



# OEA Legislative Watch

June 30, 2011

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

Take action —  
Become an OEA  
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Questions?

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## **HB 153: Legislature Passes Budget with Harmful Funding Cuts**

This week, the legislature completed work on House Bill 153, the state budget for the next two fiscal years. The final bill was produced by a conference committee that worked out the differences between the version passed by the House and Senate. On Tuesday, the Senate voted 22-11 to adopt the bill. All of the Senate Democrats and Senator Scott Oelslager (R-North Canton) voted against the bill. On Wednesday, the House voted 59-40 in favor of the bill on a strict party-line vote.

The final version of the budget bill is devastating to public education. The budget cuts billions of dollars in funding for public education. These harmful cuts will lead to the loss of academic programs, reduced opportunities for students, staff reductions and increased taxes at the local level. At the same time as funding is being cut for public schools, the bill calls for a massive expansion of charter schools and voucher programs. These programs are unproven, less accountable and divert money from public schools where the majority of Ohio's students are served. Additionally, the budget includes language on teacher evaluation, performance pay, and seniority rights. Much of this language is similar to provisions of Senate Bill 5 and is an attempt to circumvent the voters' right to repeal that legislation with a referendum this November.

House Bill 153 is a significant step backward that does not serve Ohio's students, schools or communities well. However, it is important to note that several negative proposals were not included in the final version of the bill. These include a proposed shift in pension contributions, reduced oversight and accountability for charter schools, loss of collective bargaining rights and increased faculty workload. The improvements made to HB 153 would not have been possible without the continued involvement and advocacy of OEA members across the state. Thank you for your continued efforts.

### K-12 School Funding

The following analysis is based on the version of Substitute HB 153 (state budget) as passed by the Senate. The following chart is based on “ALL FUNDS” dollars, not just state foundation aid:

Category	Current FY 2011	FY 2012	% from FY 2011	FY 2013	% from FY 2012	Total 2 Yr. Change
K-12 Education	\$11.5 bill	\$10.3 bill	(11.5%)	\$9.8 bill	(4.9%)	(\$2.9 bill)
Higher Education	\$2.57 bill	\$2.3 bill	(10.5%)	\$2.4 bill	3.7%	(\$440 mill)
DD Board Subsidies	\$67 mill	\$41 mill	(38.7%)	\$44 mill	8.7%	(\$49 mill)

- Decrease overall education funding by approximately \$2.9 billion over FY12-13 from FY 11 amounts (\$1.2 billion cut in FY 12 and \$1.7 billion cut in FY 13). \$200 billion of K-12 education funding was added by the House and Senate during the legislative process.
- “All funds” reductions are result of, in part, cuts to Tangible Personal Property tax “hold harmless” payments, elimination of state fiscal stabilization funds, reduction in federal stimulus funding for IDEA, reduction in the Kilowatt Hour tax reimbursement and other education line item cuts.
- Repeals Evidence-Based Model for school funding and eliminates the School Funding Advisory Council.
- Restores gifted funding to 2009 appropriation levels.
- Allocates funding to each joint vocational school district (JVSD) in FY 2012 and FY 2013 equal to the JVSD's total state funding allocation for the previous fiscal year. Funding for JVSDs totals approximately \$263 million in each fiscal year.
- Specifies that the amount of state funding allocated in each fiscal year for special education and related services and for career-technical education for each district be equal to the amounts allocated for those purposes in FY 2011.
- Diverts more funding from local school districts by expanding charter schools and vouchers.

### Budget Includes Language on Teacher Evaluations, Compensation and Layoffs

Compromise language regarding teacher evaluation and compensation was returned to the budget in conference committee after the Senate removed language passed by the House. While the OEA opposes the final language, it is an improvement from the Governor’s original proposal, which completely removed teacher salaries from collective bargaining. It is also an improvement over the House passed language, which was virtually identical to Senate Bill 5. Although the OEA was able to get all teacher evaluation and compensation language removed from the Senate passed version of the budget, Governor Kasich and Speaker Batchelder prevailed in getting compromise language back in the budget during conference committee. The teacher evaluation and compensation provisions agreed to in conference committee require the following:

**State Board of Education to Develop Teacher Evaluation Framework:**

The State Board is required to develop a standards-based framework for the evaluation of teachers by December 31, 2011. The framework would be required to (1) provide for multiple evaluation factors, including student academic growth as 50% of each evaluation, (2) be aligned with the Educator Standards Board's standards for teachers, (3) require classroom walkthroughs and observation of the teacher on at least two occasions for 30 minutes each, (4) require the teacher to be provided with a written report of the evaluation results, (5) develop a list of assessments to measure student academic growth for grade levels and subjects for which value-added data is not available, (6) implement a classroom-level, value-added program, and (7) provide for professional development and the allocation of financial resources to support it. Further, the State Board would be required to develop standards and criteria for teacher and principal evaluations that distinguish between four levels of performance: "accomplished," "proficient," "developing," and "ineffective."

**School District Adoption of Evaluation Framework:**

All school districts and Educational Service Centers (ESC) are required to adopt a teacher evaluation policy that conforms with the State Board framework by July 1, 2013. However, the bill specifies that the policy takes effect at the expiration of the collective bargaining agreement in effect on the provision's effective date (90 days after the filing HB 153 with Secretary of State) and shall be included in any renewal or extension of such an agreement. Local associations can still bargain provisions related to evaluations and implementation not specified in the State Board framework.

Each teacher is required to be evaluated annually, except that an employer may elect to evaluate all teachers who were rated as "accomplished" on their most recent evaluations every two years. The bill requires student academic growth to be measured by value-added data derived from the state achievement assessments when applicable and by other assessments selected from the State Board's list when not applicable. Further, the bill requires each employer's policy to include procedures for using evaluation results for retention and promotion decisions and for removal of poorly performing teachers.

**Teacher Compensation:**

Districts receiving Race to the Top funds: Requires school districts, community schools, and STEM schools receiving Race to the Top funds (1) to pay teachers according to a performance-based schedule based on a teacher's level of license, whether the teacher is "highly qualified" under federal law, and evaluation ratings (50% student growth), and (2) to provide for annual adjustments based on evaluations. The bill permits payment of additional compensation to teachers who agree to perform duties that the employer determines warrant additional compensation. RTTT districts shall comply with this section in accordance with the timeline

contained in the board's scope of work. [PLEASE CLICK HERE TO SEE MORE INFORMATION ON RTTT DISTRICTS.](#)

Districts NOT receiving Race to the Top funds: Requires school districts *not* receiving Race to the Top funds and ESCs to comply either with the bill's requirements for a performance-based salary schedule or with current law. (Current law requires a district's or ESC's salary schedule for teachers to be based on years of service and educational training, and to comply with minimum salary requirements.)

### **Teacher Layoffs and Seniority:**

The bill prohibits giving preference based on seniority in determining the order of layoffs or in rehiring teachers when positions become available again, except when choosing between teachers with comparable evaluations. This provision prevails over any conflicting provisions of agreements between employee organizations and public employers entered into on or after the effective date. Current law is retained that gives preference in retention to teachers with continuing contracts (tenure).

### **Many Negative Teacher Employment Provisions Kept Out of the Budget**

The final budget did not contain numerous provisions proposed by the Governor and/or passed by the House that would have a negative impact on the employment status of teachers:

- Continuing Contract (Tenure): No provision prohibiting awarding a continuing contract (tenure) to a teacher who was initially licensed after January 1, 2011.
- Teacher Assignment: No provision prohibiting a school district superintendent from assigning a teacher to a school without the mutual consent of the teacher and the school teacher, if the teacher received a rating of "needs improvement" or "unsatisfactory."
- Termination: No provision prohibiting an employee from both appealing the board's termination decision to the common pleas court and invoking the grievance procedure in a CBA.
- Termination: No provision allowing a school district or ESC to terminate a teacher without "good and just cause" in first year of employment.
- Termination: No provision requiring school districts or ESCs to lay off teachers based on "quality of performance."
- Compensation: No provision providing for teacher bonuses based on student test scores.
- Retirement: No provision requiring 12%/12% employer/employee pension contribution split.

### Charter Schools

The budget does not include language expanding for-profit charter school entities and stronger school closure provisions were put in place:

- Automatic closure of charter schools strengthened: Beginning July 1, 2011, revises the performance criteria that trigger automatic closure of a charter school by requiring schools that do not offer a grade higher than 3, and schools that offer any of grades 10 to 12, to close after being in academic emergency for two of the three most recent school years (rather than three of the four most recent school years, as in current law).
- No expansion of for-profit charters or new types of charter schools: The budget does not include language passed by the House that would have permitted a charter school to be established as a for-profit corporation or limited liability corporation; does not include language permitting a start-up charter school in a non-“challenged” school district if the school has 75% enrollment of students with disabilities or identified as gifted.
- Eliminates e-school moratorium but requires standards: Eliminates the e-school moratorium after January 1, 2013, but requires e-schools to comply with standards enacted by the General Assembly (if enacted) or (2) the International Association for K-12 Online Learning’s standards.
- Drop-out prevention school accountability: Requires the State Board, by July 1, 2012, to review its March 2008 legislative recommendations for performance standards for charter schools that operate dropout prevention and recovery programs and to issue new recommendations.
- Collective bargaining at Cleveland conversion charter schools: Prohibits the employees of a conversion charter school from collectively bargaining if the Mayor of Cleveland submits a statement to the district board and the State Employment Relations Board requesting that the employees be removed from their collective bargaining units. The House passed language prohibiting collective bargaining at all charter schools was not included in the final version of the bill.
- Location of start-up charter schools - “challenged district”: Adds to the definition of “challenged school districts” where start up charter schools may be located, any district that is in the lowest 5% of all school districts.
- No exemption from state laws: No provision specifying that charter schools cannot be required to comply with any law or rule that is not specified in Chapter 3314 (charter school law) of the Revised Code or in its contract or that does not otherwise apply to chartered nonpublic schools.

### **Voucher Expansion**

- Raises cap on the number of EdChoice vouchers from 14,000 to 60,000 over the next two years and expands eligibility to students from schools in the lowest 10% based on performance index scores.
- Creates a new voucher program for special education students. The number of vouchers is capped at 5% of students statewide with an IEP (approximately 13,000 students). Voucher amounts can be up to \$20,000.
- Increases the eligibility and the voucher amount for the Cleveland voucher program.

### **Employee Benefits**

- Requires the Department of Administrative Services (DAS) to study the feasibility of providing health care plans to school district employees through mandatory or voluntary pooling. Specifies that no action can be taken without enactment by the General Assembly.
- Eliminates the School Employees Health Care Board and transfers its duties to DAS. Requires school employee health plans to comply with best practice standards adopted by the Board or DAS.
- Retains current law on pension contribution rates. Proposed 2% shift from employer to employee contributions is not a part of the bill.
- Exempts substitutes, seasonal and intermittent employees from requirement of 15 days of sick leave.

### **Privatization of School District Transportation Services**

Permits non-Civil Service school districts (local, exempted and some city) to terminate transportation employees for reasons of economy and efficiency and contract with an independent agent if various conditions are satisfied, including that any CBA covering employees to be terminated has expired or will expire within 60 days. The independent agent is required to consider hiring terminated employees for similar positions. In addition, the independent agent is required to recognize any employee organization, for the purposes of collective bargaining, that represented employees at the time of termination.

### **Education Policy**

- Requires teachers in core subjects at schools that rank in the lowest 10% based on performance index to retake licensure tests in their subject. Teachers shall not be responsible for the cost of the test and if the teacher passes the exam they do not have to retake for three years.

- Creates a pilot project in the Columbus City Schools for a parent-initiated takeover of a school that has been ranked in the lowest 5% of statewide performance index scores for three or more consecutive years.
- Allows any school, with support of administration teachers and staff assigned to the school, to be deemed an innovation school and waive requirements under law or a collective bargaining agreement.
- Emphasizes distance learning through a clearinghouse of interactive courses for students.
- Removes requirements that academic standards specify the development of 21<sup>st</sup> Century skills and removes senior project from graduation requirements.
- Allows a principal or other employee to serve as a district's gifted education coordinator.
- Specifies that the achievement assessments administered in grades 3-8 in the 2011-12 school year and later are not public records.
- Authorizes districts to make up a maximum of three calamity days through lessons posted online or distributed to students. Requires the written consent of the teacher's union.
- Prohibits rules regarding career-technical teaching licensure from requiring the completion of a degree.
- Requires the individualized education program (IEP) developed for disabled students to specify the manner in which the student will participate in the state achievement assessments.
- Removes the senior project from the high school graduation requirements as a component of the college and work ready assessments.

### **Higher Education**

- Reduces funding to higher education by 10.5% in fiscal year 2012 and \$440 million over the biennium.
- Sets a tuition cap of 3.5% a year for state universities or \$200 for community and technical colleges.
- Applies in-state tuition to students who graduated from Ohio high schools in the last ten years regardless of residency.
- Expands eligibility for the Ohio College Opportunity Grant to students attending for-profit schools.
- Requires colleges and universities to develop three-year degree options for students.
- Directs the Chancellor of the Board of Regents to develop a plan for designating "charter universities."

### **Department of Developmental Disabilities (DODD)**

- Reduces subsidy payments for county boards of DD by over 38% in fiscal year 2012, a \$25.8 million reduction.
- Authorizes the Director of DD to implement pilot projects in the next two years.

- Removes statutory language regarding waiting lists and authorizes the Department to establish rules for county boards to follow.

### Taxation

- Repeals the estate tax on January 1, 2013. The tax generates roughly \$300 million annually with 80% of revenue going to local government and 20% to the state General Revenue Fund.
- Creates a tax credit for investment in certain Ohio-based businesses.

### State Council of Professional Educators (SCOPE)

The following chart is based on “ALL FUNDS” dollars, not just General Revenue Fund dollars, for Fiscal Years 2012 and 2013:

Category	Current FY 2011	FY 2012	% from FY 2011	FY 2013	% from FY 2012	Total Change
DRC	\$1.75 bill	\$1.58 bill	(9.9%)	\$1.57 bill	(.7%)	(\$350 mill)
DYS	\$287.1 mill	\$242.3 mill	(15.6%)	\$251.9 mill	4%	(\$80 mill)
School For Blind	\$10.1 mill	\$12.4 mill	22.1%	\$12.4 mill	0%	\$2.3 mill
School For Deaf	\$12 mill	\$11.9 mill	(1.2%)	\$11.9 mill	0%	(\$100 k)
State Library Board	\$22 mill	\$21.6 mill	(2.1%)	\$21.6 mill	0%	(\$400 k)

### Department of Rehabilitation and Corrections

- Decrease overall funding from \$1.75 billion in FY 11 to \$1.58 billion in FY 12 and \$1.57 billion in FY 13.
- General revenue funding decreased from \$1.58 million in FY 11 to \$1.49 million in FY 12 and \$1.48 million in FY 13
- The Institution Education Services line-item (primary subsidy for education programs) is decreased from \$23.18 million in FY 11 to \$20.2 million in FY 12, and \$18 million in FY 13
- Education Services line-item (subsidy for education programs) decreased from \$2.83 million in FY 11 to \$2.37 million in FY 12 and \$2.35 million in FY 13
- Selling prisons by competitive bid to private operators: Lake Erie Correctional Institution (currently privately operated); North Coast Correctional Treatment Facility (currently privately operated); Grafton Correctional Institution; North Central Correctional Institution (Marion). State law requires privately operated prisons to realize five % savings. Provides state right of first refusal to repurchase facilities; requires operators to pay all taxes.
- Removes sentencing reform and earned credit expansion language in order to be hard as separate legislation. SCOPE supports separate legislation containing these proposals.
- No provision providing that employees of community-based correctional facilities and district community-based correctional facilities can collectively bargain only if the public employer elects to do so.

- Sentencing reform and earned credit removed from budget to be heard as separate legislation.

### **Department of Youth Services**

- Decrease overall funding for FY 12 by 15.6% to \$242.3 million, increase of 4% to \$251.9 million in FY 13
- GRF decreased in FY 12 by 13.1% to \$218.7 million, increased by 4.6% to \$228.7 mill in FY 13
- Education Reimbursement line-item (funding for high school coursework and special education) reduced from \$11 million in FY 11 to approx. \$8.1 million in FY 12 and \$8.1 million in FY 13.
- Education line-item (subsidy for education programs at DYS facilities) reduced from \$5.4 million in FY 11 to \$1.7 million in FY 12 and \$1.5 million in FY 13.
- Vocational Education line-item reduced from \$2.7 million in FY 11 to \$762,000 in FY 12 and \$758,000 in FY 13.
- Selling prisons by competitive bid to private operators: Marion Juvenile Correctional Facility (currently closed) and Ohio River Valley Juvenile Correction Facility. Provides state right of first refusal to repurchase facilities; requires operators to pay all taxes.

### **Ohio School for the Blind**

- Ohio School for the Blind receives no increase in general revenue dollars for both fiscal years (\$7.3 million). In overall funds, there is a \$2.2 million increase (22%) in FY 12 to \$12.4 million and no change in FY 13.
- Personal Services line-item (subsidy for programs and staff) is flat funded from FY 11 levels at \$6.5 million.

### **Ohio School for the Deaf**

- Ohio School for the Deaf receives no increase in general revenue dollars for both FY 12 & 13 (\$8.7 million). In total funds, there is slight decrease (1.2%) in FY 12 to \$11.9 million and no change in FY 13.
- Personal Services line-item (subsidy for programs and staff) is increased 12.2% in FY 12 to \$4.1 million and flat funded in FY 13 at \$4.1 million.

### **State Library Board**

- Decrease overall funding by 2.1% to \$21.6 million in both FY 12 and FY 13.
- General revenue funding is decreased by 6.9% to \$5.8 million in both FY 12 and FY 13.