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S.B. 4
133rd General Assembly

Fiscal Note & Local Impact Statement

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Version: As Passed by the House

Primary Sponsors: Sens. Rulli and Kunze

Local Impact Statement Procedure Required: No

Jason Glover, Budget Analyst, and other LBO staff

Highlights

- The bill appropriates \$300 million in new capital funds to the Ohio Facilities Construction Commission for the FY 2021-FY 2022 biennium to support school facilities construction and renovation projects and authorizes the issuance of bonds in that amount.
- The bill appropriates \$255 million in new capital funds to the Public Works Commission (PWC) for the FY 2021-FY 2022 biennium for the State Capital Improvement Program (SCIP) and the greenspace component of the Clean Ohio Conservation Program (COCP) overseen by PWC. The bill authorizes the issuance of bonds for SCIP and COCP totaling \$225 million.
- The bill gives counties, county hospitals, villages, townships, and municipal hospitals the ability to exempt purchases of personal protective equipment from competitive bidding procedures during the time of the declared COVID-19 emergency. The impact of this on purchasing costs for local governments is uncertain.
- Applying the Prevailing Wage Law to all work on projects undertaken by transportation improvement districts (TIDs) could result in higher labor costs for certain TID projects if they are below the cost thresholds that apply under current law.

Detailed Analysis

Capital appropriations for the FY 2021-FY 2022 biennium

Ohio Facilities Construction Commission

The bill appropriates \$300 million in new capital funds to Fund 7032 capital line item C23002, School Building Program Assistance, to support school facilities construction and renovation projects for the FY 2021-FY 2022 biennium. It also provides a corresponding amount

of authority to issue general obligation (GO) bonds for the projects. Item C23002 provides the state share of project costs to school districts participating in facilities programs overseen by the Ohio Facilities Construction Commission (OFCC).

Most of OFCC's school facilities appropriations are provided to districts through the Classroom Facilities Assistance Program (CFAP). State funding under CFAP is provided as a percentage of a district's "basic project cost" to address the entire classroom facilities needs of the district. All school districts are eligible for CFAP. However, the state share of a district's basic project cost is based on each district's relative wealth. Lower wealth districts are funded before higher wealth districts and receive a larger percentage of their total project funding from the state. A school district generally passes a bond levy to meet its required local share to participate in CFAP. As of the end of FY 2019, 141 (21%) traditional and joint vocational school districts had not yet been offered CFAP funding and another 121 districts (18%) had been offered funding but had not yet accepted it.

Bond issuance authority

Section 2n of Article VIII of the Ohio Constitution authorizes GO bonds for paying costs of facilities for a system of common schools throughout the state. The bill authorizes the issuance of \$300 million in new bonds. Thus far, the Ohio General Assembly has authorized a total of \$5.945 billion in common schools GO bonds (including the authorization in this bill), and of that amount, \$5.370 billion has been issued. As of June 11, 2020, there was approximately \$2.645 billion in common schools GO bond debt outstanding.

Public Works Commission

The bill provides new capital appropriations to the Public Works Commission (PWC) totaling \$255 million for the FY 2021-FY 2022 biennium. This funding will be used for two kinds of projects: (1) local infrastructure projects like road projects or sewer projects, and (2) greenspace conservation projects. According to PWC, all of the amount appropriated will be allocated for projects in FY 2021, the first year of the capital biennium. This is because the amounts appropriated represent the same amounts that PWC requested for year one of the two-year capital biennium. More detail on the appropriations is provided below.

State Capital Improvement Program

The bill appropriates a total of \$217.5 million for the State Capital Improvement Program (SCIP). The program is funded by GO bond proceeds that PWC uses to provide grants and loans for infrastructure projects, including road, bridge, wastewater, water supply, and stormwater projects. Regional entities comprised of local government officials – called District Public Works Integrating Committees (DPWICs) – select projects to be funded annually from their portion of SCIP money available in that year, and subsequently PWC performs final review and approval.

Of the \$217.5 million appropriated, \$175 million is in the form of new capital money directly sourced from bond proceeds. PWC expects to award approximately 600 grants and loans using these appropriations in FY 2021, an average of around \$340,000 per project.

The remaining \$42.5 million appropriated is derived from revenue PWC received from SCIP loans paid off by local governments. This money is paid into the SCIP Revolving Loan Fund

(Fund 7040), and is subsequently used to award more loans under SCIP. Loans are typically 20-year terms at 0% interest.

Bond issuance authority

The authority to issue SCIP bonds is provided in sections 2p and 2s, Article VIII of the Ohio Constitution. A total of \$5.625 billion may be issued in GO bonds through FY 2026. Of that amount, \$4.232 billion has been issued as of June 11, 2020.

The current cap on the amount of GO bonds that may be issued is \$175 million annually, plus amounts that could have been, but were not, issued in prior years. The bill authorizes the issuance of \$175 million in new bonds, in addition to amounts already authorized, to fund SCIP. The annual cap on bond issuances to fund SCIP will increase to \$200 million running from FY 2022 through FY 2026. As of June 11, 2020, there was \$1.785 billion in SCIP debt outstanding.

Clean Ohio Greenspace Program

The bill includes \$37.5 million for PWC's Clean Ohio Greenspace Program, which aims to preserve open space, stream corridors, and other land valued for its ecological importance. The award process for the program is nearly identical to that for SCIP, except that local governments and nonprofit organizations apply for funding through their natural resource assistance councils (NRACs) rather than DPWICs. All of the funding is in the form of grants. PWC expects to award around 75 projects in FY 2021, an average grant of roughly \$500,000.

Bond issuance authority

Under sections 2o and 2q of Article VIII of the Ohio Constitution, up to \$400 million in GO bonds may be outstanding at any one time to support the Clean Ohio Conservation Program (COCP). This Conservation Program is a three-pronged program, used by each of PWC, the Department of Natural Resources (DNR), and the Department of Agriculture (AGR) under three subprograms. Of total bond funding received for COCP, 75% is used by PWC for the greenspace program, 12.5% is used by DNR for the trails program, and a final 12.5% is used by AGR for the agricultural easement purchase program. The bill authorizes the issuance of \$50 million in new bonds, in addition to amounts already authorized, to fund COCP. Thus far, the Ohio General Assembly has authorized a total of \$750 million in bonds (including the authorization in this bill), and of that amount, \$600 million has been issued. As of June 11, 2020, there was approximately \$308.9 million in COCP debt outstanding.

Provisions affecting local government

Competitive bidding exemptions for person protective equipment during COVID-19 emergency

The bill allows certain political subdivisions (counties, county hospitals, villages, townships, and municipal hospitals) to exempt the purchase of personal protective equipment (PPE) from competitive bidding procedures during the period of declared COVID-19 emergency (Order 2020-01D issued March 9, 2020). Exactly what fiscal impact this exemption will have on procurement costs for local governments is uncertain. Two of the major variables are how many purchases will be made under this provision and how long this emergency order remains in effect.

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.

Tax increment financing diversion for COVID-19 expenses

The bill authorizes municipalities and townships to temporarily divert payments in lieu of taxes (PILOTs) the subdivision received from a tax increment financing (TIF) project and use the diverted money to fund any public safety and road and bridge maintenance expenses not eligible to be funded with federal Coronavirus Aid, Relief, and Economic Security (CARES) Act funding. The federal CARES Act limits use of funding to expenses directly related to the COVID-19 pandemic. Subdivisions would be required to reimburse those diverted TIF funds before the TIF expires, but only to the extent the subdivision receives federal funds that may be used to pay such expenses.

The diversion in the subdivision's fiscal year ending in 2020 may be up to 25% of the balance on hand on the bill's effective date plus 25% of additional collections during that fiscal year. The diversion in the subdivision's fiscal year ending in 2021 may be up to 25% of the balance on hand on the first day of that fiscal year plus 25% of additional collections during that fiscal year. For most municipalities and townships, the fiscal year coincides with the calendar year.

Commercial, industrial, and residential projects subject to a TIF granted by a municipality or township are generally partially exempt from property tax, but are required to remit PILOTs to the subdivision. Current law generally requires a subdivision to use these payments to fund infrastructure related to the TIF project or housing projects. The bill gives municipal corporations and townships greater flexibility over the use of a portion of PILOTs from TIFs.