

OEA Legislative Watch

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Do you know that the political process affects virtually everything in your school day?

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Questions?

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House Changes to HB 153

On Thursday, April 28, 2011, the House Finance and Appropriations Committee adopted a substitute version of HB 153, the budget bill. The substitute bill makes a substantial number of changes to the bill.

Some positive changes include:

- Removal of language that takes away the right of teachers to collectively bargain on salaries
- An additional \$40 million per year for K-12 education funding
- Removal of language that shifted an additional 2% of pension contributions onto employees
- Removal of language that increased workload for full-time higher education faculty

However, despite these victories in the substitute bill, a number of changes to the bill represent significant steps backwards. These include the inclusion of language dealing with performance pay for teachers, teacher evaluation, reduction in force and tenure rights that are similar to provisions in Senate Bill 5. Additionally, the bill calls for an elimination of the estate tax and makes significant changes to charter school operation and accountability.

A summary of some of the most substantive **changes** that affect public education and our members are listed below:

K-12 Education:

Funding

- Provides an additional \$40 million per year for the Foundation Formula,
 \$23 more per pupil in FY 12 and FY 13. No district receives a cut in state formula aid of more than 20%.
- Suspends, beginning in FY 14, the phase-out of the tangible personal property tax and public utility tax reimbursement (does not impact this budget).
- Career Technical Education: Permits ODE to reallocate the unexpended amount of a school district's state funding allocation for career-technical education, if the district informs ODE it is unable to spend the full allocation on approved expenses.
- Education Service Centers: Increases state funding for ESCs in FY 13 to 85% of funding provided in FY 12. Increases FY 13 earmark from \$29.3 million to \$35.3 million.

- Permits the transfer of unused money in the district's textbook and instruction materials fund to the district's general fund.
- Earmarks up to \$150,000 a year in educator prep line item for ODE to monitor system of support under federal law and allows funds to be used for the implementation of education reforms.
- Up to \$5 million a year to reimburse districts for student transportation by means other than school bus service.

Teacher Compensation

- REMOVES LANGUAGE STATING THAT TEACHER SALARY PROVISIONS ARE NOT SUBJECT TO COLLECTIVE BARGAINING. Salary provisions are subject to collective bargaining under the bill.
- Requires school districts, community schools, STEM schools, ESCs, and county DD boards, beginning in the 2013-2014 school year, to pay teachers according to a performance-based schedule.
- Requires the schedule be based on a teacher's level of license, whether the teacher is "highly qualified" under federal law, and evaluation ratings.
- Requires the schedule provide for annual adjustments based on evaluations. Permits
 payment of additional compensation to teachers who agree to perform duties that the
 employer determines warrant additional compensation.

Teacher Contracts

- Prohibits awarding a continuing contract (tenure) to a teacher who was initially licensed after January 1, 2011.
- Limits an employment contract with a classroom teacher entered into by a school district, community school, STEM school or ESC on or after the provision's (90-day) effective date to a maximum of three years, and specifies that any subsequent contracts must be for terms of two to five years.

Teacher Evaluations

- Requires employers to evaluate each teacher annually.
- Requires the state superintendent, by December 31, 2011, to develop a framework for the evaluation of teachers that (1) develop standards and criteria for teacher and principal evaluations that distinguish between four levels of performance: "highly effective," "effective," "needs improvement," and "unsatisfactory" and (2) designate a standard of student academic growth that must be met to achieve each of the ratings.
- Specifies that the framework require each evaluation to consider: (1) quality of instructional practice, (2) communication and professionalism, and (3) parent and student satisfaction.
- Directs each school district, community school, STEM school, and ESC, by July 1, 2012, to adopt a teacher evaluation policy that utilizes the framework and that specifies the relative weight of each factor in (1) to (3) above and how each of those factors will be assessed. Requires the policy be approved by the superintendent.

- Requires at least 50% of each teacher evaluation be based on student academic growth for students assigned to the teacher during the three most recent school years, except that if less than three years of data is available, permits the portion of the evaluation based on student performance to be reduced to 40%.
- Requires student academic growth to be measured by value-added data derived from the state achievement assessments when applicable and by other assessments selected by the employer when not applicable.
- Requires the employer's teacher evaluation system to (1) use multiple measures of teacher's skills and students' progress, (2) be aligned with the Educator Standards Board's standards for teachers, (3) provide statements of expectation for professional performance, (4) require observation of the teacher on at least two occasions for at least 30 minutes each time, (5) assign ratings in accordance with the state superintendent's standards and criteria, and (6) require the teacher to be given a written report of the evaluation results, including specific recommendations for improvements.
- Requires employers to use teacher evaluations to inform decisions about compensation, nonrenewal, termination, reductions in force, and professional development.
- Specifies that if a teacher receives a rating of "unsatisfactory" for two consecutive years
 or two of three consecutive years, a rating of "needs improvement" for three consecutive
 years, or a combination of ratings of "needs improvement" and "unsatisfactory" for three
 consecutive years, the teacher loses a continuing contract if the teacher has one.
- Requires employers to submit aggregate teacher and principal evaluation results to ODE.
- Grants civil immunity to the board of education (or other governing body), its members, and evaluators for conducting evaluations in accordance with the adopted policy.
- Specifies that the requirements regarding the teacher evaluation policy override any conflicting provisions of a collective bargaining agreement entered into on or after the provision's (90-day) effective date.

Teacher Assignments

- Prohibits a school district superintendent from assigning a teacher to a school without
 the mutual consent of the teacher and the school principal, if the teacher received a
 rating of "needs improvement" or "unsatisfactory" on the teacher's most recent
 evaluation.
- Permits a school district to place the teacher on unpaid leave if the teacher is unable to secure a mutual consent assignment, and allows the district to terminate the teacher's contract after one year on unpaid leave without an assignment.

Teacher and Administrator Termination

 Requires the State Board to adopt rules defining "good and just cause" for purposes of teacher terminations.

- Specifies that "good and just cause" includes, but is not limited to, (1) immorality, (2) a conviction or finding of guilt for an offense involving moral turpitude or for theft in office, having an unlawful interest in a public contract, soliciting or accepting improper compensation, or dereliction of duty, (3) incompetency, (4) gross insubordination, (5) willful neglect of duty, or (6) an evaluation rating of "unsatisfactory" for two consecutive years or two of three consecutive years, a rating of "needs improvement" for three consecutive years, or a combination of ratings of "needs improvement" and "unsatisfactory" for three consecutive years.
- Permits a school district or ESC to terminate a teacher without "good and just cause" if the teacher is in the first year of employment and has a one-year contract. Specifies that such a teacher is not entitled to the due process provisions of current law.

Teacher Layoffs

- Replaces the Executive budget proposal provision with a provision that requires school districts, community schools, STEM schools, and ESCs to lay off teachers in order of their evaluation ratings, starting with teachers who receive "unsatisfactory" ratings first.
- Replaces the Executive budget proposal provision with a provision that prohibits giving preference in retention based on seniority.

Retesting Teachers

- Same as the Executive budget proposal, but changes the requirement to buildings, rather than districts, in the lowest 10 percentiles and expands the requirement to community schools and STEM schools.
- Same as the Executive budget proposal, but additionally permits community school governing authorities and STEM school governing bodies to use the results of the required re-testing to develop or revise professional development plans or to decide whether or not to continue employing the teacher.

Academic Standards

- Removes requirement that academic standards specify the development of 21st Century skills
- Removes senior project from graduation requirements.

District Expenses

Requires ODE to report annually to each school district its ratio of instructional expenses
and administrative expenses; per pupil amount for each; and the statewide average.
 Requires each district to publish the report on its website.

Other Provisions

 Requires individualized education program (IEP) for a disabled student to specify the manner in which the student will participate in achievement assessments.

- Establishes a pilot project in Columbiana County for one or more school districts to offer a multiple-track high school curriculum with three distinct career tracks (including college prep and career-technical). Allows different tracks to be offered at different campuses. No district would be required to participate.
- Authorizes school districts to make up a maximum of three calamity days through lessons posted online or paper lessons distributed to students. Requires written consent of the teachers union to implement such a plan.
- Requires a person age 16-18 who is applying to take the GED to obtain approval from
 the superintendent of the district the person was last enrolled in. A person who obtains
 approval must be counted as a dropout in calculating graduation rates for district report
 cards.

Vouchers

- Increases voucher amount for students in the Cleveland Scholarship Program to the level of the Ed Choice Voucher. Expands eligibility to high school students. Increases funding by \$5 million per year.
- Authorizes the establishment of college-prep boarding schools which are classified as
 public schools operated by a nonprofit corporation. The qualifications for students
 include residing in a participating district, family income of less than 200% of poverty and
 other at-risk factors.

School for the Deaf/Blind

Authorizes a joint superintendent for the Ohio Schools for the Deaf and Blind.

Higher Education - Board of Regents

- Eliminates increase in faculty workload in Governor's budget proposal.
- Aligns the term of the Chancellor of the Board of Regents with that of the Governor and specifies that the Chancellor serves at the pleasure of the Governor.
- Retains 3.5% cap on increases to in-state tuition and fees. Applies in-state tuition to graduates of Ohio high schools in the past 10 years regardless of residency.
- Allows institutions to choose which majors are subject to three-year degree option.
- Allows students attending for-profit colleges to be eligible for Ohio College Opportunity Grant (OCOG) and increases budget for OCOG by \$2 million a year.

Department of Developmental Disabilities (DODD)

Specifies that salaries for teachers serving in County Boards of DD, be based on a
performance-based schedule beginning in the 2013-14 school year. These teachers are
subject to the same provisions as teachers employed by school districts in the bill.
Teacher salaries are subject to collective bargaining.

Department of Rehabilitation and Disabilities

 Removes sentencing reform and earned credit expansion language in order to be heard as separate legislation. • Employees of community-based correctional facilities and district community-based correctional facilities can collectively bargain only if the public employer elects to do so.

Department of Youth Services

• Authorizes the sale of any Department of Youth Services facility that is closed before January 1, 2012 for use as a privately operated adult or juvenile correctional facility.

Charter Schools

- Prohibits employees of community school governing authorities from collectively bargaining, but allows collective bargaining agreements that cover these employees on the provision's effective date (immediate) to expire according to their own terms.
- Reinstates the moratorium on new e-schools until July 1, 2013, and requires the Superintendent of Public Instruction, Chancellor of the Ohio Board of Regents, and the Director of the Governor's Office of 21st Century Education jointly to develop standards for the operation of e-schools and to submit them, by July 1, 2013, to the Speaker of the House and the President of the Senate.
- Permits a community school to be established as a for-profit corporation or a limited liability corporation.
- Permits the establishment of hybrid community schools that provide both remote, technology-based and classroom based instruction. Permits existing community schools to restructure themselves as hybrid community schools. A hybrid community school is not an e-school.
- Allows compensation for governing authority members of start-up community schools up to \$5,000 per year instead of to \$125 per meeting.
- Specifies that the renewal of the contract between a community school and its sponsor is subject to the approval of the school's operator.

Gifted Education Coordinators

 Allows a school principal or any other employee assigned to a school also to serve as a school district's gifted education coordinator if qualified to do so.

Estate Tax

Repeals the estate tax effective January 1, 2013.

Pensions

 Retains current law on pension contribution rates by eliminating 2% increase in employee contributions and 2% decrease in employer contributions (12/12 split).

Health Care Pooling:

Retains the School Employee Health Care Board, but does not provide funding.
 Eliminates most pooling language in the Governor's budget proposal. Retains feasibility study by the Department of Administrative Services (DAS).

- Requires DAS to produce a feasibility study of pooling of health care benefits for employees of school districts, higher education and political subdivisions. Study must consider both voluntary and mandatory pooling and the impact on existing consortia. Study to be completed by July 1, 2012.
- Specifies that no action be taken regarding pooling without passage of legislation.