Ohio Legislative Service Commission

Bill Analysis

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H.B. 216

130th General Assembly
(As Introduced)

Reps. Patterson, Foley, Antonio, Strahorn

BILL SUMMARY

- Provides that if the voluntary transfer of a school district results in the complete dissolution of that district and satisfies certain specified conditions, the acquiring school district will acquire the transferring district's territory free and clear of any indebtedness owed by the transferring district to the state Solvency Assistance Fund.

CONTENT AND OPERATION

Voluntary transfer of entire territory of school district

The bill provides that the net indebtedness owed to the state Solvency Assistance Fund by a school district that voluntarily transfers its entire territory (according to the parameters described in "**Qualifying transfers**" below) must be cancelled, if the following conditions are satisfied:

(1) The amount owed by the transferring district to the state Solvency Assistance Fund is greater than or equal to 33% of the transferring school district's operating budget for the current fiscal year, but does not exceed $10 million.

(2) The transferring district has remained in a state of "fiscal emergency," under continuing law, during the previous two fiscal years.

(3) The acquiring district is in the same county or in a county contiguous to the county in which the transferring district is located.

(4) The acquiring district has voluntarily accepted the transfer.

(5) The acquiring district has submitted to the State Board of Education a written five-year projection of solvency which takes into account the fiscal effects of acquiring the transferring district.[1]

Qualifying transfers

Two types of transfers under continuing law are eligible for Solvency Assistance Fund debt forgiveness under the bill. First, the bill's provisions apply where the State Board of Education adopts a resolution to transfer the territory after one of the following circumstances occur: (1) the State Board conducts a study when there is evidence of a need to transfer territories to another district, or (2) a majority vote of a district board of education requests transfer of the entire district. This type of transfer requires both a majority vote of the electors in the transferring district and the approval of the board of education of the acquiring district.[2]

Second, the bill's provisions apply where the transferring district's board files a proposal for transfer with the State Board after obtaining written consent, or a signed petition, evidencing that 75% of the qualified voters of the district request the transfer. Such transfer also may be initiated by evidence of 75% of property owners requesting it, if no voters live in "that portion" of the district. (But the bill does not apply to a partial transfer.) In either case, the State Board must approve or disapprove the transfer after conducting a hearing. If the State Board approves the transfer, the transferring district must, within 30 days, adopt a resolution transferring the territory and submit a copy of the resolution to the acquiring district. The transfer takes place when the acquiring district passes a resolution accepting the transfer.[3]

Solvency Assistance Fund debt forgiveness; dissolution of transferring district

If the conditions set forth above are satisfied, the acquiring district acquires the transferring district's territory free and clear of any amount owed by the transferring district to the state Solvency Assistance Fund. However, the bill clarifies that the acquiring district, under continuing law, must assume the obligations of all other liens,

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[1] R.C. 3311.241(A).

[2] R.C. 3311.38.

[3] R.C. 3311.24.

encumbrances, and debts of the transferring district.[4] Once the transfer is complete, the board of education of the transferring district is abolished and the district is dissolved.[5]

Background

Fiscal emergency districts

The law provides for three levels of fiscal concern for which special attention is given by the state to a school district's solvency: "fiscal caution," "fiscal watch," and "fiscal emergency." It is at fiscal emergency that the state has the greatest concern for the financial situation of a school district and engages in greater oversight.[6] The Auditor of State may declare a district to be in fiscal emergency if:

(1) The district has an operating deficit for the current fiscal year of more than 15% of its general fund revenue, and the voters have not passed a property or income tax levy sufficient to cover that deficit in the next fiscal year;

(2) The district has an operating deficit for the current fiscal year of 15% or less, but more than 10%, of its general fund revenue; there is no reasonable cause for the deficit; and its voters have not passed a tax levy sufficient to cover that deficit in the next fiscal year;

(3) The district was under fiscal watch and failed to submit an acceptable initial or updated financial plan to the state Superintendent or is "not materially complying" with its financial plan; or

(4) The district restructured a loan made under the former state loan mechanism (before 1997) and it still has a deficit or has failed to submit an acceptable initial or updated financial plan or is not complying with the plan.[7]

School District Solvency Assistance Fund

To assist a district in fiscal emergency, the state offers interest-free advances on its state operating funding through the School District Solvency Assistance Fund. That fund consists of two separate accounts, the shared resource account and the

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[4] R.C. 3311.241(B).

[5] R.C. 3311.241(C).

[6] See list of school districts in fiscal emergency, 5/28/2013. At the Department's home page (http://www.ode.state.oh.us), click on "Financial Information," then "District Financial Status," then "Fiscal Caution," then "Fiscal Watch/Emergency Districts," and finally "Schools in Fiscal Distress."

[7] R.C. 3316.03 and 3316.04, neither in the bill.

catastrophic expenditures account. A district in fiscal emergency may receive payments from either account to help it "remain solvent." Generally, a fiscal emergency district also must pay back its advances within two years or the Director of Budget and Management is required to deduct that amount from its state operating funds.[8] However, a district may take up to ten years for repayment if approved by the Director and the state superintendent. The statute does not set a limit on the amount that may be advanced to a district from the fund, but a rule of the Director of Budget and Management states that the advance is limited to the amount necessary for the district to remain solvent.[9]

HISTORY

ACTION	DATE
Introduced	06-19-13

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[8] R.C. 3316.20.

[9] Ohio Administrative Code 126-5-01.