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OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 113
135th General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsor: Sen. Hoagland

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SUMMARY

- Prohibits an individual who is required to register with the Selective Service, but fails to do so, from holding an elected or appointed public office in, or becoming employed by, the state of Ohio, unless the requirement to register terminated or became inapplicable to the individual before the bill's effective date.
- Requires a state appointing authority to ensure that an applicant is in compliance with the federal Selective Service System registration requirement before offering the applicant employment.
- Requires each public and chartered nonpublic school that offers grades 9 to 12 to notify individual high school students of any obligation to register with the Selective Service System.

DETAILED ANALYSIS

Failure to register with the Selective Service System

Appointed or elected office

Under the bill, an individual who fails to register with the Selective Service System in violation of the federal Military Selective Service Act¹ (see "**Military Selective Service Act**," below) is disqualified from holding an appointed or elected position with any of the following entities:

- A state agency;

¹ 50 United States Code (U.S.C.) 3802.

- A public institution;
- A political subdivision;
- Any other organized body, office, agency, institution, or entity established by Ohio law for the exercise of any function of government.²

State employment

The bill disqualifies an individual who fails to register with the Selective Service System in violation of the federal Military Selective Service Act from an initial appointment to employment with a state agency. For purposes of the bill, a “state agency” means any of the following:

- An organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of a function of state government;
- Any state-supported institution of higher education;
- The Public Employees Retirement System;
- The Ohio Police and Fire Pension Fund;
- The State Teachers Retirement System;
- The School Employees Retirement System;
- The State Highway Patrol Retirement System.

A state appointing authority must ensure that an applicant is in compliance with the federal Military Selective Service Act before offering employment.³ The bill’s employment provisions prevail over conflicting provisions of public sector collective bargaining agreements entered into on or after the bill’s effective date.⁴

Exemptions

Constitutionally created offices

The bill does not require an individual to register under the Military Selective Service Act in order to qualify to hold an office whose qualifications are created by a provision of the Ohio Constitution.⁵ Examples of these offices may include, but are not limited to:

- Governor;
- Lieutenant Governor;

² R.C. 3.19.

³ R.C. 124.95.

⁴ R.C. 4117.10.

⁵ R.C. 3.19(A).

- Attorney General;
- Auditor of State;
- Treasurer of State;
- Secretary of State;
- Ohio Casino Control Commission;
- State Representative;
- State Senator;
- Justice of the Supreme Court.

Inapplicability or termination of requirement

The bill does not disqualify a person from holding public office or being initially appointed to a state agency if the requirement to register with the Selective Service terminated or became inapplicable to the individual before the bill's effective date.⁶

Automatic license registration

The bill's disqualification of an individual from appointed or elected office or an initial appointment to employment with a state agency does not apply if the individual submitted an application for issuance or renewal of an Ohio driver's license, commercial driver's license, temporary instruction permit, or identification card during the time that the individual was required to register with the Selective Service System when Ohio's automatic registration law, discussed below, was in effect (on and after August 1, 2002).⁷

Under continuing Ohio law, any individual who is required to register with the Selective Service System, and who submits an application for issuance or renewal of an Ohio driver's license, commercial driver's license, temporary instruction permit, or identification card, is automatically registered with the Selective Service System by the Bureau of Motor Vehicles.⁸

Student notification of Selective Service obligations

The bill requires each school district, community school, STEM school, college-preparatory boarding school, and chartered nonpublic school that offers grades 9 to 12 to notify individual high school students of any obligation to register with the Selective Service System. The notification must include information on how students may register for the selective service, including the ability to register through the high school's guidance counselor or equivalent official as determined by the school administrator. The bill requires school

⁶ R.C. 3.19(D) and 124.95(E).

⁷ R.C. 3.19(C) and 124.95(D).

⁸ R.C. 4507.062, not in the bill.

districts and schools to determine the manner in which the notifications are delivered to students.⁹

Military Selective Service Act

The federal Military Selective Service Act¹⁰ generally requires every male U.S. citizen, and every other male residing in the U.S., who is between the ages of 18 and 26, to register with the Selective Service System. Failure to register is punishable by imprisonment for up to five years and/or a fine of not more than \$250,000. Furthermore, failure to register may result in an individual's permanent ineligibility for the following benefits:

- Most federal employment;
- Security clearance for contractors;
- Job training under the Workforce Innovation and Opportunity Act (formerly known as the Workforce Investment Act);
- U.S. citizenship for immigrant individuals assigned "male" at birth.¹¹

However, the federal law specifies that an individual may not be denied a right, privilege, or benefit under federal law by reason of failure to register with the Selective Service System if the requirement for the individual to register has ended or no longer applies to the individual and the individual shows by a preponderance of the evidence that the failure to register was not a knowing and willful failure.¹² The bill does not include a similar exception regarding the intent of an individual who does not register for the Selective Service System.

The bill does not specify whether its penalties apply only to individuals convicted of a violation of the federal Military Selective Service Act or whether the penalties apply to any individual who fails to register for the Selective Service System, regardless of a conviction.

Other existing Ohio law related to Selective Service Registration

Under Ohio law, an individual who is required to register with the Selective Service System must do so to be eligible for in-state tuition at state-assisted institutions of higher education.¹³ Similarly, a student enrolled in an institution of higher education must file with that institution either that the student is registered with the Selective Service, as required by federal law, or that the student is not required to register due to a qualifying exemption. Failure

⁹ R.C. 3313.473, 3314.03, 3326.11, and 3328.24; Section 5 of the bill.

¹⁰ 50 U.S.C. 3802.

¹¹ [Frequently Asked Questions](#), which is available on the Selective Service System's website: www.sss.gov, under "Frequently Asked Questions."

¹² 50 U.S.C. 3811(g).

¹³ R.C. 3345.32(C), not in the bill.

to do so results in the student's ineligibility for a litany of state loans, grants, scholarships, and other financial assistance.¹⁴

HISTORY

Action	Date
Introduced	04-25-23
Reported, S. Veterans and Public Safety	09-13-23
Recommitted to S. Veterans and Public Safety	09-13-23
Re-reported, S. Veterans and Public Safety	10-11-23
Passed Senate (26-4)	10-11-23

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¹⁴ R.C. 3345.32(D), not in the bill.