



LEGISLATIVE UPDATE

December 15, 2022

LAME DUCK is nearly over at the Ohio Statehouse! It has been another busy week of the lame duck Ohio legislature. On the agenda this week are multiple proposals relating to how elections are conducted, as well as a number of proposals around education, criminal justice and workplace protections. Note the last item in this Update – hard work of previous years erased in one late amendment!

State Board of Education Action

A resolution that has no enforceable authority has been approved by Ohio's State Board of Education, standing in opposition to proposed LGBTQ anti-discrimination rules not even a part of federal regulations yet.

On the heels of proposed legislation to make major changes to the Ohio Department of Education, the State Board of Education hesitated to make decisions in the superintendent search process.

Ed Department Overhaul, Trans Sports Ban Fail To Reach Finish Line

(Gongwer Coverage of Sessions)

Controversial proposals to redesign the state's K-12 agency and ban transgender athletes from playing women's high school sports fell one step short of reaching the governor's desk.

The Senate approved the sports-related measure (HB 110) late Wednesday in a party line vote after it was amended on the floor to incorporate a hotly debated bill (SB 178) to place a gubernatorial appointee at the head of the renamed Department of Education and Workforce, among other changes.

But a House concurrence vote failed 46-41 early Thursday morning after a group of conservative lawmakers joined with Democrats to reject the Senate changes.

The marriage of the two proposals would have led to a complicated decision for Gov. Mike DeWine, who has expressed his support for overhauling the Department of

Education but called on the legislature to leave decisions on transgender athletes to sports leagues and athletic associations.

Rep. Don Jones (R-Freeport), the sponsor of the measure that started life as a bill on mentorships for new teachers, said SB178 was needed to instill leadership at ODE by reassigning most of the State Board of Education and state superintendent of public instruction's duties to the new agency's staff.

"It's an out-of-control agency that there's no one in charge of," he said.

Rep. Phillip Robinson (D-Solon) said Republicans were rushing to pass the measure in lame duck without proper vetting or input from interested parties.

"When we want to things there's a right way and a wrong way," he said. "This is not the right way."

Sen. Andy Brenner (R-Delaware) said the floor amendment to HB151 also would have:

- Required the deputy directors of the newly created department to be appointed by the director and approved by the Senate.
- Barred a director or deputy director of the department from holding those offices for more than 45 days without Senate approval.
- Required officials at the agency to give a presentation to the House and Senate K-12 education committees each general assembly.
- Authorized the legislature to invalidate regulations adopted by the director of the new department via concurrent resolution.
- Codified existing Administrative Code sections addressing home-schooled students and private religious schools.
- Barred public and chartered private schools from discriminating against individuals based on COVID-19 vaccination status.
- Excised language from the transgender sports ban portion of the bill establishing a process for settling disputes over an athlete's sex by use of a birth certificate.

That last change would have left the legislation without a mechanism for resolving disputes regarding the sports ban. The House-passed version of the measure required student athletes to undergo anatomical exams in such cases, but that language was scrapped by the Senate Primary & Secondary Education Committee earlier this month.

Senate Democrats cited the length and the timing of the changes among their reasons for voting against the amendment and the measure.

"To take all of this information, put it into this bill at this point seems to me to be just not good public policy, we'll just leave it right there," Sen. Nickie Antonio (D-Lakewood).

Sen. Antonio also said language from SB178 reassigning many of the duties of the State Board of Education to officials within the new agency would result in an "extreme gutting" of the constitutionally established panel.

Sen. Cecil Thomas (D-Cincinnati) said he could not vote for the measure in good conscience because he had not read its more than 2,000 pages.

Sen. Brenner said criticisms of the amendment's length were misguided because SB178, which makes up the bulk of the measure, already cleared the Senate last week.

He said SB178 also appears much longer than it substantively is because incorporates the redesigned department's new name in various sections of Revised Code.

"Almost all of it is name change here, name change there," he said.

Sen. Antonio quoted the committee testimony of Ember Zelch, the lone transgender female athlete approved to play on a girls' high school team in Ohio when HB151 passed the House, who said being forced to play on the boys' baseball team would be "dehumanizing and unjust."

"She does not identify, nor see herself as a boy who wants to play girls' sports," Sen. Antonio said. "She identifies and sees herself and has the estrogen levels to prove, at this point, that she is a transgender girl who wants to play girls' sports."

Sen. Brenner said while the committee heard moving testimony from parents of transgender students, they also heard from parents who were afraid their daughters could miss out on athletic opportunities if transgender girls are allowed to compete in women's sports.

"This is not an easy issue. This is a very difficult issue for lots of families, lots of individuals," he said.

The Senate did approve a less-contentious House measure (HH 554) initially focused on temporary licensure for former educators that also expanded to include a wide array in the upper chamber's K-12 committee early Wednesday afternoon.

Sen. Brenner said the changes adopted in the Senate would:

- Remove a statutory requirement that the Educator Standards Board maintain certain standing subcommittees.
- Proportionately divide the increased costs of Facilities Construction Commission projects at independent STEM schools among the schools and the panel, instead of requiring the schools to cover the entirety of costs over projection.
- Change the charter school base funding calculation to drive additional dollars to schools that have added enrollment during the school year.

- Allow public universities to adopt policies that let student organizations use their logos.
- Repeal currently unused budget (HB 110) language that added individuals who can provide services through the Autism Scholarship Program.
- Require College Credit Plus students who relocate due to a family member's military service to be allowed to complete a course remotely, when possible.
- Give chartered private school students the ability to use ACT and SAT test scores to satisfy testing-related graduation requirements.
- Allow charter schools to establish satellite facilities in counties adjacent to their campus.
- Incorporate legislation (SB 356) extending the age range for the identification of developmental delays in children.

The House later voted unanimously Thursday morning to concur in Senate amendments.

The Senate on Wednesday also voted unanimously to finalize a House measure (HB 353) requiring state institutions of higher education to permit students to miss three school days per semester for religious reasons.

Sen. Terry Johnson (R-McDermott) said the measure drew support from college students from a variety of religious backgrounds.

"This bill will protect those students' ability to work hard earning an education while simultaneously being adherent to their strongly held religious convictions," he said.

Late Amendment to HB 554:

Educator Standards Board:

- ♣ **Requires the Chancellor of Higher Education to appoint to the Educator Standards Board (ESB) one representative each from the State University Education Deans and the Ohio Association of Private Colleges for Teacher Education.**
- ♣ **Removes the requirement that the Chancellor appoint to the ESB two members respectively employed by a college of education and a college of arts and sciences.**
- ♣ **Removes the requirement that the ESB maintain a standing subcommittee on higher education.**
- ♣ **Eliminates the ESB subcommittee on the standards for teacher preparation.**