



S.B. 332

127th General Assembly
(As Introduced)

Sens. Roberts, Fedor, Mason, D. Miller, Morano, Sawyer, R. Miller

BILL SUMMARY

- Directs the Auditor of State to conduct annual audits of all public and private sponsors and operators of community schools.
- Requires each private sponsor or operator of a community school to comply with the Public Records Law with respect to records pertaining to the sponsorship or management of the school.
- Requires the sponsor of a community school to suspend the school's operations if the school is more than one year overdue in its workers' compensation premiums.
- Prohibits a sponsor from renewing its contract with a community school if the school owes workers' compensation premiums.
- Requires a community school sponsor to provide annual assurances to the Department of Education that it has received an accounting of the school's payment of its workers' compensation premiums through the start of the school year for which the assurances are provided.

CONTENT AND OPERATION

Background

Community schools (often called "charter schools") are public schools that operate independently from any school district under a contract with a sponsoring entity. A conversion community school, created by converting an existing school district school, may be located in and sponsored by any school district in the state. On the other hand, a "start-up" community school may be located only in a "challenged school district." A challenged school district is any of the following: (1) a "Big-Eight" school district, (2) a school district in academic watch or

academic emergency, or (3) a school district in the original community school pilot project area (Lucas County).¹

The sponsor of a start-up community school, which generally must be approved by the Department of Education, may be any of the following:

- (1) The school district in which the school is located;
- (2) A school district located in the same county as the district in which the school is located has a major portion of its territory;
- (3) A joint vocational school district serving the same county as the district in which the school is located has a major portion of its territory;
- (4) An educational service center serving the county in which the school is located or a contiguous county;
- (5) The board of trustees of a state university (or the board's designee) under certain specified conditions; or
- (6) A federally tax-exempt entity under certain specified conditions.²

The Department of Education may take over sponsorship of community schools, but only in specified exigent circumstances.

Audits of sponsors and operators

(R.C. 117.103 and 117.11)

Background--current law

Most entities eligible to sponsor community schools, such as school districts and educational service centers, are public offices and, therefore, subject to the Public Audit Law (R.C. Chapter 117.).³ That Law generally requires the Auditor of State to audit each public office at least once every two fiscal years. However, in some cases, the federal Single Audit Act mandates more frequent audits. Under that Act, local governmental entities, including school districts,

¹ R.C. 3314.02(A)(3). The "Big-Eight" districts are Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown.

² R.C. 3314.015(B)(1) and 3314.02(C)(1)(a) through (f), neither section in the bill.

³ A public office is "any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by [Ohio law] for the exercise of any function of government" (R.C. 117.01(D), not in the bill).

must be audited in any fiscal year in which they spend at least \$500,000 in federal financial assistance.⁴

Currently, a *private* sponsor of a community school is not subject to the Public Audit Law. Private sponsors of community schools include federally tax-exempt entities and any designee of a state university board of trustees that is a private entity.

Similarly, with one limited exception, operators hired by community schools are not subject to public audit. An operator is (1) an individual or organization that manages the school's daily operations or (2) a nonprofit organization that provides programmatic oversight and support to the school and that retains the right to terminate its affiliation with the school for failure to meet the organization's quality standards.⁵ Under the exception, if an operator provides services to a community school totaling more than 20% of the school's annual gross revenues, the operator must provide the school with a detailed accounting of its services, including their nature and costs. That information must be included in the footnotes of the financial statements of the school and is subject to audit during the course of the school's regular financial audit by the Auditor of State.⁶

Under current law, the Auditor of State may audit the accounts of private institutions, associations, boards, and corporations that receive public money for their use, but such an audit is not mandatory.⁷ However, the Auditor of State's office in the past reportedly has interpreted the Public Audit Law and the Community School Law together to mean that the amenability of private community school operators is limited to the "detailed accounting" described above.⁸

The bill

The bill requires the Auditor of State to conduct annual audits of all public and private sponsors and operators of community schools. With regard to sponsors, this requirement applies to (1) all sponsors approved for sponsorship by the Department of Education and (2) all sponsors that were sponsoring community

⁴ 31 U.S.C. 7501-7507 and 29 Code of Federal Regulations 99.200.

⁵ R.C. 3314.014(A), not in the bill.

⁶ R.C. 3314.024, not in the bill. According to the Auditor of State's office, all community schools are audited on an annual basis.

⁷ R.C. 117.10, not in the bill.

⁸ *The Columbus Dispatch*, April 6, 2006, p. B-4.

schools as of April 8, 2003, when the approval provision became law, and are exempt from ever having to be approved by the Department. In the case of a private sponsor or operator, the yearly audit may cover only those accounts, reports, records, and files regarding the sponsor's or operator's receipt or expenditure of public funds relating to the sponsorship or operation of the community school. Presumably, for a public sponsor or operator, the Auditor of State could combine the audit required by the bill with the regularly scheduled audit mandated by the Public Audit Law in any year in which both audits are necessary.

Applicability of Public Records Law to private sponsors and operators

(R.C. 3314.40)

Under the bill, each private sponsor or operator of a community school must comply with the Public Records Law as if it were a public office with respect to all records pertaining to the sponsorship or management of the school. The Public Records Law generally requires that all public records be promptly prepared and made available for inspection by any person at all reasonable times during regular business hours. Upon request, the public office must make copies of a public record available at cost within a reasonable period of time. A "public record" is broadly defined as any record kept by a public office, but certain types of records are statutorily exempt from public disclosure.⁹ The bill applies these inspection and copying requirements to private sponsors and operators.

Sanctions for arrearages on workers' compensation premiums

Suspension of school's operations

(R.C. 3314.072)

The bill requires the sponsor of a community school to immediately suspend the school's operations if the school is more than one year overdue in its workers' compensation premiums. Under continuing law, when a sponsor imposes a suspension, it must send written notice to the school's governing authority stating that the school's operations are immediately suspended and explaining the reasons for the suspension. This notice also must state that the governing authority has five business days to submit a proposed remedy for the conditions that led to the suspension or face potential termination of the sponsorship contract. Upon receipt of the suspension notice, the governing authority must inform the school's employees and the parents of the school's students of the suspension and the reasons for it and must cease all school operations the next business day. If a

⁹ See R.C. 149.43, not in the bill.

suspension is required and the sponsor fails to take that action, the Department of Education may impose the suspension.¹⁰

Nonrenewal of contract

(R.C. 3314.03(E))

Under current law, the sponsor of a community school may renew its contract with the school if the sponsor finds that the school's compliance with the law and the terms of the contract and the school's progress in meeting the contract's academic goals have been satisfactory. The bill further specifies that, in order to renew the contract, the sponsor must receive confirmation from the Bureau of Workers' Compensation that the school does not owe any workers' compensation premiums.

Sponsor assurances

(R.C. 3314.19)

Continuing law requires the sponsor of each community school to provide annual assurances to the Department of Education regarding the school's compliance with certain laws and the preparedness of the school's staff and facilities for the upcoming school year. Under the bill, along with the current assurances, the sponsor must provide assurance that it has received from the Bureau of Workers' Compensation an accounting of the school's payment of its annual workers' compensation premiums through July 1 of the school year for which the assurances are provided.

HISTORY

ACTION	DATE
Introduced	05-06-08

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¹⁰ Continuing law also requires a sponsor to suspend a community school's operations if the school is in violation of a health and safety standard for school buildings. A sponsor may suspend a school's operations for (1) failure to meet student performance requirements outlined in the contract, (2) fiscal mismanagement, (3) a violation of law or the contract, or (4) other good cause.