



Ohio Legislative Service Commission

Bill Analysis

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Rep. Wagner

BILL SUMMARY

- Eliminates many current school district mandates.

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CONTENT AND OPERATION

Overview

The bill eliminates most school district mandates. It repeals outright many sections of the Revised Code and amends many others. Among its changes, the bill removes nonteaching employees of city school districts from the Civil Service Law, eliminates the specific provisions governing reductions in force for both teachers and nonteaching employees, and eliminates the obligation of school districts to collectively bargain with their nonmanagement employees. Instead, school district boards retain broad contracting authority to hire, compensate, discipline, and dismiss employees.

Moreover, it eliminates the requirement that district boards provide health benefits but specifically permits a board to do so.

The bill, however, retains mandates associated with federal special education and vocational education requirements, school district organization, student achievement testing, the minimum high school curriculum, compulsory school attendance, health and safety matters, and teacher licensing.

Repealed provisions

The bill repeals outright the following provisions of the Revised Code:

3313.174	Requirement to appoint a business advisory council
3313.211	Compensation of school employees while on jury duty
3313.472	Requirement to adopt a policy on parent involvement in schools
3313.482	Contingency plan requirement for making up calamity days
3313.51	Check writing and deposit requirements related to school treasurers
3313.534	Requirement to have a "zero tolerance" discipline policy and for certain districts to have alternative schools
3313.535	Requirement to adopt rules and policy regarding the academic eligibility of students to participate in interscholastic extracurricular activities
3313.537	Requirement to allow certain community school and STEM school students to participate in extracurricular activities at the traditional public schools
3313.60	School course of study requirement
3313.601	Requirement to set aside time for daily "moment of silence"
3313.602(A)	Requirement to have a policy regarding the recitation of the Pledge of Allegiance to the Flag
3313.602(B) and (C)	Requirement to ensure that the "principles of democracy and ethics" are emphasized and discussed in appropriate parts of

the curriculum and to encourage a school's employees to be cognizant of their roles to instill in students "democratic and ethical ideals"

- 3313.602(D),
5.23, and
3313.63 Requirement to observe Veterans' Day and designation of school holidays
- 3313.608 "Third grade reading guarantee"
- 3313.609 Requirements to retain certain chronic truants
- 3313.6011 Requirement that venereal disease education, which is a component of health education, emphasize sexual abstinence
- 3313.6012 Requirement to have policy on academic "prevention/intervention" services
- 3313.6013 Requirement to offer at least one dual enrollment opportunity to high school students
- 3313.6014 Requirement that school districts issue a notice to parents about the Ohio Core Curriculum
- 3313.648 Prohibition on paying incentives for enrollment in school
- 3313.66,
3313.661,
3313.662, and
3313.664 Student discipline and code of conduct provisions (Public schools would still have to provide due process procedures in accordance with federal case law)
- 3313.666 and
3313.667 (and
related
provisions in
117.53 and
3301.22) Requirement for school district boards to adopt policies specifically prohibiting harassment, intimidation, or bullying
- 3313.70 Prohibition against appointment of a school board member as school physician, dentist, or nurse
- 3313.712 Requirement to provide the parent of each enrolled student with an annual emergency medical information form

3313.76 to 3313.78	Requirements related to the use of school buildings by the public when not being used for school purposes
3313.80	Requirement to display the national flag
3313.801	Requirement that school districts accept and post donated copies of the state and national mottoes
3313.811	Prohibition against the sale of anything for profit on school premises unless all profits are used for a school purpose or for a school activity
3314.20	Requirement that certain school districts establish site-based management councils
3315.17, 3315.171, and 3315.19	Requirement to maintain a Textbook and Instructional Materials Fund
3315.18, 3315.181, and 3315.19	Requirement to maintain a Capital and Maintenance Fund
3317.12	Nonteaching employee salary schedule requirement
3317.13 and 3317.14	School district teachers salary schedule requirement (also makes conforming changes in R.C. 3317.01(C))
3317.15	Requirements specifying the minimum number of speech-language pathologists and school psychologists a school district must hire
3319.0811	Requirement that districts use only supplemental contracts to employ teachers for high school courses taught outside the normal school day
3319.33	School district statistical reports
Chapter 3324.	Identification of gifted children and development of service plan and requirement to adopt grade acceleration policies (R.C. 3324.10)

Disposal of property

School district boards have broad corporate authority, including the power to hold and dispose of property (R.C. 3313.17, retained). Apparently relying on this authority, the bill repeals outright the specific authority and restrictions on the disposal of school district property currently codified in R.C. 3313.41. This latter repealed section also includes the mandatory right of first refusal to community schools when a school district decides to dispose of property and a requirement that a district make available to community schools certain real property the district is not using.

Employment of personnel

The bill amends and repeals several Revised Code sections related to the employment of personnel. In essence, it again apparently relies on the broad contracting power of school district boards (in retained R.C. 3313.17) to hire, discipline, and terminate employees. It eliminates restrictions on the length of contracts and requirements for performance review. It also eliminates provisions regarding reductions in force and privatization of pupil transportation. These actions appear to be authorized under the bill's broader provisions for contracting teachers and nonteaching employees. It also eliminates the requirement to provide continuing contracts ("tenure") for certain employees, but it does require school districts to honor all existing continuing contracts.¹

Civil Service Law

The bill removes city school districts from governance under the state Civil Service Law, which would instead be governed under other statutory provisions that currently apply only to local and exempted village school districts. As noted below, the bill also eliminates the obligation of school districts to collectively bargain with their employees.²

Background on Civil Service Law

Employment of nonteaching personnel in city school districts currently is controlled by the state Civil Service Law, codified in R.C. Chapter 124., which applies to

¹ The bill amends R.C. 3319.01, 3319.011, 3319.02, 3319.03, 3319.04, 3319.05, 3319.07, 3319.071, 3319.073, 3319.075, 3319.08, 3319.081, 3319.088, and 3319.10. It repeals outright R.C. 3319.072, 3319.082, 3319.083, 3319.084, 3319.085, 3319.086, 3319.087, 3319.0810, 3319.0811, 3319.09, 3319.101, 3319.11, 3319.111, 3319.12 to 3319.143, 3319.16 to 3319.181, and 3319.63.

² The bill amends R.C. 9.41, 124.01, 124.11, 124.271, 124.34, 124.38, 124.40, 124.57, 3311.10, 3311.19, 3311.52, 3311.72, 3313.975, 3316.07, 3319.081, 3319.088, 3319.151, and 3327.10 and repeals R.C. 124.011, 124.54, 3319.082, and 3319.083.

many employees of state agencies, counties, cities, city or general health districts, and some townships. That law provides an extensive set of uniform procedures for testing, hiring, firing, layoff, employee discipline, sick leave, compensatory time, and other conditions of employment for classified and unclassified employees of affected agencies. Employment of nonteaching employees in exempted village and local school districts is not controlled by the Civil Service Law but is instead controlled by less elaborate, separate statutes in Chapter 3319. of the Education Code. In either case, the provisions of any effective collective bargaining agreement prevail over conflicting statutory provisions in matters that are subjects of collective bargaining. Still, if a collective bargaining agreement is silent on an issue, the relevant statute will control.

Elimination of the obligation to collectively bargain

The bill eliminates the obligation of school districts to collectively bargain with their nonmanagement employees. It does state, however, that the changes do not apply to any agreement entered into prior to the bill's effective date. But it also states that no school district, educational service center, or community school is required to renew, modify, or extend any collective bargaining agreement after the bill's effective date. After the bill's effective date, collective bargaining is optional at the discretion of the board of education.³

Employee benefits

The bill permits, but does not require, school districts and community schools to provide health care and other benefits for their employees. In doing so, the bill eliminates provisions enacted in Am. Sub. H.B. 66 of the 126th General Assembly and revised by Am. Sub. H.B. 119 of the 127th General Assembly. Those provisions establish the School Employees Health Care Board to adopt "best practices" to which the employee health care plans of school districts must adhere. The bill broadly leaves the procurement of benefits to the discretion of district boards and governing authorities.⁴

Student transportation changes

The bill eliminates the obligation of school districts to provide student transportation.⁵ It retains provisions relating to transporting vocational students to joint

³ The bill amends R.C. 4117.01, 4117.03, 4117.04, 4117.06, 4117.09, and 4117.10. It repeals outright R.C. 3314.10, 4117.101, and 4117.102.

⁴ The bill amends R.C. 9.833, 9.90, 3311.19, 3313.12, 3313.202, 3313.33, 4117.03, and 4117.08 and repeals R.C. 9.901.

⁵ The bill amends R.C. 3327.01 and 3327.03, repeals outright R.C. 3327.011 and 3327.02, and makes conforming changes to R.C. 3314.09 and 3314.091.

vocational districts, interdistrict transportation contracts, and nonresident and disabled student transportation. It eliminates the requirement for a school district to establish school bus rider safety programs (R.C. 3327.16). It retains the current provisions relating to bus driver qualifications (R.C. 3327.10). It makes optional the requirement that school districts secure motor vehicle insurance (R.C. 3327.09). It repeals the prohibition against driving a school bus for more than 240 miles outside of Ohio (R.C. 3327.15).

Currently, each city, exempted village, or local school district is required to transport to and from school any student in grades K through 8 residing in the district who lives more than two miles from the school to which the student is assigned or from the nonpublic or community school the student attends. A district is not required to transport any nonpublic or community school student for whom the direct travel time by bus is more than 30 minutes. A district also may make a payment in lieu of providing transportation under certain conditions.

Miscellaneous amended provisions

The bill amends the provisions regarding the authority of the State Board of Education to prescribe minimum standards for schools so that the Board may not require more of a school district than what is prescribed by statute (R.C. 3301.07).

It amends current law providing for in-service training for school district superintendents, treasurers, business managers, and board members to eliminate mandatory regular attendance at those training sessions (R.C. 3301.072).

It permits, rather than requires, school district boards to adopt reasonable rules for the administration and operation of their schools (R.C. 3313.20).

The bill eliminates the qualified prohibition on hiring nonlicensed educators to coach pupil activity programs without first offering those positions to licensed educators (R.C. 3313.53).

It eliminates the requirement that school districts give academic credit for successful completion of courses in American sign language (R.C. 3313.604).

The bill eliminates restrictions on school district dress codes (R.C. 3313.665) and eliminates the requirement that districts enforce the state ban on student tobacco use (R.C. 3313.751).

It eliminates requirements regulating the disposition of revenues from school district food service operations (R.C. 3313.81) and removes the limit of \$500 per school on district payments to accrediting organizations (R.C. 3313.871).

The bill permits rather than requires, as under current law, school districts to develop informational programs on, and to participate in programs to help find, missing children (including fingerprinting programs) (R.C. 3313.96).

The bill retains most school district fund requirements, but as noted above, it repeals the specific set-asides for textbooks and instructional materials and for capital and maintenance (R.C. 3315.17, 3315.171, 3315.18, 3315.181, and 3315.19).⁶ It also amends the law on pupil activity funds to make establishment of those funds permissive rather than mandatory (R.C. 3315.062). It eliminates restrictions on contracts with higher education institutions and private entities regarding special programs (R.C. 3315.09) and on contracts among districts for driver training programs (R.C. 3315.091).

Finally, the bill amends R.C. 3319.06 to permit school district boards to appoint internal auditors, as under current law, but eliminates provisions regarding how they are to be employed.

Retained Education Code provisions

The bill retains the following school district requirements and prohibitions provisions of the Education Code:

- 3301.0710,
3301.0711, Administration of achievement tests, diagnostic assessments,
3301.0712, and and student academic intervention related to testing
3301.0715

- 3301.0714 Reporting of student and district data to the Education
Management Information System

- 3301.52 to Provisions regulating the operation of preschool and latchkey
3301.59 programs by school districts, private schools, and county
MR/DD boards

- Chapter 3302. Performance indicators, including state report cards, for school
districts

- 3302.10 Provision for academic distress commissions in districts in a
state of academic emergency that have not made "adequate
yearly progress" for four or more consecutive years

⁶ The bill retains all of the following Revised Code sections regarding school district funds: 3315.01 to 3315.05, 3315.061, 3315.07, 3315.08, 3315.10 to 3315.15, 3315.20, and 3315.29 to 3315.42.

Chapters 3307. and 3309.	Participation in the State Teachers Retirement System and the Public School Employees Retirement System
Chapter 3311.	School district classification, organization, annexation, and transfer of territory
3313.01 to 3313.16 and 3313.18	Board of education elections, organization, meetings, and quorum for conduct of business
3313.17	Corporate powers of school district boards
3313.201	Requirement to purchase liability insurance
3313.205	Requirement to adopt a policy on notification of a parent when the parent's child is absent from school
3313.22, 3313.24, 3313.25, and 3313.31	Requirement that school district boards hire treasurers licensed by the State Board of Education and other restrictions on their appointment
3313.35	Requirements that county prosecuting attorneys and city law directors serve as legal counsel to school districts
3313.372, 3313.374, and 3313.375	Provisions for installment contracts for energy conservation measures
3313.46 and 3327.08	Competitive bidding requirements
3313.47	Vesting of management and control of schools in the board of education
3313.471	Prohibition of nonuniform restrictions on the presentation of career information to students
3313.48 and 3313.481	Minimum school year

3313.483, 3313.487 to 3313.4810	Prohibition against closing schools for financial reasons; requirements and procedures related to school financial crises and resulting loans
3313.50 and 3313.67	Requirement to keep student health and immunization records
3313.536	Requirement to adopt comprehensive school safety plan
3313.55	Requirements related to schooling for persons with epilepsy
3313.56	Part-time schooling requirements for programs provided to students with age and schooling certificates
3313.603	Requirement that all students complete the state minimum high school curriculum of at least 20 specified units of study (including the Ohio Core Curriculum required for graduation beginning with students who enter 9th grade after July 1, 2010)
3313.61, 3313.611, 3313.614, 3313.615, and 3313.616	Diploma and high school graduation requirements
3313.613	Requirement to give high school credit for completed post-secondary courses
3313.64 and 3313.65	Right to tuition-free education for resident students of each school district
3313.643	Requirement for students and teachers to wear eye protection for certain courses
3313.646	Conditions on the establishment of preschool programs by school districts
3313.6410	Requirement that a school district withdraw a student from an electronic or computer-based school operated by the district if the student fails to take prescribed achievement tests for two consecutive years

- 3313.671 Prohibition against allowing a student to remain in school longer than 14 days without submitting immunization records or evidence that immunization is in progress (except that the parental right to excuse a child from immunization for religious reasons applies)
- 3313.672 Requirement to request records from a child's previous school
- 3313.673 Screening of new kindergartners and first-graders in hearing, vision, speech and communication, and health
- 3313.69 Requirement to include hearing and vision screening if school opts to have any dental and medical screening
- 3313.713 Requirements related to administering prescription drugs to students
- 3313.716 Requirement to permit students to self-administer asthma medication
- 3313.717 Requirement that, if a school district board requires the placement of an automated external defibrillator in a school, the board also require that a sufficient number of staff persons successfully complete an appropriate training course in its use
- 3313.718 Requirement that districts allow students to carry epinephrine autoinjectors to treat anaphylaxis
- 3313.752 Requirement that a warning about anabolic steroids be posted in school locker rooms
- 3313.813 State Board of Education standards for school food programs
- 3313.814 Requirement for school boards to have a policy governing the types of food sold on school premises
- 3313.815 Requirement to have an employee trained in the Heimlich maneuver present during the service of meals to students
- 3313.841 and 3313.842 Requirements related to sharing certain services cooperatively with other districts and operating joint education programs

- 3313.843 Requirements related to receiving services provided by educational service centers
- 3313.85 Requirement that the probate court perform functions that a school board fails to perform
- 3313.90,
3313.91, and
3313.911 Requirement to provide vocational education services
- 3313.92 Requirements related to joint construction projects between school districts
- 3313.93 Prohibition against students who are paid for work in a school district occupational work adjustment laboratory from being considered employees for purposes of retirement law, employee contract law, unemployment compensation law, and workers' compensation law
- 3313.941 Requirement to include a "multiracial" category in any statistics on race gathered for state or school district purposes
- 3313.95 Contract requirements for police services in alcohol and drug prevention programs
- 3313.97 Requirement to provide intradistrict enrollment opportunities for resident students
- 3313.98,
3313.981,
3313.982, and
3313.983 Requirement to have a specific policy in place that either (a) prohibits interdistrict open enrollment altogether, (b) permits interdistrict open enrollment for students of adjacent districts, or (c) permits interdistrict open enrollment for students of all districts
- Chapter 3316. School District Solvency Assistance Law (authorizes financial assistance and management intervention for financially troubled districts)
- Chapter 3317. Foundation Program (except the requirement to adopt a minimum teacher salary schedule in order to participate in the program)

Chapter 3318.	Classroom Facilities Assistance Programs (permissive participation)
3319.21	Prohibition against a school board participating in a contract employing a relative of a school board member; requirement that these contracts and any contracts in which a board member has a pecuniary interest are void
3319.22 to 3319.317 and 3319.36	Teacher licensing
3319.32	Student record keeping requirements
3319.321	Provisions regarding the privacy of student education records (also controlled by the federal Family Educational Rights and Privacy Act, 20 U.S.C. 1232g)
3319.322	Requirement that each district superintendent request school photographers to provide a wallet-size photograph of each student, free of charge, that the district can keep on file should it be needed for investigation of a missing child
3319.35 and 3319.37	Penalties and consequences for failure to submit reports to the State Board
3319.39 to 3319.392	Criminal records checks for school district employees and contractors
3319.40	Requirement to suspend employee from duties that require care, custody, or control of children upon the employee's arrest, summons, or indictment for certain offenses
3319.41	School corporal punishment policy requirements and authorization
3319.45	Requirement that a school principal report certain offenses committed by students
Chapter 3321.	Compulsory School Attendance Law

Chapter 3323.	Special Education Law (also controlled by the federal Individuals with Disabilities Education Act, 20 U.S.C. 1400 <i>et seq.</i>)
3327.06	Tuition collection requirements and provisions related to the unauthorized attendance of students
Chapter 3329.	Requirements regarding textbook selection, purchase, and distribution
3329.10	Prohibition against a superintendent, supervisor, principal, or teacher acting as a school textbook sales agent
Chapter 3331.	Requirements related to the issuing and administration of age and schooling certificates
Chapter 3365.	Post-Secondary Enrollment Options Program

Retained provisions outside the Education Code

The following Revised Code provisions outside of the Education Code are not affected by the bill. They apply to numerous public entities including school districts:

Chapter 102. and sections 2921.42 and 2921.43	State Ethics Law and restrictions on conflicts of interest in public contracts
Chapter 117.	Audit of public agencies
121.22	Public Meetings Law
Chapter 133.	Public Securities Law
Chapter 135.	Public Depository Law
149.43	Public Records Law
2151.421	Reporting of abused and neglected children
Chapter 2744.	Subdivision Sovereign Immunity Law
Chapter 4112.	State Civil Rights Law

Chapter 4113.	State Whistleblower Law
Chapter 4123.	State Workers' Compensation Law
Chapter 4141.	State Unemployment Compensation Law
Title 57	State Tax Law (as applicable to school districts), including the requirement to attach to certain contracts and spending measures a certificate of available resources (R.C. 5705.421)

Health and safety laws retained

The bill also does not change health and safety laws which apply to school districts and most other public facilities. Most of these provisions are codified outside of the Education Code. Some are matters of local ordinances enacted under the municipal police power. All health and safety provisions outside of the Education Code are retained, including recently enacted requirements to participate in the School Health and Safety Network and to conduct an annual school safety drill, as discussed below.

School Health and Safety Network retained

The Director of Health must establish a School Health and Safety Network under which local boards of health must conduct safety inspections of each public and private school in addition to or in conjunction with sanitary inspections. Schools must provide access to the inspectors and develop plans to abate hazardous conditions discovered by the inspectors. (R.C. 117.102, 3313.473, 3314.15, 3701.93, 3701.931 to 3701.936, 3707.26, and 4736.01.)

School safety drills retained

Each public or private school must conduct at least one school safety drill each year to provide students instruction and practice in the procedures to follow in situations where students must be secured in the school building. Likewise, they must conduct tornado drills and monthly fire drills. (R.C. 3737.73 and 3737.99.)

HISTORY

ACTION	DATE
Introduced	05-12-09