



Ohio Legislative Service Commission

Bill Analysis

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H.B. 444

129th General Assembly
(As Introduced)

Reps. Henne, Young, Blair, Schuring, Huffman, Uecker, Slaby, Grossman, Johnson, Newbold, Brenner

BILL SUMMARY

- Authorizes a pilot program for school districts with any territory in Montgomery County to develop and sell goods and services for a profit.
- Exempts from the state Public Records Law records maintained by a school district or the Department of Education that pertain to research and development of technology or other trade secrets associated with the district's for-profit activities under the pilot program.
- Requires the Superintendent of Public Instruction, three years after the bill's effective date, to submit an evaluation and legislative recommendations regarding the pilot program to the Governor and General Assembly.

CONTENT AND OPERATION

Pilot program authorizing for-profit activities by school districts

The bill establishes a pilot program under which any school district with territory in Montgomery County may develop and sell specified goods and services for a profit, as long as those for-profit activities are related to the ordinary functions of the district. The stated purpose of the pilot program is to demonstrate the effect of profit-making activities by school districts.¹ Activities authorized under the bill are:

(1) Design, development, distribution, licensing, and sale of technology to another public school, a nonpublic school, or any other nonprofit entity (i.e., not a for-

¹ R.C. 3313.174; conforming changes in R.C. 3313.33 and 3313.811.

profit entity) regardless of where the other school or entity is located (i.e., not restricted to Montgomery County);

(2) Sale of training, consulting, or educational services to another public school, a nonpublic school, any person, or any other public or private entity (i.e., not restricted to nonprofit entities), regardless of where the other school, person, or entity is located;

(3) Sale of merchandise and other paraphernalia "resembling the district's identified brand" (presumably meaning logos and trademarks); and

(4) Rental of district facilities, except as already provided under current law.² (Under current law, not affected by the bill, districts must make their facilities available on an impartial basis to community organizations for educational, religious, civic, social, or recreational purposes, including use as polling places, and generally may charge a reasonable fee for those uses. Districts may not charge a political candidate or party for use of facilities for meetings to discuss public issues.)³

The district board may set the price and terms for the sale of goods and services under the pilot program. Those sales also are specifically exempt from current law generally requiring districts to offer personal property valued over \$10,000 for sale at public auction.⁴ Moreover, the board may allocate district funds, property, personnel, and other resources to a for-profit activity, as long as that allocation does not "substantially interfere" with the education of students. In addition, it may purchase or lease real or personal property specifically for the operation of a profit activity.⁵

Finally, the district board may hire employees (including administrative, teaching, and nonteaching personnel) who are completely, primarily, or in part employed for a for-profit activity under the pilot program. Under the bill, the employees hired for the for-profit activity serve at the pleasure of the board and are not entitled to collectively bargain with the board under the state Public Employees Collective Bargaining Law. Furthermore, the bill states that its provisions prevail over any conflicting provisions of a collective bargaining agreement entered into on or after the bill's effective date.⁶

² R.C. 3313.174(A)(1) to (4).

³ R.C. 3313.75, 3313.76, 3313.77, and 3313.78, none in the bill.

⁴ R.C. 3313.174(D). See R.C. 3313.41, not in the bill.

⁵ R.C. 3313.174(C).

⁶ R.C. 3313.174(G).

Revenue

All profits earned by a school district under the pilot program must be either placed in the district's general fund or reinvested into the operation of the for-profit activity. The bill further provides that those profits do not affect the computation of state operating funds payable to the district, including its reimbursement for the property tax rollback.⁷ Nor may a county budget commission use the district's revenue under the pilot program as a basis for reducing the district's rate of taxation for its property tax levies for operations.⁸ In other words, all profits from the pilot program are on top of the other state and local operating revenues a district may receive. On the other hand, the bill specifies that the district board itself may reduce the rate of taxation of its levies on account of revenue under the pilot program.

Public records exemption

The bill exempts from disclosure under the state Public Records Law records maintained by a school district or the Department of Education that pertain to research and development of technology or other trade secrets associated with the district's for-profit activities under the pilot program.⁹

Evaluation and legislative recommendations

The bill requires the Superintendent of Public Instruction, in consultation with school districts participating in the pilot program, to evaluate the implementation and operation of the program and to submit legislative recommendations to the Governor and the General Assembly. The state Superintendent's findings are due not later than three years after the bill's effective date. The reported findings must discuss the benefits, burdens, and other issues of the pilot program and recommend whether, or to what extent, it should be continued or expanded or reduced in scope.¹⁰

HISTORY

ACTION	DATE
Introduced	02-08-12

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⁷ R.C. 3313.174(E) and (H).

⁸ R.C. 5705.341.

⁹ R.C. 149.43(A)(1)(cc).

¹⁰ R.C. 3313.174(I).

