

As Introduced

**130th General Assembly
Regular Session
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S. B. No. 329

Senator Schiavoni

**Cosponsors: Senators Gentile, Sawyer, Cafaro, Turner, Skindell, Brown,
Tavares**

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A B I L L

To amend sections 117.11 and 149.351 and to enact 1
sections 117.102, 149.46, and 3314.031 of the 2
Revised Code regarding audit and record-keeping 3
requirements for community school sponsors and 4
operators. 5

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

Section 1. That sections 117.11 and 149.351 be amended and 6
sections 117.102, 149.46, and 3314.031 of the Revised Code be 7
enacted to read as follows: 8

Sec. 117.102. (A) As used in this section: 9

(1) "Community school" means a school established under 10
Chapter 3314. of the Revised Code. 11

(2) "Operator" has the same meaning as in section 3314.02 of 12
the Revised Code. 13

(B) The auditor of state annually shall audit each community 14
school operator and each community school sponsor described in 15
division (C)(1) of section 3314.02 or section 3314.021 or 3314.027 16
of the Revised Code. In the case of a nonpublic operator or 17

sponsor, the audit shall cover only those accounts, reports, 18
records, and files regarding the operator's or sponsor's receipt 19
or expenditure of public funds relating to the operation or 20
sponsorship of a community school. 21

Sec. 117.11. (A) Except as otherwise provided in this 22
division and in sections 117.102, 117.112, 117.113, and 117.114 of 23
the Revised Code, the auditor of state shall audit each public 24
office at least once every two fiscal years. The auditor of state 25
shall audit a public office each fiscal year if that public office 26
is required to be audited on an annual basis pursuant to "The 27
Single Audit Act of 1984," 98 Stat. 2327, 31 U.S.C.A. 7501 et 28
seq., as amended. In the annual or biennial audit, inquiry shall 29
be made into the methods, accuracy, and legality of the accounts, 30
financial reports, records, files, and reports of the office, 31
whether the laws, rules, ordinances, and orders pertaining to the 32
office have been observed, and whether the requirements and rules 33
of the auditor of state have been complied with. Except as 34
otherwise provided in this division or where auditing standards or 35
procedures dictate otherwise, each audit shall cover at least one 36
fiscal year. If a public office is audited only once every two 37
fiscal years, the audit shall cover both fiscal years. 38

(B) In addition to the annual or biennial audit provided for 39
in division (A) of this section or in section 117.114 of the 40
Revised Code, the auditor of state may conduct an audit of a 41
public office at any time when so requested by the public office 42
or upon the auditor of state's own initiative if the auditor of 43
state has reasonable cause to believe that an additional audit is 44
in the public interest. 45

(C)(1) The auditor of state shall identify any public office 46
in which the auditor of state will be unable to conduct an audit 47
at least once every two fiscal years as required by division (A) 48

of this section and shall provide immediate written notice to the 49
clerk of the legislative authority or governing board of the 50
public office so identified. Within six months of the receipt of 51
such notice, the legislative authority or governing board may 52
engage an independent certified public accountant to conduct an 53
audit pursuant to section 117.12 of the Revised Code. 54

(2) When the chief fiscal officer of a public office notifies 55
the auditor of state that an audit is required at a time prior to 56
the next regularly scheduled audit by the auditor of state, the 57
auditor of state shall either cause an earlier audit to be made by 58
the auditor of state or authorize the legislative authority or 59
governing board of the public office to engage an independent 60
certified public accountant to conduct the required audit. The 61
scope of the audit shall be as authorized by the auditor of state. 62

(3) The auditor of state shall approve the scope of an audit 63
under division (C)(1) or (2) of this section as set forth in the 64
contract for the proposed audit before the contract is executed on 65
behalf of the public office that is to be audited. The independent 66
accountant conducting an audit under division (C)(1) or (2) of 67
this section shall be paid by the public office. 68

(4) The contract for attest services with an independent 69
accountant employed pursuant to this section or section 115.56 of 70
the Revised Code may include binding arbitration provisions, 71
provisions of Chapter 2711. of the Revised Code, or any other 72
alternative dispute resolution procedures to be followed in the 73
event a dispute remains between the state or public office and the 74
independent accountant concerning the terms of or services under 75
the contract, or a breach of the contract, after the 76
administrative provisions of the contract have been exhausted. 77

(D) If a uniform accounting network is established under 78
section 117.101 of the Revised Code, the auditor of state or a 79
certified public accountant employed pursuant to this section or 80

section 115.56 or 117.112 of the Revised Code shall, to the extent 81
practicable, utilize services offered by the network in order to 82
conduct efficient and economical audits of public offices. 83

(E) The auditor of state, in accordance with division (A)(3) 84
of section 9.65 of the Revised Code and this section, may audit an 85
annuity program for volunteer fire fighters established by a 86
political subdivision under section 9.65 of the Revised Code. As 87
used in this section, "volunteer fire fighters" and "political 88
subdivision" have the same meanings as in division (C) of section 89
9.65 of the Revised Code. 90

Sec. 149.351. (A) All records are the property of the public 91
office concerned and shall not be removed, destroyed, mutilated, 92
transferred, or otherwise damaged or disposed of, in whole or in 93
part, except as provided by law or under the rules adopted by the 94
records commissions provided for under sections 149.38 to 149.42 95
and section 149.46 of the Revised Code or under the records 96
programs established by the boards of trustees of state-supported 97
institutions of higher education under section 149.33 of the 98
Revised Code. Those records shall be delivered by outgoing 99
officials and employees to their successors and shall not be 100
otherwise removed, destroyed, mutilated, or transferred 101
unlawfully. 102

(B) Any person who is aggrieved by the removal, destruction, 103
mutilation, or transfer of, or by other damage to or disposition 104
of a record in violation of division (A) of this section, or by 105
threat of such removal, destruction, mutilation, transfer, or 106
other damage to or disposition of such a record, may commence 107
either or both of the following in the court of common pleas of 108
the county in which division (A) of this section allegedly was 109
violated or is threatened to be violated: 110

(1) A civil action for injunctive relief to compel compliance 111

with division (A) of this section, and to obtain an award of the reasonable attorney's fees incurred by the person in the civil action;

(2) A civil action to recover a forfeiture in the amount of one thousand dollars for each violation, but not to exceed a cumulative total of ten thousand dollars, regardless of the number of violations, and to obtain an award of the reasonable attorney's fees incurred by the person in the civil action not to exceed the forfeiture amount recovered.

(C)(1) A person is not aggrieved by a violation of division (A) of this section if clear and convincing evidence shows that the request for a record was contrived as a pretext to create potential liability under this section. The commencement of a civil action under division (B) of this section waives any right under this chapter to decline to divulge the purpose for requesting the record, but only to the extent needed to evaluate whether the request was contrived as a pretext to create potential liability under this section.

(2) In a civil action under division (B) of this section, if clear and convincing evidence shows that the request for a record was a pretext to create potential liability under this section, the court may award reasonable attorney's fees to any defendant or defendants in the action.

(D) Once a person recovers a forfeiture in a civil action commenced under division (B)(2) of this section, no other person may recover a forfeiture under that division for a violation of division (A) of this section involving the same record, regardless of the number of persons aggrieved by a violation of division (A) of this section or the number of civil actions commenced under this section.

(E) A civil action for injunctive relief under division

(B)(1) of this section or a civil action to recover a forfeiture 143
under division (B)(2) of this section shall be commenced within 144
five years after the day in which division (A) of this section was 145
allegedly violated or was threatened to be violated. 146

Sec. 149.46. Each community school, established under Chapter 147
3314. of the Revised Code, shall have a school records commission. 148
The commission shall meet at least once every twelve months. The 149
function of the commission shall be to review applications for 150
one-time disposal of obsolete records and schedules of records 151
retention and disposition submitted by any employee of the school. 152
The commission may dispose of records pursuant to the procedure 153
outlined in section 149.381 of the Revised Code. The commission, 154
at any time, may review any schedule it has previously approved 155
and, for good cause shown, may revise that schedule under the 156
procedure outlined in that section. 157

Sec. 3314.031. Each nonpublic operator of a community school 158
and each nonpublic entity that sponsors a community school shall 159
comply with section 149.43 of the Revised Code as if it were a 160
public office with respect to all records pertaining to the 161
management or sponsorship of the school. 162

Section 2. That existing sections 117.11 and 149.351 of the 163
Revised Code are hereby repealed. 164