



Jennifer Stump

Bill Analysis
Legislative Service Commission

Sub. H.B. 115

126th General Assembly
(As Passed by the House)

Reps. Setzer, Reinhard, Webster, Carano, C. Evans, Chandler, Calvert, Combs, DeBose, Domenick, Fende, Flowers, Gibbs, Key, Law, Martin, J. McGregor, Otterman, T. Patton, Schlichter, Schneider, Seitz, S. Smith, D. Stewart, Strahorn, Williams, Yuko

BILL SUMMARY

- Creates the Educational Regional Service System (ERSS) to provide support services to school districts, community schools, and chartered nonpublic schools in each of 16 designated regions.
- Establishes an advisory council for each ERSS region to coordinate the delivery of services within the region.
- Directs the Department of Education to select a fiscal agent for each ERSS region.
- Requires fiscal agents to enter into performance contracts with the Department for the implementation of state and regional education initiatives and school improvement efforts.
- Establishes a State Regional Alliance Advisory Board to address issues regarding the operation of ERSS.
- Permits school districts, community schools, and chartered nonpublic schools to receive services from any educational service center or data acquisition site in the state, except that local school districts must receive supervisory services required by law from the ESC in whose territory they are located.
- Establishes an EMIS Advisory Board to recommend improvements to the Education Management Information System.

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CONTENT AND OPERATION

Background

Educational service centers and a number of other entities currently provide services to school districts and schools on a regional basis.

Educational service centers

Educational service centers (ESCs) are regional public entities that offer a broad spectrum of services, including curriculum development, professional development, purchasing, publishing, human resources, special education services, and counseling services, to school districts and community schools in their regions. Formerly known as "county school districts," ESCs are statutorily



required to provide some administrative oversight and other services to all "local" school districts within their service areas. In addition, ESCs provide services to "city" and "exempted village" school districts that enter into agreements for those services. An ESC also may provide services for a fee to any school district or community school on a contractual basis. Each ESC is under the oversight of its own elected governing board. Currently, there are 60 ESCs each serving districts in one or more counties in the state.

Other existing regional service providers

Various other entities that currently provide services to school districts and schools on a regional basis are described below. The numerals in parentheses indicate the total number of each type of provider currently in operation.

- Regional professional development centers (12) provide educator training related to academic content standards, model curricula, and school improvement initiatives and offer other opportunities for professional development.
- Special education regional resource centers (or SERRCs) (16) assist school districts, schools, and county boards of mental retardation and developmental disabilities (MR/DD boards) in serving children with disabilities by providing technical guidance, special education teachers, instructional materials, and professional development.
- Area media centers (24) provide access to media resources for schools.
- Data acquisition sites (23) provide administrative and instructional computer services to school districts and other education entities. These services include accounting, payroll, curriculum management, test scoring, student scheduling, and reporting data to the Education Management Information System. Collectively, the data acquisition sites are known as the Ohio Education Computer Network.
- Education technology centers (8) provide computer training, distance learning, professional development, and instructional programming.

Overview of the bill

The bill creates a new 16-region system, known as the Educational Regional Service System (ERSS), to provide support services to school districts, community ("charter") schools, and chartered nonpublic schools within each region. The stated purpose of the system is to "support state and regional



education initiatives and efforts to improve school effectiveness and student achievement" with a specific reference to the provision of special education and related services. Each region is served by an advisory council, which is the policymaking body for the region, and a fiscal agent. ERSS is to be operational on July 1, 2006, subject to appropriations of the General Assembly.

The bill also establishes the EMIS Advisory Board to make recommendations to improve the Education Management Information System.

Structure of ERSS

(R.C. 3301.075 and 3312.01)

Under the bill, ERSS is to consist of (1) a State Regional Alliance Advisory Board, (2) an advisory council and five specialized subcommittees for each of the 16 statutorily prescribed regions, (3) a fiscal agent for each region, and (4) educational service centers (ESCs), data acquisition sites, and other regional education service providers.

ESCs must continue to provide the supervisory, curriculum, and administrative services to "local" school districts already required by law, and may enter into agreements with "city" and "exempted village" school districts for the provision of similar services. In addition, ESCs may contract on a fee-for-service basis with districts and community schools for any services agreed to by the parties to the contract. An ESC that is selected to be a fiscal agent for its region must continue to provide services to its share of the region's territory. Data acquisition sites also are authorized to enter into fee-for-service contracts with school districts and community schools. (See "**Service agreements with ESCs**" and "**Service agreements with data acquisition sites**" below.)

With one exception, school districts and schools are not required to receive services from an ESC or data acquisition site in their region. The exception is for local school districts, which must receive the supervisory, curriculum, and administrative services required by law from the ESC in whose territory they are located. Local districts, however, may contract outside of their region for any other services.

In addition, the bill specifically prohibits the State Board of Education, in providing for the administration of the data acquisition sites and the Ohio Education Computer Network, from adopting a rule that does not permit a school district or ESC to receive computer services from any data acquisition site or any other public or private vendor.

ERSS regions

(R.C. 3312.02)

The 16 ERSS regions established by the bill are described in the table below.

Region	Counties
1	Defiance, Fulton, Hancock, Henry, Lucas, Paulding, Putnam, Sandusky, Van Wert, Williams, and Wood
2	Erie, Huron, Lorain, and Ottawa
3	Cuyahoga
4	Geauga and Lake
5	Ashtabula, Mahoning, and Trumbull
6	Allen, Auglaize, Hardin, Logan, Mercer, and Shelby
7	Crawford, Knox, Marion, Morrow, Richland, Seneca, and Wyandot
8	Ashland, Columbiana, Holmes, Stark, and Wayne
9	Clark, Darke, Greene, Miami, Montgomery, and Preble
10	Champaign, Delaware, Fairfield, Franklin, Licking, Madison, Pickaway, and Union
11	Belmont, Carroll, Coshocton, Guernsey, Harrison, Jefferson, Monroe, Morgan, Muskingum, Noble, and Tuscarawas
12	Butler, Clermont, Hamilton, and Warren
13	Brown, Clinton, Fayette, and Highland
14	Adams, Jackson, Lawrence, Pike, Ross, and Scioto
15	Athens, Gallia, Hocking, Meigs, Perry, Vinton, and Washington
16	Medina, Portage, and Summit

The bill specifies that if an ESC or city or exempted village school district has territory in more than one ERSS region, the ESC (and all local districts within the ESC's territory) or the city or exempted village district will be considered part of the region in which the majority of its territory is located.

Regional advisory councils

Duties

(R.C. 3312.04)

Each ERSS region must have an advisory council. This council must identify regional needs and priorities for educational services and develop corresponding policies to coordinate the delivery of services. It also must make recommendations to the region's fiscal agent for the expenditure of funds to implement state and regional education initiatives and school improvement efforts. The advisory council must monitor implementation of those initiatives and school improvement efforts by ESCs, data acquisition sites, and other regional service providers to ensure that they are meeting the terms of the region's performance contracts with the Department of Education (see "**Performance contracts**" below). Finally, the council must establish an accountability system to evaluate its own performance.

Membership

(R.C. 3312.03; Section 4)

Each advisory council must include the following members:

- (1) The superintendent of each ESC in the region;
- (2) The director of the region's SERRC;
- (3) The superintendents of the school districts in the region with the largest and smallest student populations;
- (4) The director of each data acquisition site in the region;
- (5) One representative of a four-year institution of higher education in the region, appointed by the Ohio Board of Regents;
- (6) One representative of a two-year institution of higher education in the region, appointed by the Ohio Association of Community Colleges;¹
- (7) Three board of education members, one each from a city, exempted village, and local school district in the region;

¹ *If there is no four-year or two-year institution of higher education located in the region, the appointing authority must select a representative of an appropriate institution located in an adjacent region.*

- (8) One representative of business; and
- (9) One employee of an education technology center.²

The advisory council members listed in (1) through (6) above must appoint the members listed in (7) through (9) upon a majority vote. An advisory council may add other members as well. To increase its membership, the council must adopt a resolution specifying the number of additional members, their manner of appointment, and any eligibility criteria for appointment. Advisory council members are not compensated.

Each advisory council must elect a chairperson and vice-chairperson annually from among its full membership. For two years after its initial meeting, the council must hold meetings at least monthly. After that period, all meetings are at the call of the council chairperson.

The Board of Regents and the Ohio Association of Community Colleges must make their appointments to the 16 advisory councils within 30 days after the bill's effective date. Each advisory council must make the appointments in (7) through (9) above within 45 days after the effective date.

Advisory council subcommittees

(R.C. 3312.05 and 3312.06; Section 4)

Each advisory council must establish five subcommittees to address specialized areas of education services. These subcommittees are responsible for making recommendations to the advisory council regarding implementation of state and regional education initiatives and school improvement efforts in their areas of specialization. Recommendations may address strategies to tailor state education initiatives to regional needs and priorities or to maximize funds. The five subcommittees required by the bill are:

(1) A school improvement subcommittee, which must include representatives of community schools and education personnel with expertise in school improvement;

(2) An education technology subcommittee, which must include teachers or curriculum coordinators, parents, elementary and secondary school principals, and representatives of chartered nonpublic schools, data acquisition sites, business, and institutions of higher education;

² *The education technology center employees must be placed on advisory councils in such a way that no center has more than two employees serving on councils at the same time (R.C. 3312.03(B)(5)).*

(3) A professional development subcommittee, which must include teachers, principals, superintendents, curriculum coordinators, and representatives of chartered nonpublic schools and institutions of higher education;

(4) A special education subcommittee consisting of the members of the SERRC governing board in the region; and

(5) A data acquisition site subcommittee consisting of the members of the governing authority of each data acquisition site in the region.

Members of the school improvement, education technology, and professional development subcommittees must be appointed by the advisory council. In appointing these members, the council must select people who live or work in the region (although a person from an adjacent region may be appointed if necessary to fulfill the membership requirements). Initial appointments to the subcommittees must be made within 60 days after the bill's effective date.

An advisory council may establish additional subcommittees at its discretion and appoint their members. The membership of any other subcommittee must include a diverse group of classroom teachers and other education personnel with knowledge of the subcommittee's topical area and representatives of individuals and groups with an interest in the area. Advisory council members may participate in the deliberations of any subcommittee.

Selection of fiscal agents

(R.C. 3312.07)

By July 1, 2006, the Department of Education must select a fiscal agent for each ERSS region. Only school districts and ESCs, both of which have publicly elected governing boards, are eligible to be fiscal agents under the bill. To select the fiscal agents, the Department must issue a request for proposals from districts and ESCs interested in being a fiscal agent. The Department must select from among the respondents based upon the following criteria:

(1) Capability to serve as a fiscal agent as demonstrated by a satisfactory audit record and prior experience serving as a fiscal agent;

(2) Adequate capacity in terms of facilities, personnel, and other relevant resources;

(3) Evidence that the school district's or ESC's role as a fiscal agent would result in minimal disruption to its existing responsibilities; and

(4) Demonstrated intent to limit administrative fees for managing a performance contract to a maximum of 7% of the contract's value.

If no school district or ESC in a region responds to the Department's request for proposals, the Department must choose a district or ESC in the region that meets these criteria to be the region's fiscal agent.

Duties of fiscal agents

(R.C. 3312.08 and 3312.09)

Performance contracts

Under the bill, the fiscal agent's primary responsibility is to enter into performance contracts with the Department of Education for the implementation of state and regional education initiatives and school improvement efforts. These performance contracts outline the manner in which the initiative will be implemented and the funding that will be provided to the region. Additionally, each performance contract must include:

(1) A definition of the services to be provided to school districts, community schools, and chartered nonpublic schools in the region;

(2) Expected outcomes from the provision of those services;

(3) The evaluation method the Department will use to determine if the expected outcomes have been achieved;

(4) A requirement that the fiscal agent develop and implement a corrective action plan if the evaluation results are unsatisfactory;

(5) Data reporting requirements;

(6) The aggregate fees that will be charged, by the fiscal agent and by any entity with which it subcontracts to assist in administering the contract. Any fees in excess of 4% of the contract's value must be approved by the Controlling Board.

(7) A requirement that a member of the region's advisory council serve on the State Regional Alliance Advisory Board (see "**State Regional Alliance Advisory Board**" below).

Other duties

As a party to the performance contract, the fiscal agent receives federal and state funds specified in the performance contracts, including federal funds for special education and related services, and disburses those funds to the ESCs, data

acquisition sites, and other regional service providers in the region. It also exercises fiscal oversight of the implementation of state and regional education initiatives and school improvement efforts.

As the policymaking body for the region, the advisory council makes decisions regarding the manner in which the initiatives will be executed and how funds will be spent to accomplish the goals specified in the performance contracts. The fiscal agent generally must spend funds in accordance with the decisions of the advisory council or as required by a performance contract. However, under the bill, the fiscal agent cannot implement a spending decision if (1) there are insufficient funds available to the region to cover the expenditure or (2) the expenditure is illegal.

State Regional Alliance Advisory Board

Duties

(R.C. 3312.12)

The State Regional Alliance Advisory Board is a state-level entity created by the bill to address issues affecting the operation of ERSS and statewide education initiatives. It is not a policymaking body. Rather, its responsibilities are to promote communication and coordination among the State Board of Education, the Department of Education, fiscal agents, advisory councils, and users of ERSS. The State Regional Alliance Advisory Board also must identify issues regarding ERSS that may require action by the State Board or the Department. Finally, the Board must recommend quality standards for the delivery of services to school districts and schools through ERSS. The Board must provide copies of its recommendations to the Department of Education and the regional advisory councils.

Like each of the regional advisory councils, the State Regional Alliance Advisory Board must establish an accountability system to evaluate the Board's performance.

Membership

(R.C. 3312.11; Section 4)

There are 31 members of the State Regional Alliance Advisory Board. The Superintendent of Public Instruction and the chairpersons and ranking minority members of the education committees of the House and Senate, or their designees, are ex officio, nonvoting members of the Board. The 26 voting members of the Board, who serve at the pleasure of their appointing authorities, are:

- (1) One member of each regional advisory council, appointed by the council;
- (2) One member of the State Board of Education, appointed by the State Board;
- (3) One representative of four-year institutions of higher education, appointed by the Ohio Board of Regents;
- (4) One representative of two-year institutions of higher education, appointed by the Ohio Association of Community Colleges;
- (5) One representative of the Department of Education, appointed by the Superintendent of Public Instruction;
- (6) One representative of the Governor, appointed by the Governor;
- (7) One teacher, appointed jointly by the Ohio Education Association and the Ohio Federation of Teachers;
- (8) One parent, appointed by the Ohio Parent Teacher Association;
- (9) One representative of business, appointed by the Ohio Chamber of Commerce;
- (10) One representative of the Buckeye Association of School Administrators, appointed by the Association; and
- (11) One representative of the Ohio Educational Service Center Association, appointed by the Association.

Appointments to the State Regional Alliance Advisory Board must be made within 60 days after the bill's effective date. The Superintendent of Public Instruction is the chairperson of the Board. For two years after its initial meeting, the Board must meet at least monthly. After that time, all meetings are at the call of the chairperson or upon the request of at least one-third of the Board's members. Board members are not compensated.

Service agreements with ESCs

Background

As noted above, ESCs provide oversight functions to all "local" school districts in their territories. Under current law, "city" and "exempted village" school districts may enter into agreements with ESCs to receive services similar to those provided to local districts in the ESC's territory. These services may include

supervisory teachers, professional development, curriculum services, research and development programs, academic instruction, and special education services. This authorization generally is limited to city and exempted village districts with total student populations of less than 13,000 students and with territory in a county served by the ESC. City and exempted village districts that enter into agreements with ESCs on these terms are known as "client districts." ESCs also provide other services to school districts and community schools on a fee-for-service basis.

ESCs receive payments from the state and from each school district they serve to pay the cost of providing those services.³ These payments are as follows:

(1) Each ESC receives \$6.50 per pupil from each local and client school district.

(2) Each ESC receives either \$37 or \$40.52 per pupil of direct state funding for each local and client school district.⁴

(3) Each ESC receives from each local and client school district one "supervisory unit" for the first 50 classroom teachers required to be employed in the district and one such unit for each additional 100 required classroom teachers. This funding is to pay the cost of providing a teacher to supervise a district's teachers.⁵

(4) Each ESC receives a contractually specified amount from each district with which it has a fee-for-service contract.

Elimination of geographical restriction

(R.C. 3313.843)

The bill eliminates the geographical restriction in current law that limits city and exempted village school districts to receiving per-pupil-based services from an ESC with territory in the same county as the district. This change makes it possible for these school districts to contract with any ESC in the state to receive such services. It does not alter the payment schedule for those services.

³ See R.C. 3317.11, not in the bill.

⁴ The latter amount is paid to ESCs that have formed as a result of a merger of at least three smaller ESCs.

⁵ A supervisory unit is the sum of the statutorily prescribed minimum salary for the licensed supervisory employee, an amount equal to 15% of that salary, and a statutorily prescribed allowance for necessary travel expenses (R.C. 3317.11(B)(1), not in the bill).

Fee-for-service contracts

(R.C. 3313.845)

The bill grants explicit authorization for ESCs to enter into fee-for-service contracts with any school district in the state. Under the bill, a district and ESC may enter into a contract for the provision of services through adoption of identical resolutions. The contract must describe the services to be provided and the amount the district will pay for the services. To be valid, a copy of the contract must be filed with the Department of Education by the first day of the school year in which the contract will be in effect. Payments under fee-for-service contracts are deducted from the district's state aid account and paid to the ESC by the Department. An ESC does not receive any contribution from the state for services provided to districts under fee-for-service contracts.

The bill places two restrictions on the kinds of services that certain districts may receive from an ESC under a fee-for-service contract. City and exempted village school districts that are eligible to receive services for which the state contributes payments cannot receive those services under a fee-for-service contract. Also, local school districts cannot contract for supervisory services, which ESCs are required to provide to local districts within their territories, from an ESC in whose territory they are not located.

Reductions in force

(R.C. 3319.17)

Current law permits an ESC to make reductions in the number of teachers it employs under certain circumstances. Two of these circumstances involve decreases in services provided by the ESC due to termination or nonrenewal of agreements or contracts with other public entities. The bill adds fee-for-service contracts with school districts and service agreements with community schools to the existing list of contracts that, if discontinued, may justify reductions in force.

Service agreements with data acquisition sites

(R.C. 3312.10)

School districts and community schools may contract with data acquisition sites on a fee-for-service basis under the bill in the same manner as they may contract with ESCs. Specifically, the governing authorities of the parties to the contract must adopt identical resolutions to formalize the agreement. The services to be provided must be specified in the contract along with the amount the district or community school will pay. However, unlike contractual payments from districts to ESCs, district payments under a contract with a data acquisition site are

not deducted from the district's state aid account. All payments, including those made by a community school, must be made directly to the data acquisition site providing the services.

Legislative intent language regarding the Office of Early Childhood Education

(Section 5)

The bill contains language expressing the General Assembly's intent that the Department of Education not fill vacancies within the regional offices of the Department's Office of Early Childhood Education.

EMIS Advisory Board

(R.C. 3301.0713; Section 4)

The bill creates an EMIS Advisory Board to make recommendations to the Department of Education for improving the Education Management Information System (EMIS). EMIS is a statewide electronic database of public school fiscal, staff, and student data.⁶ Data submitted to EMIS is used to determine funding for school districts and to compile the district and building report cards issued by the Department. Topics that may be addressed in the Advisory Board's recommendations include the EMIS data definitions, reporting deadlines, the State Board of Education's rules and guidelines for the operation of EMIS, and other issues raised by education personnel who work with EMIS.

Sixteen members serve on the EMIS Advisory Board:

- (1) Two members of the State Board, appointed by the State Board;
- (2) One person appointed by the Ohio Educational Service Center Association;
- (3) One person appointed by the Buckeye Association of School Administrators;
- (4) One person appointed by the Ohio Association of School Business Officials;
- (5) One person appointed by the Ohio Association of EMIS Professionals;
- (6) One representative of four-year institutions of higher education, appointed by the Ohio Board of Regents;

⁶ See R.C. 3301.0714, not in the bill.

(7) One representative of two-year institutions of higher education, appointed by the Ohio Association of Community Colleges;

(8) Two representatives of the Department of Education, appointed by the Superintendent of Public Instruction;

(9) Two persons appointed by the Management Council of the Ohio Education Computer Network; and

(10) The chairpersons and ranking minority members of the education committees of the House and Senate, or their designees, as ex officio, nonvoting members.

Board members must be appointed within 30 days after the bill's effective date. Initial members of the Board serve until January 1, 2008, after which time terms will be two years. Members are not compensated. The education committee chairpersons alternate annually as chairperson of the Board. The Board must meet at least every other month. If EMIS is replaced with a new data collection system in the future, the bill specifies that the EMIS Advisory Board will continue to exist to make recommendations regarding the operation of the new system.

HISTORY

ACTION	DATE
Introduced	03-08-05
Reported, H. Education	05-18-05
Passed House (93-2)	10-05-05

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