

Ohio Coalition for the Education of Children with Disabilities
Am. Sub. H.B. 153 Education Policy & Funding Overview
July 22, 2011

Introduction

Outlined below is a brief overview of the key education policy and program provisions of the state of Ohio's FY 2012-2013 biennial operating budget of interest to the Ohio Coalition for the Education of Children with Disabilities (OCECD).

After months of public debate and political wrangling, Am. Sub. H.B. 153, the FY 2012-2013 biennial state operating budget, passed the General Assembly largely along party lines (22-11 in the Senate, 59-40 in the House) and was signed by Governor John Kasich on June 30, 2011. Bolstered by significant majorities in both the House and Senate, Governor Kasich was successful in advancing nearly all of the Administration's budget priorities.

Governor Kasich decided to fund primary and secondary education without replacing the one-time federal stimulus dollars (\$870 million) utilized to boost funding in the FY 2010-2011 biennium. The House maintained this approach but added an additional \$40 million per year to state foundation aid for schools, capped the overall loss of state funding at 20% and froze the phase out of the tangible personal property tax and kilowatt hour tax in 2014. The Ohio Senate, meanwhile, provided \$115 million more in funding to primary and secondary education over the biennium by guaranteeing that no district would receive less state funding in FY 2012 and FY 2013 than they received in FY 2011 (minus the federal stimulus funding) and by providing "bonuses" of \$17 per student for high-performing "excellent" ranked school districts. The Senate's approach is reflected in the bill as passed and enacted. For most districts, this equates to 5-10% less state funding in FY 2012-13 than was provided in FY 2011.

Overall, the Kasich administration's budget seeks to maintain manageable fiscal stability while rationalizing the public education system in Ohio by improving operational outcomes and student achievement. Policy proposals include: the expansion of school choice options, reductions in non-instructional spending that facilitate the redirection of dollars to the classroom and changes impacting teacher evaluation. Separately, the administration supported the passage of a significant public employee collective bargaining reform bill, Senate Bill 5, which will have important fiscal implications for state and local government, including school districts.

Though the budget bill provides funding for both FY 2012 and FY 2013, the Kasich Administration has indicated a serious interest in developing a new, performance-based school funding formula during FY 2012 for implementation as soon as FY 2013, which begins July 1, 2012.

Am. Sub. H.B. 153 provides total General Revenue Fund (GRF) appropriations of \$27.06 billion in FY 2012 and \$28.71 billion in FY 2013 for a total of \$55.77 billion over the biennium. This represents a 1.7% increase in FY 2012 and 6.1% in FY 2013. As has been the case historically, human services and primary and secondary education (K-12) were the two largest appropriation items accounting for 51.6% and 28.2%, respectively, of the biennial GRF total. The all funds budget (all sources) totaled \$55.8 billion in FY 2012 and \$56.39 billion in FY 2013. This was a decrease of 5% in FY 2012 and an increase of 1.1% in FY 2013.

Major Budget Judgment Calls

The FY 2012-2013 state operating budget closes an estimated \$8 billion dollar biennial budget gap, provides manageable albeit in some cases minimal fiscal stability to state government without raising taxes, and includes a large number of government reform-related initiatives, including Medicaid managed care reforms. How was this accomplished in a difficult fiscal environment? The following list of major budget calls tells most of the story.

Before listing them it is important to note that the \$8 billion projected deficit was really a proxy for a thorough budget analysis that would come through the necessary steps of building a new budget and thus making many judgments about revenues and expenditures. Instead of moving through this process, which was not done publicly by any stakeholders or observers (other than the Center for Community Solutions), the \$8 billion figure emerged as the amount of one-time money in the FY 2010-2011 budget, which, if it were not replaced, would create a hole in the FY 2012-2013 state budget. With this in mind, the major judgment calls made by the Kasich Administration and the legislature were:

- Maintained Republican-enacted tax reforms;
- Did not replace one-time federal ARRA funds (other than refinancing Medicaid);
- Reformed and refinanced Medicaid in order to maintain a manageable level of fiscal and program stability while beginning multi-year reforms;
- Used responsibly conservative revenue estimates and an all-funds approach to re-balancing the General Revenue Fund (GRF);
- Utilized one-time funds (spirituous liquor privatization and the use of \$500 million in *JobsOhio* bond proceeds) to help balance the FY 2012-2013 budget; and
- Substantially reduced state revenue sharing with local governments as part of a broader strategy to reform local government operations, including a greater push for collaborative, interagency shared services.

Bottom line, given the dire budget predictions tied to the projected deficit, most education interests have walked away from the budget process saying "it could have been worse."

School Funding

Overall, primary and secondary GRF funding amounts to \$7.718 billion in FY 2012 and \$7.998 billion in FY 2013. Within these amounts, the budget appropriates approximately \$6.27 billion in FY 2012 and \$6.31 billion in FY 2013 for foundation funding. This amounts to approximately \$246.4 million (or \$142 per pupil) less in FY 2012 and \$199.4 (or \$115 per pupil) less in FY 2013 than the estimated funding in FY 2011, according to the Legislative Service Commission (LSC). Additionally, the budget did the following as it relates to school funding:

- Repealed the Ohio Evidence Based Model (OEBM)
- Abolished the School Funding Advisory Council (SFAC)
- Guaranteed districts no less funding than what they received in fiscal year 2011
- Accelerated the phase out of the Tangible Personal Property Tax (TPPT) and Kilowatt Hour Tax (KWHT) in FY 2012-2013. Freezes phase-out in FY 2014 (starting July 1, 2013)
- Specified that funding for special education and related services and career technical education be equal to the amounts allocated in FY 2011 (ensures MOE).
- Cut Educational Service Centers 10% in FY 2012 (\$41.8 million) and an additional 15% in FY 2013 (\$35.5 million).
- Required ODE to indicate each district's allocation for special education, career-technical education and gifted services on the form used to calculate each district's funding allocation.

While the budget guarantees districts no less funding than what they are projected to receive in FY 2011, it does not make up fully for the more than \$870 million in one-time federal stimulus dollars. It is also important to understand that Ohio has effectively over-ridden its own school funding system and does not currently have a fully functional funding formula. Additional funds, \$17 per student, are provided to districts with "Excellent" rankings.

Special Education Funding

Funding for special education and special education enhancements remained unchanged throughout the process and maintained a focus on meeting federal maintenance of effort (MOE) requirements which means that state must spend at least the same amount in FY 2012 and 2013 as was spent in FY 2011. Highlights follow below:

- HB 153 use a "temporary system" or "bridge plan" overall 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.*

- ***Catastrophic Cost Supplement.*** Catastrophic aid is flat-funded at \$10,000,000 per year. 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. State payments for catastrophic special education payments will be computed using the FY 2009 special education weights and categories.

- ***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.
 - The Senate also removed a provision that would have required the Schools for the Blind and the Deaf to share the same superintendent of schools.

- ***Excess Cost.*** Specifies that payments for excess special education costs from resident districts to other districts providing those services be computed using the FY 2009 formula amount (\$5,732) and special education weights.

- ***Special Education Accountability Report.*** Eliminates the requirement that ODE submit an annual report to OBM on the amount of local, state, and federal pass-through special education funds allocated for each school district.

- ***Family and Children First Flexible Funding Pool.*** In collaboration with the County Family and Children First Council, a city, local, or exempted village school district, community school, STEM school, joint vocational school district, educational service center, or county board of developmental disabilities that receives allocations from the Department of Education from appropriation item 200550, Foundation Funding, or appropriation item 200540, Special Education Enhancements, may transfer portions of these allocations to what is being called a “flexible funding pool”; these allocations must be used for maintenance of effort or for federal or state funding matching requirements shall not be transferred unless the allocation may still be used to meet such requirements.

- ***Tuition Free Education for Individuals Aged 22 to 29.*** ODE is directed to develop and submit to the Governor and General Assembly a plan and legislative recommendations for providing two additional years of instruction for persons age 22 or older through school districts' and community schools' dropout prevention and recovery programs and to consult with the U.S. Department of Education to ensure the program will not expand the requirement to provide FAPE under IDEA to individuals over the age of 21.

Vouchers/Scholarship Programs

The budget made several changes to existing scholarship programs as well as establishing a new special needs scholarship program as follows:

Autism Scholarship Program. The budget clarifies that the services provided under the Autism Scholarship Program must include an educational component.

Jon Peterson Special Needs Scholarship Program. The budget also created the Jon Peterson Special Needs Scholarship program including the following provisions:

- Establishes a Special Needs Scholarship Program to provide scholarships to special education students in grades kindergarten through 12th grade to attend alternative public or private education programs.
- Sets a \$20,000 cap on the amount of scholarships. Calculated as the least of 1) the fees charged by the provider, 2) \$5,732 plus base funding supplements and the formula amount multiplied by the weights adjusted by 90%, or 3) \$20,000.
- Deducts the scholarship amount from the state aid of the resident school district.
- Requires the resident school district to provide student transportation in the manner prescribed by law.
- Limits the number of scholarships in any given academic year to 5% of the number of identified special needs students in the previous year.
- Requires ODE to develop a document comparing student/parental rights under state and federal law and rights under the scholarship program.
- Directs ODE and the State Board to adopt rules for the program to be in effect no later than 120 days after the bill's effective date.
- Requires scholarship students to take, and private providers to administer, the state achievement assessments, unless the students are excused from taking a test under federal law or under their IEPs.
- Prohibits a student from receiving both Jon Peterson Scholarship and either an Ed Choice Scholarship, Autism Scholarship or Cleveland Scholarship for the same school year.

- Requires ODE to conduct an evaluation of the program by December 31, 2014.

Regional Shared Services/ESCs

- The bill calls for ESCs, along with all other service providers and ODE regional staff, to be studied for integration into a new Regional Shared Services Center System (previously all other providers were to be integrated into the ESC system). Recommendations for a new system are due to the legislature by January 1, 2012. Any changes will require legislative approval.
- Requires a survey of school districts, ESCs, community and STEM schools and local political subdivisions by October 15, 2011 to determine the level of shared services currently being provided to or utilized by these entities to reduce costs and improve outcomes.
- Requires the development of a plan to encourage communities and school districts to create regional P-16 Councils with recommendations for implementation beginning July 1, 2012.

Charter Schools and Special Education

The budget included several charter school provisions including an expansion on the number of charters a sponsor can open. The primary change that impacts special education and community schools is as follows:

- Clarifies that funding for special education community school students should be calculated by the “old” weights (2001) as they currently exist and the “new” categories as they are defined in the bill.

Teacher & Administrator Performance and Evaluation

- Requires each school district, community school and STEM schools receiving Race to the Top funds to adopt a teachers’ salary schedule based on a teacher’s level of license, whether the teacher is “highly qualified” under federal law, and evaluation ratings and pay teachers according to a performance-based schedule.. The schedule shall allow for annual adjustments based on evaluations.
- For those participating in Race to the Top permits payment of additional compensation to teachers who agree to perform duties that the employer determines warrant additional compensation.
- Requires the State Board of Education to develop the standards and criteria for teacher and principal evaluations that distinguish between four levels of performance: 1) accomplished, 2) proficient, 3) developing and 4) ineffective.

- Require each community school and STEM school receiving Race to the Top funding and each school district and ESC to adopt a teacher evaluation policy that conforms to the framework by July 1, 2013 and that the policy take effect at the expiration of the collective bargaining in effect on the date of the provision's effective date.
- Requires student academic growth to be measured by value-added data derived from state achievement assessments when applicable. When not applicable, student academic growth must be measured by other assessments selected from the State Board's list.
- Requires employers to evaluate each teacher annually except for "accomplished" teachers who may be evaluated every 2 years.