of a school under the conditions specified in 192  
division (B) of section 3314.073 of the Revised Code; 193

(22) A provision recognizing both of the following: 194

(a) The authority of public health and safety officials to 195  
inspect the facilities of the school and to order the facilities 196  
closed if those officials find that the facilities are not in 197  
compliance with health and safety laws and regulations; 198

(b) The authority of the department of education as the 199  
community school oversight body to suspend the operation of the 200  
school under section 3314.072 of the Revised Code if the 201  
department has evidence of conditions or violations of law at the 202  
school that pose an imminent danger to the health and safety of 203

the school's students and employees and the sponsor refuses to 204  
take such action; 205

(23) A description of the learning opportunities that will be 206  
offered to students including both classroom-based and 207  
non-classroom-based learning opportunities that is in compliance 208  
with criteria for student participation established by the 209  
department under division (L)(2) of section 3314.08 of the Revised 210  
Code; 211

(24) The school will comply with section 3302.04 of the 212  
Revised Code, including division (E) of that section to the extent 213  
possible, except that any action required to be taken by a school 214  
district pursuant to that section shall be taken by the sponsor of 215  
the school. However, the sponsor shall not be required to take any 216  
action described in division (F) of that section. 217

(25) Beginning in the 2006-2007 school year, the school will 218  
open for operation not later than the thirtieth day of September 219  
each school year, unless the mission of the school as specified 220  
under division (A)(2) of this section is solely to serve dropouts. 221  
In its initial year of operation, if the school fails to open by 222  
the thirtieth day of September, or within one year after the 223  
adoption of the contract pursuant to division (D) of section 224  
3314.02 of the Revised Code if the mission of the school is solely 225  
to serve dropouts, the contract shall be void. 226

(B) The community school shall also submit to the sponsor a 227  
comprehensive plan for the school. The plan shall specify the 228  
following: 229

(1) The process by which the governing authority of the 230  
school will be selected in the future; 231

(2) The management and administration of the school; 232

(3) If the community school is a currently existing public 233  
school, alternative arrangements for current public school 234



students who choose not to attend the school and teachers who	235
choose not to teach in the school after conversion;	236
(4) The instructional program and educational philosophy of	237
the school;	238
(5) Internal financial controls.	239
(C) A contract entered into under section 3314.02 of the	240
Revised Code between a sponsor and the governing authority of a	241
community school may provide for the community school governing	242
authority to make payments to the sponsor, which is hereby	243
authorized to receive such payments as set forth in the contract	244
between the governing authority and the sponsor. The total amount	245
of such payments for oversight and monitoring of the school shall	246
not exceed three per cent of the total amount of payments for	247
operating expenses that the school receives from the state.	248
(D) The contract shall specify the duties of the sponsor	249
which shall be in accordance with the written agreement entered	250
into with the department of education under division (B) of	251
section 3314.015 of the Revised Code and shall include the	252
following:	253
(1) Monitor the community school's compliance with all laws	254
applicable to the school and with the terms of the contract;	255
(2) Monitor and evaluate the academic and fiscal performance	256
and the organization and operation of the community school on at	257
least an annual basis;	258
(3) Report on an annual basis the results of the evaluation	259
conducted under division (D)(2) of this section to the department	260
of education and to the parents of students enrolled in the	261
community school;	262
(4) Provide technical assistance to the community school in	263
complying with laws applicable to the school and terms of the	264

contract; 265

(5) Take steps to intervene in the school's operation to 266  
correct problems in the school's overall performance, declare the 267  
school to be on probationary status pursuant to section 3314.073 268  
of the Revised Code, suspend the operation of the school pursuant 269  
to section 3314.072 of the Revised Code, or terminate the contract 270  
of the school pursuant to section 3314.07 of the Revised Code as 271  
determined necessary by the sponsor; 272

(6) Have in place a plan of action to be undertaken in the 273  
event the community school experiences financial difficulties or 274  
closes prior to the end of a school year. 275

(E) Upon the expiration of a contract entered into under this 276  
section, the sponsor of a community school may, with the approval 277  
of the governing authority of the school, renew that contract for 278  
a period of time determined by the sponsor, but not ending earlier 279  
than the end of any school year, if the sponsor finds that the 280  
school's compliance with applicable laws and terms of the contract 281  
and the school's progress in meeting the academic goals prescribed 282  
in the contract have been satisfactory. Any contract that is 283  
renewed under this division remains subject to the provisions of 284  
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 285

(F) If a community school fails to open for operation within 286  
one year after the contract entered into under this section is 287  
adopted pursuant to division (D) of section 3314.02 of the Revised 288  
Code or permanently closes prior to the expiration of the 289  
contract, the contract shall be void and the school shall not 290  
enter into a contract with any other sponsor. A school shall not 291  
be considered permanently closed because the operations of the 292  
school have been suspended pursuant to section 3314.072 of the 293  
Revised Code. Any contract that becomes void under this division 294  
shall not count toward any statewide limit on the number of such 295  
contracts prescribed by section 3314.013 of the Revised Code. 296

**Section 2.** That existing section 3314.03 of the Revised Code 297  
is hereby repealed. 298

**Section 3.** Section 3314.03 of the Revised Code is presented 299  
in this act as a composite of the section as amended by Am. Sub. 300  
H.B. 79, Am. Sub. H.B. 137, Sub. H.B. 184, Am. Sub. H.B. 276, Sub. 301  
H.B. 422, Am. Sub. H.B. 530, Sub. S.B. 164, and Am. Sub. S.B. 311 302  
of the 126th General Assembly. The General Assembly, applying the 303  
principle stated in division (B) of section 1.52 of the Revised 304  
Code that amendments are to be harmonized if reasonably capable of 305  
simultaneous operation, finds that the composite is the resulting 306  
version of the section in effect prior to the effective date of 307  
the section as presented in this act. 308