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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Manning and Crossman

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SUMMARY

Audits, public records, and meetings of community school operators and sponsors

- Requires the Auditor of State annually to audit all accounts, reports, records, and files regarding receipt or expenditure of public funds received by each community school operator.
- Specifies that any record pertaining to the delivery of educational services, leases, or any other record regarding the management or operation of a community school kept by the school's sponsor or governing authority or any nonprofit or for-profit entity under contract with the school is a public record.
- Requires each community school operator to comply with the Open Meetings Law.

Community school operator profits

- Limits a community school operator's profit to not more than 5% of the total payments the community school receives from the state.
- Establishes a procedure for use of unspent funds for the next school year or return of them to the community school if the operator's contract is expiring.

Conversion to nonprofit community school operators

- Provides that, on or after July 1, 2024, a community school with a for-profit operator no longer qualifies as a public school.
- Specifies that only a nonprofit organization or governing board of an educational service center (ESC) may enter into or renew a contract to be a community school's operator on or after the bill's effective date.
- Requires a for-profit entity to convert to a nonprofit organization in order to enter into or renew a contract to operate community schools.

- Permits a for-profit individual or organization to continue to provide services under a contract entered into prior to the bill's effective date until July 1, 2024.

DETAILED ANALYSIS

Annual audits of community school operators

The bill requires the Auditor of State annually to audit each community school operator. Each audit must cover all accounts, reports, records, and files regarding the operator's receipt or expenditure of public funds relating to the delivery of educational services to, or the management and operation of, a community school.¹

Under continuing law, community schools, themselves, and their governing authorities are subject to the Public Audit Law.²

Public records of community school operators and sponsors

Under the bill, a "public record" includes records pertaining to the delivery of educational services, leases, or any other records regarding the management and operation of a community school kept by the school's sponsor or governing authority or any nonprofit entity that has contracted to provide services to the school.³ Thus, it subjects to release under the Public Records Law such documents held by any community school operator or sponsor.

Under continuing law, a "public record" is any record, regardless of physical form or characteristic, kept by any public office that relates to the operation of that office. Subject to several specific exceptions, each public office, upon request, must make public records available for inspection or provide copies of them at cost within a reasonable period of time.⁴ Community school and their governing authorities are subject to the Public Records Law, as is any public entity that sponsors a community school.

Community school operator public meetings

The bill requires each nonprofit or for-profit entity and individual that contracts with a community school to provide operator services to comply with the Open Meetings Law with respect to all matters pertaining to the delivery of educational services by, and the management and operation of, the community school.⁵ Under that law, any state or local government board, commission, committee, council, or similar decision-making body must give

¹ R.C. 117.102; conforming change in R.C. 117.11.

² R.C. 3314.03(A)(11)(d), not in the bill (reference to R.C Chapter 117 (Public Audit Law)).

³ R.C. 149.43.

⁴ R.C. 149.011, not in the bill, and 149.43(B).

⁵ R.C. 3314.0310.

specified public notice of its meetings, open them to the public, and keep and file minutes of its meetings. Official actions of a public body also must be made in an open public meeting.⁶

Community school operator profits

Limit

The bill limits any profits realized through payments from a community school to its operator on and after the bill's effective date to not more than 5% of the total amount of payments that the school receives from the state.⁷ Under current law, an operator that receives more than 20% of the annual gross revenues of a community school must provide a detailed accounting including the nature and costs of goods and services it provides to the community school.⁸

Unspent funds

Under the bill, at the end of each fiscal year for which an operator's contract is in effect, a community school's governing authority may require the operator to apply any unexpended and unobligated funds paid to it by the school to any payment the school will owe to the operator during the next fiscal year. If there are funds remaining at the end of the fiscal year in which the contract expires, the operator must return those funds to the school. The bill requires the fiscal officer of each community school to report to the Department of Education and the Auditor of State the amount of any funds kept or returned by an operator.⁹ (The bill refers to the school's fiscal officer as its "treasurer," but the actual statutory term elsewhere in continuing law is "fiscal officer.")

Requirement for nonprofit operators after July 1, 2024

The bill provides that, on or after July 1, 2024, a community school with a for-profit operator no longer qualifies as a public school and will lose its status and benefits as a school to which Community School Law applies.¹⁰ Accordingly, to operate as a public school after that date, if it has an operator at all, the school must contract with one that is a nonprofit entity.

Definition of operator

The bill revises the definition of an operator to limit all new operators to only nonprofit entities, effectively prohibiting for-profit entities from entering into new, or renewing, contracts with community schools on and after the bill's effective date. Specifically, the bill defines an "operator" as a nonprofit organization or governing board of an educational service center (ESC) that either:

⁶ R.C. 121.22, not in the bill.

⁷ R.C. 3314.0311.

⁸ R.C. 3314.024, not in the bill.

⁹ R.C. 3314.0312.

¹⁰ R.C. 3314.01(B)(2).

1. Manages the daily operations of a community school pursuant to a contract between the operator or management company and the school's governing authority; or
2. Provides programmatic oversight and support to a community school under a contract with the school's governing authority and that retains the right to terminate its affiliation with the school if the school fails to meet the operator's or management company's quality standards.

Under current law, which is removed by the bill, any "individual or organization" may act as an operator.¹¹

Any contracts entered into or renewed between a community school and for-profit operator before the bill's effective date may continue in effect, but by July 1, 2024, those operators must be nonprofit entities.¹²

Conversion to a nonprofit operator

The bill provides a method for an operator that is currently a for-profit entity to continue its relationship with a community school while that school retains its status as a public school. That is, it permits the operator to become a nonprofit entity by July 1, 2024. On or before January 1, 2023, such an entity must notify each community school's governing authority with which the operator has a contract regarding its decision to convert to a nonprofit entity in compliance with the bill's new definition of operator.¹³

Community school selection of ESC as operator

The bill also permits the governing board of an ESC to act as an operator of a community school. However, it prohibits an ESC from acting as both a school's sponsor and operator.¹⁴

In the event that a for-profit entity does not comply with the requirement to convert to a nonprofit entity, the school's governing authority must (1) identify an ESC to act as the new operator of the community school not later than July 1, 2023, and notify the school's sponsor of that decision and (2) provide notice to the parents of current and prospective students.

A governing authority that fails to do so must close by the end of the 2023-2024 school year.

¹¹ R.C. 3314.02(A)(8).

¹² R.C. 3314.01 and 3314.032.

¹³ R.C. 3314.0111 (first paragraph).

¹⁴ R.C. 3314.0111(A) and 3314.02(A)(8); conforming changes in R.C. 3313.844 and 3313.849.

HISTORY

Action	Date
Introduced	10-26-21
