



## Ohio ESC Association Members-Only Brief

### Substitute HB 153: FY 2012-2013 Biennial State Operating Budget

Updated: April 25, 2011

*This OESCA Members-Only Brief is provided to OESCA members and business partners and outlines the state budget-related issues of interest to Educational Service Center personnel and governing board members. This update provides additional information from the April 1, 2011, Members-Only Brief including updated information on EMIS funding as well as the timeline for the proposed changes to the regional delivery system.*

Substitute House Bill 153, the FY 2012-2013 biennial state operating budget, was introduced on Tuesday, March 29, 2010, and is currently pending in the House Finance and Financial Institutions Committee chaired by State Representative Ron Amstutz (R-Wooster). The education portion of the budget is being discussed in the Primary & Secondary Education Subcommittee of Finance chaired by State Representative John Carey (R-Wellston).

An amended substitute bill is expected to be introduced in the full House Finance and Financial Institutions Committee on Thursday, April 28, 2011. Additional hearings on the bill are scheduled for Friday, Saturday and Monday.

### **Budget Overview**

The executive budget, in its current form, proposes total state and federal *GRF* appropriations of \$26.89 billion in FY 2012 and \$28.62 billion in FY 2013, increases of 1.1% and 6.4%, respectively. Human Services and K-12 Education account for 51.9% and 27.9%, respectively, of the biennial total. State-source *GRF* appropriations total \$19.31 billion in FY 2012 and \$20.09 billion in FY 2013, increases of 6.0% and 4.0%.

K-12 Education and Human Services represent 39.3% and 32.2%, respectively, of the state-source *GRF* biennial total. Across *all funds*, the proposed appropriations total \$55.63 billion in FY 2012 and \$56.32 billion in FY 2013, a decrease of 5.3% in FY 2012 and an increase of 1.2% in FY 2013.

### **Primary & Secondary Education Overview**

Total state aid in FY 2011 is approximately \$6.51 billion. The executive proposal appropriates about \$6.18 billion in FY 2012 and \$6.24 billion in FY 2013 for state aid. The difference between the appropriations in FY 2012 and FY 2013 and state aid in FY 2011 is due to the elimination of the appropriation of federal stimulus funding, which is only partially offset by an increase in state *GRF* funding. In FY 2011, about \$457.4 million of federal stimulus funding was appropriated to support state aid. Based on projected ADM for FY 2012 and FY 2013, each district's FY 2011 state aid will need to be reduced by approximately \$184 for FY 2012 and \$136 for FY 2013 on average.

## **Educational Service Center & Related Funding**

**Educational Service Centers.** In FY 2011, the Educational Service Center (ESCs) per pupil subsidy in line item 200-550 is \$46,400,000. ESCs are funded at 90% of FY 2011 funding levels in FY 2012 (\$41,760,000), and 70% of FY 2012 funding levels in FY 2013 (\$29,323,000). This is a 43% reduction in FY 2013 over what ESCs received in state funding in FY 2011. This is in addition to the 9.8% cut ESCs received from FY 2008-2011 under the Strickland Administration.

**School Improvement.** Line item 200-431 (School Improvement) is eliminated. Fifty-percent (50%) of the \$7,391,503 provided under this line item in FY 2011, or \$3,545,752, is redirected to the foundation line item (200-550) to educational service centers (ESCs) for the provisions of school improvement services. These funds are deployed through the state's 16 State Support Teams (SSTs) under the designated ESC fiscal agents.

**Gifted Education Funding.** The former gifted education funding line item (200-521) was eliminated in HB 1, the FY 2010-2011 biennial state operating budget, and was replaced by a \$25 per student (all students) spending requirement for identified gifted students. Additionally, educational service centers (ESCs) received \$8.1 million for gifted supervisory/coordination units. The gifted spending requirement is eliminated in HB 153. ESCs will continue to receive a total of \$8.1 million in each year of the biennium for the provision of gifted coordination and supervisory services. ESCs not providing services will be required to return their funding to the department of education which will redistribute the funding based on a unit funding formula to other ESCs providing gifted coordination and supervisory services.

## **Educational Service Center Policy Changes**

**Education Shared Services Model.** HB 153 calls for the integration of Information Technology Centers (ITCs), Area Media Centers (AMCs), Education Technology Centers, Regional Advisory Councils (RACs), the education regional service system, the state system of support, State Support Teams (SSTs), ODE's regional area coordinators and other ODE technical assistance and support staff into the educational service center system by July 1, 2012. The Director of the Governor's Office of 21<sup>st</sup> Century Education is charged with making legislative recommendations related to this system integration to the Governor and General Assembly no later than January 1, 2012.

**Educational service center contracts with local entities.** The bill amends sections 307.86 and 505.101, and enacts section 3313.846 of the revised code and authorizes ESCs to enter into service contracts with any other political subdivision of the state. It specifies that ESCs may enter into contracts with a board of county commissioners and a board of township trustees without competitively bidding.

Because municipal corporations are governed by home rule, the bill is silent on competitive bidding for service contracts with municipal corporations, leaving it, instead, up to each individual municipal corporation's charter or ordinance. Services provided by the ESC and the amount to be paid for such services must be mutually agreed to by the parties and specified in the contract. Local entities must pay ESCs directly for services, and the board of an ESC must file a copy of each contract entered into with a local entity with the Department of Education by the first day the contract is in effect.

Political subdivision means: municipal corporation, township, county, school district, county hospital commission, board of hospital commissioners, board of hospital trustees, regional planning commission, joint planning council, interstate regional planning commission, port authority, emergency planning district, joint emergency planning district, joint emergency medical services district, fire and ambulance district, joint interstate emergency planning district, solid waste management district, joint solid waste management district, community school, county or counties served by community-based correctional facility or district community-based correctional facility, the governing boards of community-based correctional facilities, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.

#### **Educational service center agreements**

(R.C. 3311.05, 3313.843, 3311.845, and 3319.19; repealed R.C. 3311.059)

***Required agreements.*** The bill requires every school district with a student count of 16,000 or less to enter into an agreement for services with an ESC for which it may receive the statutory per pupil payments. This requirement applies to all city, exempted village, and local school districts. (Under current law, not affected by the bill, local school districts regardless of size are already entitled to ESC services.) Current law also permits, but does not require, city and exempted village districts with less than 13,000 students to arrange for those services. The bill, thus, could significantly increase the number of students served by an ESC and for whom it may receive state and district payments. It also requires city and exempted village school districts that are not currently receiving or paying for ESC services to do so if they have 16,000 or fewer students. It also appears that a district, regardless of whether it is a "city," "exempted village," or "local" school district, is free to enter in to an agreement with any ESC in the state and is not bound by any territorial limitation.

***Permissive agreements.*** The bill also permits all school districts with student counts greater than 16,000 to enter into agreements for services. Generally, these are large urban "city" school districts, but there are a few "local" school districts in fast-growing, unincorporated areas that have student counts approaching or exceeding 16,000. Since the bill permits, rather than requires, districts with such student counts to arrange for ESC services, it is not clear whether a qualifying "local" school district is free to not receive and not pay for ESC services. Nor does the bill specify whether the supervision of such a "local" school district by an ESC still would be required. That is, it is not clear whether the bill is intended to have the effect of allowing larger "local" school districts to "opt out" of ESC services altogether, or to transfer their territory to another ESC.

**Termination of agreements.** The bill permits any district to terminate its agreement with its current ESC by notifying the ESC governing board by January 1 of the year of the termination. The termination is effective on June 30. However, if the aggregate student count of the districts that plan to terminate their agreements with an ESC makes up at least 30% of the ESC's "service center ADM" for funding purposes, those districts also must notify all other districts that receive services from the ESC by January 1. And, then, any of the other districts may notify the ESC governing board, by May 31, that the district is terminating its agreement, effective June 30.

**ESC Governance: The impact of "local" school district changes on an ESC's electoral territory and governance structure.** Annual decisions by local school districts to terminate their agreements could significantly impact the electoral territory of ESCs more frequently than once in an election cycle.

The bill addresses this issue by specifically requiring the governing board of an ESC affected by the termination of an agreement or the making of a new agreement by a "local" school district to take the necessary steps for the election of new members and for re-organization of the board to reflect changes in the ESC's territory. That is, as an ESC loses or gains local districts, its territory will change. Thus, one or more of its governing board members, who live in a local district that no longer is served by the ESC, will no longer be qualified to hold that office. Under the bill and current law, the board must make plans to elect a new member to replace any sitting member who must vacate that office. In the interim, it appears that an ESC governing board may have to appoint a member pending an election in the nearest up-coming odd-numbered year, as provided for under current law. Since the bill permits annual movement by local districts, some with only one month's notice, it might be difficult for a board to respond to changes in the ESC's electoral territory, especially if those changes are frequent. Also, the bill places no geographical limitation on the selection of an ESC by a local district. It is possible, therefore, that an ESC's territory could become noncontiguous, with its segments separated by some distance.

**District Transfers of ESCs - Repeal of law on "local" district severance from one ESC and annexation to another adjacent ESC.** The bill repeals the current statute that permits a "local" school district to sever its territory from its current ESC and annex its territory to an *adjacent* ESC. Rather, the bill allows districts to simply choose an ESC with which it will enter into annual ESC service agreements.

**ESCs oversight of local school districts Textbook selection.** The bill repeals section 3329.08 of the Ohio Revised Code and the requirement that boards of "local" school districts choose textbooks and electronic textbooks to be used in their schools from a list furnished by their ESCs. Therefore, under the bill, boards of local school districts, like city and exempted village districts, could decide on their own which textbooks and electronic textbooks its schools will use.

**Age and schooling certificates.** The bill repeals the provision of law that allows the superintendent of an ESC to issue age and schooling certificates on behalf of the superintendent of a local school district. Under the state minor labor law, an employer generally must require that a person who is under 18 years old and has not received a high school diploma or its equivalent present an age and schooling certificate before hiring that person. These certificates are issued by the superintendent of the school district in which the student resides or the chief administrative officer of the nonpublic school or community school the student attends. Current law permits the superintendent of a local school district to designate the superintendent of the ESC to which the school district belongs as the person authorized to issue the certificates for that local district.

## **Other Funding & Policy Areas of Interest**

**EMIS.** EMIS support to Information Technology Centers (ITCs) is decreased by 10.0% in FY 2012 and flat-funded in FY 2013. EMIS support to school districts and other entities (including ESCs) is eliminated and repurposed for foundation funding. If an ESC received EMIS funding previously it will no longer receive that funding; the funding goes to support district foundation funding.

**Special Education Weighted Funding.** HB 153 retains and codifies the special education funding weights and categories from the Evidence Based Model as outlined below:

<b>Category 1:</b>	0.2906
<b>Category 2:</b>	0.7374
<b>Category 3:</b>	1.7716
<b>Category 4:</b>	2.3643
<b>Category 5:</b>	3.2022
<b>Category 6:</b>	4.7205

These represent the updated, 2006 weights as recommended by the Ohio Coalition for the Education of Children with Disabilities (OCECD) at 90%.

HB 153 use a “temporary system” to fund school districts for FY 2012-2013 and requires ODE to compute and pay each city, exempted village, and local school district, an amount based on the district’s per pupil amount of funding paid for fiscal year 2011, adjusted by its share of a statewide per pupil amount, and indexed by the district’s relative tax valuation per pupil. This same approach is used for special education funding. Ultimately, districts will receive the same level of state funding for special education in FY 2012 as they received in FY 2011.

Overall it appears that special education funding is flat funded in both years relative to FY 2011. This funding level is needed to allow the state to meet federal MOE requirements. (*Note: Special education supplemental funding totaled over \$631 million in FY 2011. Special education’s proportional share of foundation funding totaled approximately this same amount in FY 2011*).

**Catastrophic Cost Supplement.** \$10,000,000 per year is provided for catastrophic cost supplement funding. This funding is provided to schools to support exceptionally high costs associated with individual special education students. Subject to the amount of funding appropriated, the state reimburses a portion of the cost of providing services above \$27,375 for students in categories two through five and above \$32,850 for students in category six. According to ODE, state funding for this supplement reimbursed approximately 17.0% of the total cost of these services in FY 2010. The executive budget proposes flat funding in FY 2012 and FY 2013 for this earmark.

**Special Education Enhancements.** The Special Education Enhancements line item 200-540 (and each corresponding ear mark) is flat funded in each year of the biennium at \$135,820,668 per year and appears to meet the federal maintenance of effort (MOE) requirements. The funding breakdown for Special Education Enhancements is as follows:

Home Instruction:	\$ 2,206,875 per year
Institution/DD weights:	\$45,282,959 per year
Parent Mentors:	\$ 1,333,468 per year
Preschool Special Ed Units:	\$84,459,542 per year
School Psychologist Intern Services:	\$ 2,537,824 per year

**Ohio School for the Blind and the Deaf.** The Ohio School for the Blind is flat funded in each year of the biennium at \$8,727,657 per year. This is the same funding levels as FY 2011. The Ohio School for the Deaf is flat funded in each year of the biennium at \$7,278,579 per year. This is the same funding levels as FY 2011.

## Federal Funding

**Individuals with Disabilities Education Act (200-680, 200-699).** The federal Individuals with Disabilities Education Act (IDEA) requires that school districts provide a free and appropriate education to all children with disabilities from the age of three to the age of 21. These federal funds are provided to school districts, county developmental disabilities boards, the Ohio State School for the Blind, the Ohio School for the Deaf, the Department of Youth Services, community schools, and chartered nonpublic schools to assist in the provision of this mandated education.

The American Recovery and Reinvestment Act (ARRA) provided supplemental IDEA funding for FY 2010 and FY 2011. Funds remaining from this supplement are appropriated in item 200-699. There is \$21,886,803 in FY 2012 (down from \$218,868,026 in FY 2011). Although the funding provided in 200-680 is expected to increase by \$8.5 million (2.0%) in FY 2012 and remain flat in FY 2013, with the inclusion of IDEA federal stimulus funds, total funding is expected to decrease by \$188.5 million (28.8%) in FY 2012 and \$21.9 million (4.7%) in FY 2013.

**IDEA Preschool – Federal Stimulus (200-650).** \$670,000 in federal funds (FY 2012) are remaining from a federal ARRA grant for preschool special education. These remaining funds are expected to be disbursed in FY 2012.

## **Budget Resources**

Additional information and resources related to Substitute HB 153 can be found online through the following documents and web links:

**Bill Text:**

[http://www.legislature.state.oh.us/BillText129/129\\_HB\\_153\\_PHC\\_Y.pdf](http://www.legislature.state.oh.us/BillText129/129_HB_153_PHC_Y.pdf)

**LSC Budget in Brief:**

<http://www.lsc.state.oh.us/fiscal/budgetinbrief129/budgetinbrief-hb153-in.pdf>

**LSC Budget in Detail:**

<http://www.lsc.state.oh.us/fiscal/bid129/budgetindetail-hb153-in.pdf>

**LSC Ohio Department of Education Redbook:**

<http://www.lsc.state.oh.us/fiscal/redbooks129/edu.pdf>

# Regional Shared Service Centers Transition Timeline

## Substitute HB 153 As Introduced

### July 1, 2011 – FY 2012 Begins

- 10% reduction in ESC Funding (\$41,760,000 or - \$4,600,000)
- ESC Funding is appropriated as a “grant” rather than as a per pupil subsidy.
- ESCs may begin to enter into contracts with any political subdivision under which the ESC will provide services to the political subdivision.<sup>1</sup>
  - o Political subdivision means: municipal corporation, township, county, school district, county hospital commission, board of hospital commissioners, board of hospital trustees, regional planning commission, joint planning council, interstate regional planning commission, port authority, emergency planning district, joint emergency planning district, joint emergency medical services district, fire and ambulance district, joint interstate emergency planning district, solid waste management district, joint solid waste management district, community school, county or counties served by community-based correctional facility or district community-based correctional facility, the governing boards of community-based correctional facilities, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.<sup>2</sup>

### December 31, 2011 – Deadline for Districts to Align to an ESC

- Districts of 16,000 ADM or less must align with an ESC.<sup>3</sup>
- Districts of 16,000 ADM or greater may align with an ESC.<sup>4</sup>
- If aggregate ADM of districts terminating agreements with an ESC in any given year represents 30% or more of an ESCs enrollment, the remaining districts have an extension to May 31, 2012 to determine another ESC to which to align.<sup>5</sup>
  - o District Alignment to an ESC is an Annual Process.
- Services provided may include supervisory teachers, in-service and continuing education program for district personnel, curriculum services, research and development programs, academic instruction, assistance in the provision of special accommodations and classes for students with disabilities or any other service the district board and service center governing board agree can be better provided by the service center.<sup>6</sup>

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<sup>1</sup> 3313.846

<sup>2</sup> 2744.01(F)

<sup>3</sup> 3313.843(B)(1)

<sup>4</sup> 3313.843(B)(2)

<sup>5</sup> 3313.843(D)(1)(b)

<sup>6</sup> 3313.843(B)(3)

**January 1, 2012 – Deadline for Director of the Office of 21<sup>st</sup> Century Education to Issue Legislative Recommendations on Integration of the Regional Shared Service Center “system”.**

- The Director shall recommend educational support organization to be considered for integration into the ESC system including, but not limited to, education technology centers, information technology centers, area media centers, Ohio’s statewide system of support, the education regional service system, regional advisory boards, and regional staff from the Department of Education providing direct support to school districts.<sup>7</sup>
- The Director shall include an examination of services offered and recommendations for integration of services into a shared services model including, but not limited to, general instruction, special education, gifted education, academic leadership, technology, fiscal management, transportation, food services, human resources, employee benefits, pooled purchasing, professional development, and non-instructional support.
- Recommendations shall be submitted to the Governor and General Assembly no later than January 1, 2012.<sup>8</sup>

**May 31, 2012 – Deadline for 2<sup>nd</sup> round of district transfer/alignment of ESCs.**

- If 30% of ADM transfers by December 31, 2011, remaining districts have until May 31 to determine whether or not they want to transfer to another ESC (see above).
  - o Annual Process
- Following local school district termination of an agreement, or entering into an agreement with a new ESC, the impacted ESC boards must take the necessary steps for the organization and election of the governing board to reflect changes to territory.<sup>9</sup>

**July 1, 2012 – FY 2013 Begins; new system “operationalized”**

- 30% reduction in ESC Funding (in addition to 10% cut in FY 2012) (\$29,232,000 or - \$12,528,000)
- Newly integrated Regional Shared Service Center system “operationalized”
- Services agreed to under agreement between ESC and district(s) begin effective July 1 of each year.
  - o Annual Process (previous agreements expire June 30 each year)

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<sup>7</sup> 267.50.90

<sup>8</sup> 267.50.90

<sup>9</sup> 3313.843(E)

## Next Steps

OESCA will continue to monitor the state budget process and keep members and stakeholders updated through periodic updates. Additionally, budget-related documents will be posted to the OESCA website at [www.oesca.org](http://www.oesca.org).

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