



Ohio Legislative Service Commission

Bill Analysis

Holly Cantrell Gilman

S.B. 329

130th General Assembly
(As Introduced)

Sens. Schiavoni, Gentile, Sawyer, Cafaro, Turner, Skindell, Brown, Tavares

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 each community school to establish a records commission.

CONTENT AND OPERATION

Audits of sponsors and operators

Background

Most entities eligible to sponsor community schools, such as school districts and educational service centers, are public offices and, therefore, are subject to the Public Audit Law (R.C. Chapter 117.). 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.¹

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.

¹ See 31 United States Code 7501-7507 and 29 Code of Federal Regulations 99.200.

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.² 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.³

Prior law authorized, but did not require the Auditor of State to audit the accounts of private institutions, associations, boards, and corporations that receive public money for their use. Recent changes, made by S.B. 67 of the 130th General Assembly, permit the Auditor of State to audit some or all of the other funds or accounts (those into which public money has not been placed or deposited) of a private institution, association, board, or corporation that has received public money from a public office *only* if one or more of the following applies:

- (1) The audit is specifically required or authorized by the Revised Code;
- (2) The private entity requests that the Auditor of State audit some or all of its other funds or accounts;
- (3) All of the revenue of the private entity is composed of public money;
- (4) The private entity failed to separately and independently account for the public money in its possession; or
- (5) The Auditor of State has a reasonable belief that the private entity illegally expended, converted, misappropriated, or otherwise cannot account for the public money it received from a public office and that it is necessary to audit its other funds or accounts to make that determination.⁴

² R.C. 3314.02(A)(8), not in the bill.

³ R.C. 3314.024, not in the bill.

⁴ R.C. 117.10(A), not in the bill.



The bill

The bill expressly 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 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 annual 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.⁵ The bill's provision regarding private sponsors and operators does not appear to conflict with the changes made by S.B. 67 because the bill's audit is one that would be specifically required by the Revised Code.

Public Records Law

Under the bill, each private sponsor or operator of a community school must comply with the Public Records Law (R.C. Chapter 149.) as if it were a public office with respect to all records pertaining to the sponsorship or management of the school.⁶

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 any record kept by a public office that documents the operation and activities of that office. However, certain types of records that otherwise are public records are statutorily exempt from public disclosure.⁷ The bill applies the inspection and copying requirements of the Public Records Law to private sponsors and operators.

School records commission

The bill requires each community school to have a school records commission that meets at least once every twelve months, in a manner similar to that prescribed for school districts under continuing law. The commission must review employee-submitted applications for one-time disposal of obsolete records and schedules of records retention and disposition. The bill permits the commission to dispose of records

⁵ R.C. 117.102; conforming change in R.C. 117.11.

⁶ R.C. 3314.031.

⁷ See R.C. 149.43, not in the bill.



only pursuant to the Public Records Law. The commission also may periodically review, and for good cause, revise its schedule of record disposal.⁸

HISTORY

ACTION	DATE
Introduced	04-15-14

S0329-I-130.docx/ks

⁸ R.C. 149.46; conforming change in R.C. 149.351.

