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H.B. 665*
133rd General Assembly

Bill Analysis

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Version: As Reported by House Agriculture and Rural Development

Primary Sponsors: Reps. Jones and Wilkin

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SUMMARY

Ohio Fair Law

- Modernizes the language governing agricultural societies and county fairs conducted by those societies.
- Increases the amount that a county or independent agricultural society receives for operational expenses from a county.
- Removes the cap on the amounts that a county may transfer to an agricultural society for junior club expenses and expenses associated with operating fairgrounds.
- Removes the requirement that a society that permits the sale of intoxicating liquor on its fairgrounds use any proceeds it receives from the sale: (1) first to pay the cost of insurance on all buildings on the fairground, and then (2) for any other purpose authorized by law.
- Increases the total amount of debt that a society may incur, but requires a county agricultural society to obtain approval from the board of county commissioners prior to incurring any debt if the board of county commissioners pays or has paid money out of the county treasury to purchase the society's fairgrounds.
- Instead of requiring a society to publish its annual financial abstract in a newspaper, requires the society to publish an announcement in either a newspaper or on the society's website that states that the annual financial report has been filed and that the public may obtain a copy of it.

* This analysis was prepared before the report of the House Agriculture and Rural Development Committee appeared in the House Journal. Note that the legislative history may be incomplete.

- Streamlines a society's procedure for submitting annual financial reports to the State Auditor and Director of Agriculture.
- Clarifies a society treasurer's duties by stating that the treasurer must collect, account for, record, deposit, and disburse all funds of the society that the treasurer serves.
- Allows a treasurer to appoint a person under the treasurer's supervision to assist in the treasurer's duties.
- Removes the requirement that the county school superintendent serve as an ex officio member on the board of directors of a county or independent agricultural society.
- Specifies that an OSU Extension member serves with the board as a nonvoting member instead of an ex officio member as in current law.
- Revises the requirements governing notifying the public of an annual election of society directors.
- After an election, requires the society's secretary to send to the Director of Agriculture a copy of each board member's signature verifying the members that voted in the election.
- Prohibits a society director candidate from counting or recording election votes.
- Requires a board of county commissioners to notify the applicable society of its intention to make a sale or exchange of fairgrounds in writing 14 days prior to the sale or exchange.
- Allows a society member to sell seasonal tickets or passes for the society's annual fair and specifies that the sale need not be conducted on the fairgrounds.
- Allows any person to sell tickets for fundraisers held by or for the benefit of a society during the society's annual fair.
- Allows certain flexibilities concerning the rescheduling of live horse racing during a state of emergency.
- Specifies that if a society or the Ohio Expositions Commission is unable to conduct an annual fair and does not conduct live horse racing, the society or Commission must return specified money from the Ohio Fairs Fund that was previously distributed to the society or Commission by the Director of Agriculture.
- Modifies the existing tax exemption for property owned by a county agricultural society.
- Prohibits a regional water and sewer district from charging nonusage related assessments against county agricultural society property that is exempt from real property taxation.
- Repeals antiquated provisions governing the use of fairgrounds by a municipal corporation.

Time specific related changes to fairs and amusement parks

- Specifies that during the time period between the effective date of the bill and December 1, 2020, both of the following apply:

- Amusement parks and water parks may immediately open, provided that they operate in accordance with the Director of Agriculture’s standards and guidelines; and
- An agricultural society retains control and management of the land occupied by the agricultural society if an annual fair is not able to be held.

Technical changes

- Recodifies Ohio’s law governing amusement rides from Chapter 1711 to Chapter 993.
- Removes outdated language and makes technical changes to Ohio’s law governing fairs and agricultural societies.

DETAILED ANALYSIS

Ohio Fair Law

Ohio law provides for the organization of both county agricultural societies and independent agricultural societies. These societies’ main function is to plan and hold county and independent fairs throughout Ohio. Currently, there are 87 county fairs and seven independent fairs scheduled for the 2020 season.¹ The bill modernizes the language throughout the law governing county and independent agricultural societies. The bill also makes several substantive changes to the law as outlined below.²

County payments to societies

The bill makes the following adjustments to the amounts that a county must transfer to agricultural societies:

1. It increases, from \$800 to \$1,600, the maximum amount that a county treasurer must annually transfer to a county or independent agricultural society operating within the county. Consistent with current law, the county auditor must request the county treasurer to make the transfer only if all of the following have occurred:
 - a. The society has held an annual fair;
 - b. The society has made an annual report to the Director of Agriculture concerning the fair; and
 - c. The Director presents a certificate to the county auditor indicating that the society has complied with the applicable laws of Ohio.³

¹ See <https://ohiofairs.org/pdfs/current-year-ohio-fairs-schedule.pdf>.

² Technical and modernization changes made throughout Chapter 1711, but no substantive changes were made in R.C. 1711.08 and 1711.11. R.C. 1711.06 was repealed and the substance of that law was incorporated into R.C. 1711.01.

³ R.C. 1711.01, 1711.02, and 1711.06 (R.C. 1711.06 is recodified from R.C. 901.06).

2. It removes the \$500 cap on the annual amount that a board of county commissioners must reimburse an agricultural society for junior club expenses. (It generally retains the \$100 minimum that the board must reimburse for junior club expenses.)⁴
3. It removes the \$2,000 cap on the amount that a board must annually appropriate to a county agricultural society if the society (a) owns or leases real estate used as a fairground, (b) has control and management of the lands and buildings on the fairground, and (c) requests an appropriation from the board. (Currently, a board must appropriate between \$1,500 and \$2,000 to the county agricultural society to encourage agricultural fairs. The bill retains the \$1,500 minimum.)⁵
4. It removes the \$2,000 cap on the amount that a board must annually appropriate to an independent agricultural society if: (a) there is no county agricultural society or annual county fair in the county, and (b) the society requests an appropriation from the board. It also increases, from \$500 to \$1,500, the minimum appropriation an independent agricultural society receives from the board. (Currently, a board must appropriate between \$500 and \$2,000 to the independent agricultural society to encourage agricultural fairs.)⁶

Liquor sale proceeds

The bill removes the requirement that if a county or independent agricultural society allows the sale of intoxicating liquor on its fairgrounds, the society must apply any proceeds it receives: (1) first to pay the cost of insurance on all buildings on the fairground, and then (2) for any other purpose authorized by law.⁷

Debt authorization

The bill expands the total amount of debt that a society may incur. Under current law, the total net indebtedness of a society cannot exceed an amount equal to 25% of the society's annual revenues. The bill, instead, specifies that a society's *annual payments for debt obligations* cannot exceed 25% of the prior three-year average of its annual revenue. Thus, this may increase the amount of debt a society may incur.⁸

In addition, it requires a county agricultural society to obtain approval from the board of county commissioners prior to incurring any debt (not just real estate encumbrances as in current law), if the board of county commissioners pays or has paid money out of the county treasury to purchase the society's fairgrounds.⁹

⁴ R.C. 1711.03.

⁵ R.C. 1711.22(A).

⁶ R.C. 1711.22(B).

⁷ R.C. 1711.09.

⁸ R.C. 1711.13.

⁹ R.C. 1711.13 and 1711.33.

Society finances

The bill modernizes the manner in which a county agricultural society must annually publish its financial information. Under current law, the society must publish an abstract of its treasurer's account in a newspaper of general circulation in the county. Instead, the bill requires a county agricultural society to publish an announcement in either a newspaper of general circulation in the county or on the society's website for at least two weeks that contains all of the following:

1. A statement indicating that the annual financial report has been filed;
2. A statement indicating that any person who wishes to obtain a copy of the report may contact the society's treasurer; and
3. The society's treasurer contact information that a person may use to obtain a copy of the report.

In addition, under current law, societies file one financial report with the State Auditor¹⁰ and a different financial report with the Director. The bill clarifies that only one report must be completed and sent to both the State Auditor and the Director.¹¹

The bill also clarifies a society treasurer's duties. It specifies that the treasurer of a county or independent agricultural society, or a person under the supervision of the treasurer, must collect, account for, record, deposit, and disburse all funds of the society.¹²

Society's board of directors

The bill removes the requirement that the county school superintendent serve as an ex officio member on the board of directors of a county or independent agricultural society. It retains an employee of the OSU Extension Office as a member. But, it specifies that the OSU Extension member must serve with the board as a nonvoting member instead of an ex officio member.

Also, under the bill, a county or independent agricultural society may notify the public of the annual election of society directors on the society's website three weeks prior to holding the election (instead of limiting the notification to only publication in a newspaper or mailing the notice to each member of the society as in current law). It also specifies that after an election of the board, the society's secretary must send to the Director a copy of the document containing each board member's signature verifying the members that voted in the election (the elections law generally refers to this document as a "pollbook" or "poll book"). Finally, the bill prohibits a director candidate from counting or recording election votes.¹³

¹⁰ See R.C. 117.38, not in the bill.

¹¹ R.C. 1711.05.

¹² R.C. 1711.071.

¹³ R.C. 1711.07.

Land sale by society

Current law allows a board of county commissioners to sell or exchange fairgrounds. The bill requires the board to notify the applicable society of its intention to make a sale or exchange. The board must provide the notice 14 days prior to the sale or exchange. (The bill also modernizes language governing a county or independent agricultural society's ability to sell fairground land).¹⁴

Ticket sales

The bill allows any county or independent agricultural society member to sell seasonal tickets or passes for the society's annual fair. It also specifies that the sale of annual fair tickets or passes need not be conducted on the premises of the fairgrounds.

The bill also allows any person to sell tickets for fundraisers held by a county or independent agricultural society, or for the benefit of the society, during the society's annual fair. It requires the society's treasurer to transfer any funds generated from the ticket sales to the county treasurer for deposit in an appropriate fund used by or for the benefit of the society.¹⁵

Horse racing

The bill specifies that if a county or independent agricultural society or the Ohio Expositions Commission is unable to conduct a previously scheduled live horse race on the originally scheduled date and time (due to a cause occurring during a state of emergency or if receipt of the Director is not practical), the society or the Commission and the Ohio Harness Horsemen's Association may agree to alternative accommodations. Those alternative accommodations may include the rescheduling of the dates and location of the horse race. The agreement is not subject to the Director of Agriculture's approval. Current law requires that the Director approve all changes to the dates or location of live horse races (regardless of whether the change is needed because of an emergency).¹⁶

The bill also specifies that if a county or independent agricultural society or the Ohio Expositions Commission is unable to conduct an annual fair both of the following apply:

1. A society must return the Ohio Fairs Fund money distributed by the Director to the society for general operations; and
2. The Commission must return the Ohio Fairs Fund money distributed by the Director for horse racing.

However, it specifies that the society or Commission may keep the money if the society or Commission cancels the annual fair because of unfavorable weather or another cause (unavoidable cause for the Commission), provided that the society or Commission still conducts

¹⁴ R.C. 1711.26.

¹⁵ R.C. 1711.091.

¹⁶ R.C. 3769.082 and 3769.0811.

live horse racing.¹⁷ Under current law, a county or independent agricultural society must give back their received horse racing money if they do not conduct live horse racing.¹⁸ But, the law does not require the society to return their general operation money to the Department of Agriculture if the society does not conduct a fair. Current law also does not require the Ohio Expositions Commission to return their money received by the Director for horse racing if the Commission does not conduct horse racing.

Taxation of county agricultural society property

Property tax exemption

The bill modifies an existing tax exemption for property owned by a county agricultural society. Under current law, fairgrounds owned by an agricultural society are exempt from taxation. The bill instead exempts any property owned by an agricultural society, so long as that property is “used in furtherance” of the society’s purposes.¹⁹

Exemption from water and sewer assessments

The bill prohibits a regional water and sewer district from charging water or sewer rentals, assessments, or any other fees against county agricultural society property that is exempt from real property taxation. However, this prohibition does not exempt county agricultural societies from paying water usage bills and sewer usage bills.²⁰ Under continuing law, a regional water and sewer district may charge assessments or other amounts against property within the district that is deemed to benefit from the district’s projects. Property that is exempt from real property taxation can be, but is not necessarily, exempt from such assessments.

Repeal of antiquated fairground laws

The bill repeals the following antiquated laws governing the use of fairgrounds by a municipal corporation (these sections are not necessary for a municipal corporation and an agricultural society to contract for use of fairgrounds):

Repealed laws	
Current law section number	Description of law
R.C. 755.35	Specifies that any real estate that is within, adjacent to, or near any municipal corporation and used for fairs and is controlled and managed by any agricultural society (whether owned by a society, a county, or jointly by both) may be jointly used as a site for fairs and as a public park of a municipal corporation.

¹⁷ R.C. 3769.086.

¹⁸ R.C. 3769.0811 (provision recodified to R.C. 3769.086(A)).

¹⁹ R.C. 5709.10.

²⁰ R.C. 6119.092.

Repealed laws	
Current law section number	Description of law
R.C. 755.36	Specifies that if fairgrounds are jointly used by a society and a municipal corporation, the duration of the joint use and all the terms for the use must be agreed upon between the two entities, or if the county has any interest in the real estate, then the agreement must be made between all three entities.
R.C. 755.37	Specifies that a municipal corporation jointly using a fairgrounds must have the same authority to improve, equip, and maintain the fairgrounds as a public park and to do all things necessary for its use and enjoyment as a public park.

The bill also repeals an antiquated authorization that specifies that, in a county without an agricultural society, a majority of the presidents of the farmers' institutes of the county holding meetings, under the oversight of the trustees of the Ohio State University, may choose a representative to represent the county at the annual meeting of county agricultural societies.²¹

Time specific related changes to fairs and amusement parks

During the time period between the effective date of the bill and December 1, 2020, the bill specifies both of the following apply:

1. Amusement parks and water parks may immediately open, notwithstanding an Executive Order restricting mass gatherings or Ohio law governing the Director of Health's powers to issue orders to stop the spread of infectious disease. The bill requires the Director of Agriculture, in consultation with the Director of Health, to establish standards and guidelines to limit the spread of infectious disease at those amusement parks and water parks. It also requires amusement park owners and water park owners to ensure compliance with the standards and guidelines.
2. An agricultural society retains control and management of the land occupied by the agricultural society if an annual fair is not able to be held.²²

Technical changes

The bill recodifies Ohio's law governing amusement ride safety from Chapter 1711 to Chapter 993 and makes conforming changes. The following table lists the applicable section under current law and the new codified section under the bill.²³

²¹ R.C. 901.07.

²² Section 4.

²³ Chapter 993 (conforming changes also in R.C. 3749.01 and Chapter 1711).

Recodified amusement safety law sections	
Current law section	H.B. 665 section
R.C. 1711.50	R.C. 993.01
R.C. 1711.51	R.C. 993.02
R.C. 1711.52	R.C. 993.03
R.C. 1711.53	R.C. 993.04
R.C. 1711.532	R.C. 993.041
R.C. 1711.533	R.C. 933.042
R.C. 1711.534	R.C. 933.043
R.C. 1711.531	R.C. 993.05
R.C. 1711.54	R.C. 933.06
R.C. 1711.55	R.C. 933.07
R.C. 1711.552	R.C. 993.071
R.C. 1711.551	R.C. 993.08
R.C. 1711.56	R.C. 993.09
R.C. 1711.57	R.C. 993.10
R.C. 1711.99(C)	R.C. 993.99

The bill also removes outdated language regarding the law governing fairs (for example, the bill removes a reference to the Chief of the Division of Fairs, which is no longer a position in the Ohio Department of Agriculture (ODA)).²⁴

It also makes technical changes throughout the law (for example, incorrect division references).²⁵

²⁴ R.C. 901.71(A)(1).

²⁵ R.C. 901.74(B).

HISTORY

Action	Date
Introduced	05-19-20
Reported, H. Agriculture & Rural Development	---
