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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 549
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 549's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. Crossman and Manning

Local Impact Statement Procedure Required: No

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Highlights

- The requirement that a community school, if it has an operator, be operated by a nonprofit organization on or after July 1, 2023, may increase administrative costs for community schools whose current operator is a for-profit entity to either find and contract with a new operator or to modify contracts or other governing documents if the for-profit entity converts to a nonprofit organization under the bill.
- If some community schools are unable to find a nonprofit operator, it is possible that some community schools close. If so, traditional school districts and the remaining community schools may experience increased costs to educate the students of the closed schools. These costs will likely be offset by decreased deductions of foundation aid for traditional districts or increases in transfers of foundation aid for community schools.
- Community school operators who are public entities (school districts and educational service centers) may incur additional costs to comply with the bill's administrative requirements.

Detailed Analysis

The bill generally requires for-profit community school operators to either convert to a nonprofit organization or transfer operation to an approved nonprofit organization or educational service center (ESC) on or after July 1, 2023. The bill also places administrative requirements on community school operators, such as maintaining certain documents as public records, complying with the Open Meetings Law, and limiting an operator's profits to no more than 5% of state payments the community school received in the fiscal year.

Nonprofit operator requirement

The bill generally requires that, on or after July 1, 2023, a community school, if it has an operator, be operated by a nonprofit organization. Those that continue to be operated by a for-profit organization lose their status as a public school. By January 1, 2022, for-profit operators must notify the governing authority of its contracted community schools if the operator will convert to a nonprofit organization to comply with the bill's requirement. If it does not comply, the community schools' governing authority must identify an ESC to act as the operator. However, the bill expressly prohibits an ESC from acting as both a school's sponsor and operator. Community schools currently operated by a for-profit organization may incur some administrative costs to undergo the process of contracting with a new operator, if necessary, or modifying its contracts or other governing documents to reflect the conversion of an operator from for-profit to nonprofit status. ESC revenues and expenditures may increase depending on how many schools they operate or manage as a result of the bill and the terms of the operator or management agreements.

If no new nonprofit operator is found by July 1, 2022, a community school must either transition to a nonpublic school or close by the end of the 2022-2023 school year. Depending on how many schools choose the latter two options, some students will either enroll in their resident district or choose to enroll in a different community school. The effect the bill will have on traditional districts will ultimately depend on how many students elect the former option. In FY 2020, there were 151 community schools operated by a for-profit organization, representing 48.2% of the community schools in the state. These schools educated about 57,200 students and received \$457.3 million in total transfers of foundation aid from their students' resident school districts to support operating costs. If students decide to enroll in their resident district, district expenditures may increase to educate additional students. The increase in expenses will likely be offset by the district having less of its foundation aid deducted and transferred to community schools.

If some community schools transition to a private school or close as a result of the bill, enrollment at the remaining community schools may increase. Similar to traditional districts, expenditures for these schools may increase to educate additional students, which would likely be offset by the foundation aid transferred to the schools for those students.

Administrative requirements for community school operators

The bill places three new administrative requirements on community school operators: annual audits, compliance with public records laws, and compliance with open meetings laws. Community school operators currently include some traditional school districts and ESCs, which may incur some additional costs as a result of the bill.

Annual audits

The bill generally requires the Auditor of State to conduct annual audits on each community school operator. The audit must cover all accounts, reports, records, and files relating to the operator's expenditure of public funds for the delivery of education services to and the management of the community schools the operator operates. The Auditor of State charges political subdivisions \$41 an hour to conduct audits. It may be that the Auditor of State charges a community school operator the same or a similar rate as a political subdivision.

Compliance with public records laws

Under continuing law, community schools and their governing authority are subject to the Public Records Law. The bill specifies that a “public record” includes records pertaining to the delivery of educational services, leases, and any other records regarding the management and operation of a community school. The expansion of a “public record” as it relates to community schools may increase the administrative costs for community school sponsors, governing authorities, and operators. However, since public entities must already comply with the Public Records Law, any increase for public entities is likely to be no more than minimal.

Compliance with open meetings laws

The bill requires all nonprofit and for-profit entities contracting with a community school to provide operator services to comply with the Open Meetings Law with respect to matters related to the delivery of educational services by, and the management and operation of, the community school. The Open Meetings Law requires the bodies to which it applies to provide public notice of its meetings, conduct meetings in a public setting, and keep minutes of its meetings. Additionally, official actions by the body can only be made in an open public meeting.

Community school operator finances

Profit limitation

Under current law, any community school operator that receives more than 20% of the annual gross revenue of a community school must provide details concerning the nature and costs of the goods and services it provides to the community school. The bill limits the profit an operator can realize through payments from a community school to no more than 5% of the state payment to the school. As a result, community schools may retain more of their state funding.

Unspent funds

The bill allows a community school governing authority to require its operator to apply unexpended and unobligated funds at the end of each fiscal year the contract is in effect to payments the school will owe the operator in the next fiscal year. If funds remain at the end of the fiscal year in which the contract expires, the operator must return the funds to the school. Administrative costs for community schools may increase to meet the requirement that each school’s fiscal officer report to the Ohio Department of Education and the Auditor of State the amount of funds kept or returned by the school’s operator.