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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 310
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 310's Bill Analysis](#)

Version: As Reported by House Finance

Primary Sponsor: Sen. Dolan

Local Impact Statement Procedure Required: No

LBO staff

Highlights

- The bill makes various changes affecting the operation of state programs, including changes to various appropriation line items that are summarized immediately below. Following this section is a brief description and summary analysis of the bill's provisions. After the appropriation changes, major headings include: (1) **Coronavirus Relief Fund**, (2) **Nursing home facilities**, (3) **Commercial activity tax**, (4) **Transportation improvement districts**, (5) **State employee pay freeze**, (6) **Capital reappropriations for the FY 2021-FY 2022 biennium**, and (7) **Emergency provision**.

Appropriation Changes

- The bill reappropriates approximately \$1.28 billion in capital funds for the FY 2021-FY 2022 biennium. This amount represents an estimate of available moneys on July 1, 2020. Generally, the actual reappropriations will be equal to the actual moneys available on July 1, 2020.
- The bill appropriates \$350 million of federal aid, so that the Director of the Office of Budget and Management (OBM) can distribute funding to counties, municipalities, and townships. The purpose of the distribution is to assist local governments in addressing the public health emergency caused by COVID-19. The \$350 million has already been received in Fund 5CV1.
- The bill increases GRF line item 651525, Medicaid Health Care Services, by \$3.2 million in FY 2021 (\$1.2 million state share) to reflect nursing facility funding changes authorized by the bill.

- If implemented, the state employee pay freeze could result in a reduction of potential payroll expenditures of up to \$80.0 million in FY 2021, according to OBM. Approximately 12,000 state employees could be affected.

Detailed Analysis

Coronavirus Relief Fund

The Controlling Board created the Coronavirus Relief Fund (Fund 5CV1) in the state treasury to distribute federal grants for various purposes, including distributions to local governments. The “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” was passed by Congress and signed into law by the President on March 27, 2020.

The bill appropriates \$350 million from Fund 5CV1 for FY 2020 and reappropriates in FY 2021 any unencumbered and unexpended amounts left at the end of FY 2020.

The Director of the Ohio Office of Budget and Management (OBM), in consultation with the Tax Commissioner, must provide for payment from Fund 5CV1 to each county treasury, to be deposited into a new fund in the county treasury to be named the County Coronavirus Relief Distribution Fund. The Fund 5CV1 amount disbursed to each county’s respective Coronavirus Relief Distribution Fund is based upon the proportion of Local Government Fund amounts allocated in 2019, as adjusted for the exclusion¹ of counties and municipalities large enough to receive direct CARES payments from the federal government.

Once the CARES Act revenue is paid to the county, the money is further divided among the county and townships and municipalities in the county, albeit while excluding ineligible subdivisions. The revenue must be distributed in the same proportion as county undivided local government fund (CULGF) revenue was distributed to the county, municipality, or township in 2019. However, the legislative authority of each recipient subdivision must adopt a resolution or ordinance affirming that the funds so received may be expended only to cover costs of the subdivision consistent with the requirements of the CARES Act before receiving its share of funding.

Upon making the disbursements, the county auditor must report to the OBM Director the amount distributed to each subdivision. Furthermore, a county, municipal corporation, or township receiving a payment from a county’s Coronavirus Relief Distribution Fund must provide any information related to those payments or their expenditure to the OBM Director upon request.

¹ Local governments meeting this federal threshold are the city of Columbus, and Cuyahoga, Franklin, Hamilton, Montgomery, and Summit counties. These political subdivisions may apply directly to the federal government for CARES Act funding, and are referred to as “ineligible subdivisions” in the remainder of this fiscal note.

CARES Act spending requirements

The CARES Act requires² that the payments from the Coronavirus Relief Fund only be used to cover expenses that:

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the state or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.

Grants to businesses

S.B. 310 further determines that grants awarded to qualifying businesses, businesses located in Ohio with 50 or fewer employees, under the bill are “costs of the subdivision,” and are “necessary expenditures incurred due to the public health emergency with respect to COVID-19” under the CARES Act. By doing so, the bill permits amounts appropriated in line item 042501, Coronavirus Relief – Local Govt, to be used for additional purposes. Specifically, the bill permits a political subdivision that receives a payment from a County Coronavirus Relief Distribution Fund to use all or a portion of that payment to award grants to qualifying businesses for the purpose of reimbursing the businesses’ eligible costs.

“Eligible costs” are defined by the bill to mean “a trade or business expense of a qualifying business either directly resulting from business interruption or arising from the decrease of gross revenue resulting from business interruption,” except that any such expenses that are reimbursed by insurance or federal aid are excluded.

The legislative authority of a subdivision that determines to use all or a portion of its County Coronavirus Relief Distribution Fund payment in this manner must adopt a resolution or ordinance creating the grant program, and it also must certify this resolution or ordinance to the OBM Director. The amount of the grant awarded to a qualifying business cannot exceed the amount of eligible costs listed in the business’s application and approved by the subdivision, and cannot exceed \$10,000.

The bill limits subdivisions to awarding a grant solely to recipients that have a place of business located in the subdivision. Grant proceeds must be spent by the business before December 28, 2020, on the eligible costs for which the grant was approved by the subdivision’s legislative authority. Any unspent funds as of that date must be returned to the subdivision.

Office of Budget and Management duties

S.B. 310 requires the OBM Director to submit a report on all of the subdivision grant programs authorized under the bill to the General Assembly on or before January 15, 2021. The report must identify each qualifying business that received a grant under these programs and itemize the eligible costs for which the grant was utilized. The OBM Director may request, and

² <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>.

each subdivision that established a grant program must provide, any information that is necessary for the Director to compile the report.

Auditor of State duties

S.B. 310 requires political subdivisions receiving distributions from Fund 5CV1 to create a new fund in their respective treasuries that is solely reserved for costs permissible under the CARES Act.

The bill requires that money in a subdivision's local coronavirus relief fund be audited by the Auditor of State during the subdivision's next regular audit under section 117.11 of the Revised Code to determine whether money in the fund was expended in accordance with the requirements of S.B. 310. The Auditor of State pays for the costs of political subdivision financial audits through the Public Audit Expense – Local Government Fund (Fund 4220). The costs of the audits are then recouped through the Auditor billing political subdivisions at an hourly rate of \$41 per hour as determined through the Statewide Cost Allocation Plan (SWCAP).

Unexpended balances

Subdivisions are required to return to the county treasury any CARES Act funding that remains unencumbered as of October 15, 2020. Returned revenue is then redistributed to the county and townships and municipalities in the county, except that no amount may be paid to (1) an ineligible subdivision, (2) a subdivision that had returned its funds, or (3) a subdivision whose legislative authority did not pass the necessary resolution or ordinance. One-quarter of the returned revenue is paid to the county, if eligible, and the remainder is paid to the other eligible municipalities and townships based on each subdivision's population relative to the population of all such subdivisions, with a township's population being based on its unincorporated area only.

No later than December 28, 2020, any unspent balance of a political subdivision's local coronavirus relief fund must be returned to the state treasury, in the manner prescribed by the OBM Director. The CARES Act requires the return of unspent funds to the federal treasury by December 30, 2020.

Nursing home facilities

The bill revises the formula used to determine Medicaid rates for nursing facility services. The provision, among other things, repeals current laws containing certain Medicare market basket or budget reduction factors provisions. It also makes changes to the nursing facilities' quality incentive payments. The bill removes references to calculating the quality incentive payment for the second half of FY 2020, and specifies that FY 2021 is the last year that nursing facilities will receive a quality incentive payment. Additionally, the bill increases the amount to be spent during FY 2021 on quality incentive payments by adjusting to 5.2% of nursing facilities' base rate, from 2.4%, one of the factors used to determine the amount of the payments. To reflect these changes, the bill increases GRF appropriation line item 651525, Medicaid Health Care Services, by \$3.2 million (of which the state share is \$1.2 million) in FY 2021.

Commercial activity tax

The bill modifies the definition of "gross receipts" for purposes of the commercial activity tax (CAT). This provision excludes from taxation any forgiven indebtedness that is excluded from the gross income of the taxpayer for federal income tax purposes under the

CARES Act. Under that legislation, businesses may apply for “paycheck protection” loans and have the debt forgiven if the loan is used for payroll costs or mortgage, rent, or utility payments during a specified eight-week period. Such canceled debt is not taxable for federal income tax purposes, whereas forgiven debt is considered taxable income in most other circumstances. Thus, this provision would decrease revenue from the CAT by an undetermined amount.

Under continuing law, CAT receipts are deposited into the GRF (85.0%), the School District Tangible Property Tax Replacement Fund (Fund 7047, 13.0%), and the Local Government Tangible Property Tax Replacement Fund (Fund 7081, 2.0%). The distributions are used to make reimbursement payments to school districts and other local taxing units, respectively, for the phase out of property taxes on general business tangible personal property.

Transportation improvement districts

The bill requires a transportation improvement district (TID) to comply with the state Prevailing Wage Law, unless the amount of state and local funds the district expends on the contract or project is less than existing statutory thresholds. Prevailing wage threshold amounts vary according to the type of project and the work being done (e.g., a new construction of a road, as opposed to a repair of an existing sewer system). Ultimately, the change in the bill may result in higher labor costs for certain TID projects if they are not currently subject to prevailing wage. However, the overall fiscal effect of this change is uncertain. In FY 2019, there were 44 TIDs across the state. Of that number, 27 received competitive grants totaling \$4.5 million from the Ohio Department of Transportation (ODOT). In addition to state funding, other sources of revenue available to TIDs include bond proceeds and toll revenue, as well as federal, local, and private funding.

Pay freeze for certain state employees

The bill allows the OBM Director to request that the Director of the Department of Administrative Services (DAS) impose a pay freeze for certain state employees in order to address state revenue shortfalls. According to OBM, if such a pay freeze were in effect for all of FY 2021, it could potentially yield state payroll savings of up to \$80.0 million. DAS data indicate approximately 12,000 state employees could be affected by the bill. Specifically, the provision covers pay increases, including step increases and pay supplements, beginning on the date of the order and ending at the earlier of the pay period in which the order is rescinded or July 1, 2021. For employees hired or whose position changes classification, the bill specifies that pay would be frozen at the classification’s rate as of the pay period including June 7, 2020.

Certain state employees are excluded from the potential pay freeze. The bill would apply to all state employees paid by direct warrant of the OBM Director who are not subject to a collective bargaining agreement. Additionally, the pay freeze would not apply to employees of the General Assembly, legislative agencies, and the Supreme Court. The bill does not apply the pay freeze to employees of the Attorney General, Auditor, Secretary of State, and Treasurer of State, unless these statewide office holders provide a written request to the DAS Director.

Capital reappropriations for the FY 2021-FY 2022 biennium

The bill reappropriates approximately \$1.28 billion in capital funds for the FY 2021-FY 2022 biennium. This amount represents an estimate of available moneys on July 1, 2020. The

bill includes all the same projects that are included in S.B. 316 as reported by Senate Finance Committee. Generally, the actual reappropriations will be equal to the actual moneys available on July 1, 2020. These capital reappropriations are summarized in the two tables below. Table 1 presents the estimated amounts by fund. Table 2 presents the estimated amounts by fund and agency. The bill also amends Section 812.10 of H.B. 529 of the 132nd General Assembly (the capital appropriations and reappropriations act for the FY 2019-FY 2020 capital biennium) to clarify that, while the appropriations made in H.B. 529 end on “midnight on June 30, 2020,” the ability for the Treasurer of State or Ohio Public Facilities Commission to authorize or issue debt extends beyond that time and date.

Table 1. FY 2021-FY 2022 Reappropriations by Fund		
Fund Code	Fund Name	Amount
2080	Underground Parking Garage Operating Fund	\$246,550
3190	Nursing Home – Federal Fund	\$5,362,809
3420	Army National Guard Service Contract Fund	\$4,000,000
3HJ0	Air National Guard Federal Construction Fund	\$1,151,550
4A90	Special Administrative Fund	\$1,627,246
5460	State Fire Marshal Fund	\$2,195,436
5A10	Capital Donations Fund	\$1,798,801
5KZ0	Building Improvement Fund	\$25,000,000
5RV0	Ohio Military Facilities Fund	\$2,051,550
6040	Veterans’ Home Improvement Fund	\$3,093,998
7015	Wildlife Fund	\$10,000,000
7016	Administrative Building Taxable Bond Fund	\$850,000
7021	Public School Building Fund	\$48,964,763
7024	Higher Education Improvement Taxable Fund	\$58,974
7026	Administrative Building Fund	\$59,523,863
7027	Adult Correctional Building Fund	\$31,347,133
7028	Juvenile Correctional Building Fund	\$9,354,660
7029	Transportation Building Fund	\$25,000,000

Table 1. FY 2021-FY 2022 Reappropriations by Fund		
Fund Code	Fund Name	Amount
7030	Cultural and Sports Facilities Building Fund	\$72,572,979
7031	Ohio Parks and Natural Resources Fund	\$4,950,000
7032	School Building Program Assistance Fund	\$58,651,865
7033	Mental Health Facilities Improvement Fund	\$29,440,000
7034	Higher Education Improvement Fund	\$325,285,368
7035	Parks and Recreation Improvement Fund	\$40,812,000
7038	State Capital Improvements Fund	\$252,156,847
7040	State Capital Improvements Revolving Loan Fund	\$121,830,281
7046	Coal Research and Development Fund	\$5,500,000
7056	Clean Ohio Conservation Fund	\$101,708,893
7057	Clean Ohio Agricultural Easement Fund	\$25,000,000
7061	Clean Ohio Trail Fund	\$1,100,000
7086	Waterways Safety Fund	\$7,000,000
7100	Service Station Cleanup Fund	\$3,500,000
Total Reappropriations, All Funds		\$1,281,135,566

Table 2. FY 2021-FY 2022 Reappropriations by Fund and Agency		
Fund Code	Fund Name	Amount
2080	Underground Parking Garage Operating Fund	\$246,550
	<i>Capitol Square Review and Advisory Board</i>	\$246,550
3190	Nursing Home – Federal Fund	\$5,362,809
	<i>Department of Veterans Services</i>	\$5,362,809
3420	Army National Guard Service Contract Fund	\$4,000,000
	<i>Adjutant General</i>	\$4,000,000

Table 2. FY 2021-FY 2022 Reappropriations by Fund and Agency		
Fund Code	Fund Name	Amount
3HJ0	Air National Guard Federal Construction Fund	\$1,151,550
	<i>Adjutant General</i>	\$1,151,550
4A90	Special Administrative Fund	\$1,627,246
	<i>Department of Job and Family Services</i>	\$1,627,246
5460	State Fire Marshal Fund	\$2,195,436
	<i>Department of Commerce</i>	\$2,195,436
5A10	Capital Donations Fund	\$1,798,801
	<i>Facilities Construction Commission</i>	\$1,798,801
5KZ0	Building Improvement Fund	\$25,000,000
	<i>Department of Administrative Services</i>	\$25,000,000
5RV0	Ohio Military Facilities Fund	\$2,051,550
	<i>Adjutant General</i>	\$2,051,550
6040	Veterans' Home Improvement Fund	\$3,093,998
	<i>Department of Veterans Services</i>	\$3,093,998
7015	Wildlife Fund	\$10,000,000
	<i>Department of Natural Resources</i>	\$10,000,000
7016	Administrative Building Taxable Bond Fund	\$850,000
	<i>Department of Administrative Services</i>	\$850,000
7021	Public School Building Fund	\$48,964,763
	<i>Facilities Construction Commission</i>	\$48,964,763
7024	Higher Education Improvement Taxable Fund	\$58,974
	<i>Kent State University</i>	\$1,000
	<i>Owens Community College</i>	\$55,000
	<i>Wright State University</i>	\$2,974

Table 2. FY 2021-FY 2022 Reappropriations by Fund and Agency		
Fund Code	Fund Name	Amount
7026	Administrative Building Fund	\$59,523,863
	<i>Adjutant General</i>	\$2,429,000
	<i>Attorney General</i>	\$4,772,559
	<i>Capitol Square Review and Advisory Board</i>	\$4,520,922
	<i>Department of Administrative Services</i>	\$31,690,459
	<i>Department of Agriculture</i>	\$1,880,000
	<i>Department of Natural Resources</i>	\$2,051,000
	<i>Department of Public Safety</i>	\$3,840,702
	<i>Department of Transportation</i>	\$200,000
	<i>Ohio Expositions Commission</i>	\$543,084
	<i>Facilities Construction Commission</i>	\$3,572,404
	<i>Judiciary/Supreme Court</i>	\$200,000
	<i>Ohio State School for the Blind</i>	\$498,760
	<i>Ohio School for the Deaf</i>	\$3,324,973
7027	Adult Correctional Building Fund	\$31,347,133
	<i>Department of Rehabilitation and Correction</i>	\$31,347,133
7028	Juvenile Correctional Building Fund	\$9,354,660
	<i>Department of Youth Services</i>	\$9,354,660
7029	Transportation Building Fund	\$25,000,000
	<i>Department of Transportation</i>	\$25,000,000
7030	Cultural and Sports Facilities Building Fund	\$72,572,979
	<i>Facilities Construction Commission</i>	\$72,572,979
7031	Ohio Parks and Natural Resources Fund	\$4,950,000
	<i>Department of Natural Resources</i>	\$4,950,000

Table 2. FY 2021-FY 2022 Reappropriations by Fund and Agency		
Fund Code	Fund Name	Amount
7032	School Building Program Assistance Fund	\$58,651,865
	<i>Facilities Construction Commission</i>	<i>\$58,651,865</i>
7033	Mental Health Facilities Improvement Fund	\$29,440,000
	<i>Department of Developmental Disabilities</i>	<i>\$2,360,000</i>
	<i>Department of Mental Health and Addiction Services</i>	<i>\$27,080,000</i>
7034	Higher Education Improvement Fund	\$325,285,368
	<i>Department of Higher Education</i>	<i>\$25,446,297</i>
	<i>Belmont Technical College</i>	<i>\$1,184,881</i>
	<i>Bowling Green State University</i>	<i>\$9,100,199</i>
	<i>Central Ohio Technical College</i>	<i>\$2,874,973</i>
	<i>Central State University</i>	<i>\$2,051,906</i>
	<i>Cincinnati State Community College</i>	<i>\$10,014,925</i>
	<i>Clark State Community College</i>	<i>\$4,085,191</i>
	<i>Cleveland State University</i>	<i>\$6,295,447</i>
	<i>Columbus State Community College</i>	<i>\$2,275,000</i>
	<i>Cuyahoga Community College</i>	<i>\$2,574,236</i>
	<i>Eastern Gateway Community College</i>	<i>\$838,410</i>
	<i>Edison State Community College</i>	<i>\$2,246,191</i>
	<i>Hocking Technical College</i>	<i>\$4,647,454</i>
	<i>James Rhodes State College</i>	<i>\$8,795,000</i>
	<i>Kent State University</i>	<i>\$11,272,110</i>
	<i>Lakeland Community College</i>	<i>\$5,079,670</i>
	<i>Lorain Community College</i>	<i>\$2,249,260</i>
	<i>Marion Technical College</i>	<i>\$302,764</i>

Table 2. FY 2021-FY 2022 Reappropriations by Fund and Agency		
Fund Code	Fund Name	Amount
	<i>Miami University</i>	<i>\$2,483,146</i>
	<i>North Central Technical College</i>	<i>\$430,303</i>
	<i>Northeast Ohio Medical University</i>	<i>\$2,813,559</i>
	<i>Northwest State Community College</i>	<i>\$2,893,797</i>
	<i>Ohio State University</i>	<i>\$96,541,103</i>
	<i>Ohio University</i>	<i>\$33,184,390</i>
	<i>Owens Technical College</i>	<i>\$162,500</i>
	<i>Rio Grande Community College</i>	<i>\$3,700,542</i>
	<i>Shawnee State University</i>	<i>\$5,635,957</i>
	<i>Sinclair Community College</i>	<i>\$800,000</i>
	<i>Southern State Community College</i>	<i>\$6,699,367</i>
	<i>Stark Technical College</i>	<i>\$1,678,756</i>
	<i>Terra Technical Community College</i>	<i>\$762,114</i>
	<i>University of Akron</i>	<i>\$11,168,487</i>
	<i>University of Cincinnati</i>	<i>\$23,392,009</i>
	<i>University of Toledo</i>	<i>\$1,239,581</i>
	<i>Washington State Community College</i>	<i>\$2,086,106</i>
	<i>Wright State University</i>	<i>\$13,082,733</i>
	<i>Youngstown State University</i>	<i>\$14,264,454</i>
	<i>Zane State College</i>	<i>\$885,000</i>
	<i>Broadcast Educational Media Commission</i>	<i>\$47,550</i>
7035	Parks and Recreation Improvement Fund	\$40,812,000
	<i>Department of Natural Resources</i>	<i>\$40,812,000</i>

Table 2. FY 2021-FY 2022 Reappropriations by Fund and Agency		
Fund Code	Fund Name	Amount
7038	State Capital Improvements Fund	\$252,156,847
	<i>Public Works Commission</i>	<i>\$252,156,847</i>
7040	State Capital Improvements Revolving Loan Fund	\$121,830,281
	<i>Public Works Commission</i>	<i>\$121,830,281</i>
7046	Coal Research and Development Fund	\$5,500,000
	<i>Development Services Agency</i>	<i>\$5,500,000</i>
7056	Clean Ohio Conservation Fund	\$101,708,893
	<i>Public Works Commission</i>	<i>\$101,708,893</i>
7057	Clean Ohio Agricultural Easement Fund	\$25,000,000
	<i>Department of Agriculture</i>	<i>\$25,000,000</i>
7061	Clean Ohio Trail Fund	\$1,100,000
	<i>Department of Natural Resources</i>	<i>\$1,100,000</i>
7086	Waterways Safety Fund	\$7,000,000
	<i>Department of Natural Resources</i>	<i>\$7,000,000</i>
7100	Service Station Cleanup Fund	\$3,500,000
	<i>Development Services Agency</i>	<i>\$3,500,000</i>
Total Reappropriations, All Funds		\$1,281,135,566

Emergency provision

S.B. 310 declares itself an emergency measure; therefore, it goes into immediate effect upon its enactment.