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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Legislative Budget  
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H.B. 481  
133<sup>rd</sup> General Assembly

## Final Analysis

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and other LSC staff

## SUMMARY

### Local CARES Act revenue distribution

- Appropriates \$350 million of funding allocated to the state from the federal “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act) to counties, municipalities, and townships to fund COVID-19 pandemic-related expenses.
- Distributes funds based on the proportion of Local Government Fund revenue allocated to subdivisions in 2019 (excluding local governments that receive direct federal funding under the CARES Act).
- Requires a subdivision, before receiving a payment, to adopt a resolution affirming that the subdivision will spend it only on pandemic-related expenses as required under the CARES Act.
- Requires local funds unspent as of October 15, 2020, to be redistributed to local governments that have spent their full allocation.
- Requires subdivisions to return unspent CARES Act funds to the state by December 28, 2020.

### CAT exclusion for forgiven CARES Act debt

- Exempts paycheck protection loan amounts forgiven under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act from the commercial activity tax (CAT).

### State employee pay freeze

- Allows the OBM Director to request the DAS Director to order a freeze on certain state employee salary increases and pay supplements during the pay periods that include July 1, 2020, through June 30, 2021.

- Permits the Secretary of State, the Auditor of State, the Treasurer of State, and the Attorney General to give notice to the DAS Director and apply the pay freeze to the office’s employees.
- Exempts special hazard salary adjustments related to COVID-19 submitted to the DAS Director in accordance with continuing law.
- Permits, under continuing law, the Governor to issue any necessary orders to the DAS Director to implement personnel actions.

### **Local government cost savings programs**

- Authorizes a county, township, or municipal corporation appointing authority to establish a mandatory cost savings program for its exempt employees because of a fiscal emergency or lack of work due to COVID-19.
- Requires each exempt employee to participate in the cost savings program for up to 160 hours, as determined by the appointing authority, in state FY 2021.
- Requires an appointing authority that establishes a mandatory cost savings program to issue guidelines on how it will implement the program.

### **Medicaid rates for nursing facility services**

- Eliminates the market basket index and budget reduction adjustment factor used in determining a nursing facility’s per Medicaid day payment rates.
- Specifies that FY 2021 is the last year that nursing facilities will receive a quality incentive payment and revises the methods for calculating the incentive payment.
- Increases appropriation item, Medicaid Health Care Services, by \$3.2 million (\$1.2 million state share) in FY 2021.

### **Capital reappropriations**

- Makes capital reappropriations for the biennium ending June 30, 2022 (that is, for FYs 2021 and 2022).

### **Land conveyances**

- Authorizes the sale and conveyance of 23 pieces of state-owned real estate by various methods.
- Authorizes three easements on state-owned real estate.

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## DETAILED ANALYSIS

### Local CARES Act revenue distribution

The act appropriates \$350 million of the money allocated to the state under the federal “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act) to counties, townships, and municipalities to fund necessary COVID-19 pandemic-related expenses.

#### Federal CARES Act

Among other provisions, the CARES Act directs federal money to states and more populous local governments to fund “necessary expenditures incurred due to the public health emergency” connected with the COVID-19 pandemic, provided those expenses are incurred between March 1 and December 30, 2020, and are not accounted for in the state’s or subdivision’s current budget.<sup>1</sup>

The state is slated to receive approximately \$4.53 billion in CARES Act funding.<sup>2</sup> Under the CARES Act, local governments with a population of 500,000 or more may receive a direct

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<sup>1</sup> Section 5001 of the “Coronavirus Aid, Relief, and Economic Security Act,” Pub. L. 116-136.

<sup>2</sup> Grant A. Driessen, The Coronavirus Relief Fund (CARES Act, Title V): Background and State and Local Allocations, Congressional Research Service, p. 4 (April 14, 2020), available at <https://crsreports.congress.gov/product/pdf/R/R46298>.

payment from the federal government out of their state's allocation. Ohio has six of these subdivisions – the City of Columbus, and Cuyahoga, Franklin, Hamilton, Montgomery, and Summit counties – that will receive directly \$778 million altogether, accounting for 17% of Ohio's total allocated share.<sup>3</sup> Thus, the state treasury will receive approximately \$3.75 billion of the state's total allocation.

### **Distribution to local governments**

The act appropriates \$350 million of this state share for distribution to the counties, municipalities, and townships that did not receive direct federal CARES Act payments.<sup>4</sup> The money is first distributed to the 88 county treasuries from the state fund that receives CARES Act revenue – the Coronavirus Relief Fund – by the Director of Budget and Management (OBM) in consultation with the Tax Commissioner. This distribution is made on the basis of the proportion of money each county treasury received from the Local Government Fund (LGF) in 2019, excluding any amount that was ultimately allocated to Columbus or any of the five direct payment counties, which the act refers to as “ineligible subdivisions.”<sup>5</sup> (Even if a county is an ineligible subdivision, municipalities and townships in that county will still receive an allocation, as described below.) Currently, LGF funding is allocated either (1) to each county's undivided local government fund, or CULGF, and further distributed to local subdivisions in the county or (2) directly to certain municipal corporations.<sup>6</sup>

The CARES Act revenue is distributed based on the proportion of LGF allocated to each county's CULGF in 2019. In addition to adjusting to exclude amounts paid to the six ineligible subdivisions, a county's CULGF proportion is adjusted to exclude any adjustments attributable to either (1) CULGF revenue being denied under continuing law to a subdivision that maintains a red light camera program or (2) supplemental CULGF amounts earmarked for townships and small villages.<sup>7</sup> (\$12 million in LGF is set aside each year specifically for villages with a population of no more than 1,000 and townships.<sup>8</sup>)

Once the CARES Act revenue is paid to the county, the money is further divided between the county and its townships and municipalities, except ineligible subdivisions. Before a subdivision may receive that payment, however, its legislative authority must adopt a resolution affirming that the revenue will only be used for the purposes prescribed in the CARES Act and certify it to the OBM Director and the county auditor.<sup>9</sup> The revenue is then distributed

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<sup>3</sup> CRS CARES Act Report, p. 7.

<sup>4</sup> Section 28.

<sup>5</sup> Section 27(B).

<sup>6</sup> R.C. 5747.50, not in the act.

<sup>7</sup> Section 27(B) of the act. According to the Department of Taxation, in 2019 no LGF money was denied on the basis of maintaining a red light camera program.

<sup>8</sup> R.C. 5747.503, not in the act.

<sup>9</sup> Section 27(D).

to such subdivisions in the same proportion as CULGF revenue was distributed to the county, municipality, or township in 2019. So, if, for example, in a county that was allocated \$30 million in CARES Act revenue, a township received 5% of the CULGF revenue in 2019 out of the total CULGF revenue paid to subdivisions eligible to receive the CARES Act payment, the township would receive \$1.5 million.

There is an exception to this allocation method for a subdivision that, in 2019, voluntarily declined to receive its share of CULGF, e.g., Belmont County. In such a case, the revenue is distributed as though that subdivision had not declined its share of CULGF revenue. Although park districts are eligible to receive CULGF distributions in some counties, they are not eligible for distributions of the CARES Act money.

Once a subdivision receives its share of the CARES Act revenue it must deposit the money in a newly created, dedicated fund called the local coronavirus relief fund, and must use the revenue solely for the purposes prescribed in the CARES Act. The Auditor of State must audit this fund during the subdivision's next regular audit to ensure the revenue was used properly.<sup>10</sup>

### **Redistribution of unused funds**

Subdivisions must 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 an ineligible subdivision, a subdivision that returned its funds, or a subdivision that still has not adopted a resolution affirming its use of the revenue in conformity with the CARES Act. 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.<sup>11</sup>

### **Reporting to OBM**

Whenever a county auditor distributes or redistributes the CARES Act payments under the act to local subdivisions, the auditor must report the amount that is being paid to each subdivision to the OBM Director. In addition, any subdivision that receives CARES Act revenue under the act must comply with any request from the Director for information on how those funds were spent.<sup>12</sup>

### **Return of unused funds**

A subdivision must return any unspent balance of its local coronavirus relief fund to the state treasury by December 28, 2020, in the manner prescribed by the OBM Director.<sup>13</sup> As

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<sup>10</sup> Section 27(E).

<sup>11</sup> Section 27(F).

<sup>12</sup> Section 27(C), (F), and (H).

<sup>13</sup> Section 27(G).

discussed above, the CARES Act requires this money to be spent only for COVID-19 pandemic related costs incurred no later than December 30, 2020.

### **CAT exclusion for forgiven CARES Act debt**

The act exempts paycheck protection loan amounts forgiven under the CARES Act from the commercial activity tax (CAT). Under continuing law, similar to federal income tax law, forgiven debt is generally considered to be taxable gross receipts for purposes of the CAT.<sup>14</sup>

The CARES Act allows businesses affected by the coronavirus pandemic to apply for “paycheck protection program” (PPP) loans. The debt will be forgiven if the loan is used for payroll costs or mortgage, rent, or utility payments during the eight-week period beginning with the loan’s origination. Such canceled debt is not taxable for federal income tax purposes, whereas most forgiven debt is considered taxable income.<sup>15</sup>

### **State employee pay freeze**

Under the act, if the OBM Director determines it necessary due to anticipated revenue shortfalls, the OBM Director may request the Director of Administrative Services (DAS Director) to order a freeze on state employee salary increases and pay supplements during the pay periods that include July 1, 2020, through June 30, 2021. If an order is issued, the rate of pay is frozen at the rate in effect on June 19, 2020 (the act’s effective date). If a state employee is hired or changes positions, or if a state employee’s position is reclassified on or after that date, that state employee is paid at the rate that applies to the position’s classification during the pay period that includes June 7, 2020, and the employee cannot receive any increases in the employee’s pay rate, including any step increases or pay supplements, during the freeze.

The freeze continues from the date the DAS Director issues the order until the end of the pay period specified by the DAS Director or the end of the pay period that includes July 1, 2021, whichever is earlier.<sup>16</sup>

The pay freeze does not apply to state employees subject to a collective bargaining agreement.<sup>17</sup> It also does not apply to special hazard salary adjustments related to COVID-19 submitted to the DAS Director in accordance with continuing law.<sup>18</sup> Finally, it does not apply to employees of:

- The General Assembly and its agencies;
- The Supreme Court;
- The Secretary of State;

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<sup>14</sup> Section 36.

<sup>15</sup> Section 1106(i) of the “Coronavirus Aid, Relief, and Economic Security (CARES) Act,” 15 U.S.C. 9005(i).

<sup>16</sup> Section 37(B).

<sup>17</sup> Section 37(A), by reference to R.C. Chapter 4117.

<sup>18</sup> Section 37(C)(1).

- The Auditor of State;
- The Treasurer of State; and
- The Attorney General.<sup>19</sup>

However, the Secretary of State, the Auditor of State, the Treasurer of State, and the Attorney General may elect to apply the pay freeze to the office's employees. An office that elects to apply the freeze must notify the DAS Director in writing.<sup>20</sup>

Under continuing law, if the Governor determines that available revenue receipts and balances in any fund or across funds will likely be less than the appropriations for the year, the Governor may declare a "fiscal emergency" and, among other things, order the DAS Director to implement personnel actions consistent with the emergency.<sup>21</sup> The act does not limit the Governor's authority to declare a fiscal emergency and issue additional, necessary orders to the DAS Director.<sup>22</sup>

## **Local government cost savings programs**

The act authorizes a county, township, or municipal corporation appointing authority to establish a mandatory cost savings program for its exempt employees because of a fiscal emergency or lack of work due to COVID-19. Continuing law permits an appointing authority to implement mandatory cost savings days for its exempt employees in the event of a fiscal emergency.

Under the act, each exempt employee of an appointing authority that establishes a mandatory cost savings program must participate in the program for not more than 160 hours, as determined by the appointing authority, during state FY 2021. The program may include, but is not limited to, a loss of pay or loss of holiday pay. The program may be administered differently among employees based on their classifications, appointment categories, or other relevant distinctions. An appointing authority that establishes a mandatory cost savings program under the act must issue guidelines on how the appointing authority will implement the program.<sup>23</sup>

The act defines a "lack of work" as a current or projected decrease in workload by an appointing authority that requires a reduction of current or projected staffing levels in its organization or structure.

For this purpose, an "exempt employee" is a permanent full-time or permanent part-time county, township, or municipal corporation employee who is not subject to a collective

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<sup>19</sup> Section 37(C)(3).

<sup>20</sup> Section 37(D).

<sup>21</sup> R.C. 126.05, not in the act.

<sup>22</sup> Section 37(C)(2).

<sup>23</sup> R.C. 124.393, by reference to R.C. 124.321, not in the act.

bargaining agreement. A “fiscal emergency” includes (1) a fiscal emergency declared by the Governor if the Governor determines that the available revenue receipts will likely be less than the appropriations for the year, (2) a local fiscal watch or fiscal emergency declared by the Auditor of State, (3) a lack of funds, or (4) reasons of economy.<sup>24</sup>

## **Medicaid rates for nursing facility services**

The act eliminates the market basket index and budget reduction adjustment factor as part of the process to determine the total per Medicaid day payment rate for nursing facility services. This rate is composed of payment rates for ancillary and support costs, capital costs, and direct care costs.<sup>25</sup> Under prior law, one of the steps in determining a nursing facility’s per Medicaid day payment rate for those costs included an adjustment equal to the difference between the Medicare skilled nursing facility market basket index and an amount known as the budget reduction adjustment factor.<sup>26</sup>

In eliminating the market basket index and budget reduction adjustment factor, the act also repeals (1) the former law that stated the General Assembly’s intent to annually specify the amount of the adjustment factor and (2) the former law that specified what that factor is for the second half of FY 2020 and all of FY 2021.<sup>27</sup> This means that this adjustment will not be used as part of the process of determining the per Medicaid day payment rates for ancillary and support costs, capital costs, and direct care costs. The changes apply to services provided on or after June 19, 2020, and not to services provided before that date.<sup>28</sup>

Finally, the act increases appropriation item, Medicaid Health Care Services, by \$3.2 million (\$1.2 million state share) in FY 2021.<sup>29</sup>

## **Nursing facility quality incentive payments**

### **End of payments**

The act provides that FY 2021 is the last year nursing facilities will receive quality incentive payments as part of their total per Medicaid day payment rate, and eliminates references to calculating a nursing facility’s quality incentive payment for the second half of FY 2020.<sup>30</sup>

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<sup>24</sup> R.C. 124.393(A).

<sup>25</sup> R.C. 5165.15.

<sup>26</sup> In the case of direct care costs, the adjustment is made when determining a nursing facility’s cost per case-mix unit, which is a factor used in determining its per Medicaid day payment rate for direct care costs. (R.C. 5165.16, 5165.17, and 5165.19.)

<sup>27</sup> R.C. 5165.01(E) and (DD), 5165.16(C)(1)(d), 5165.17(C), 5165.19(C)(1)(e), 5165.361, repealed, and 5166.01; Section 4 (Section 333.270 of H.B. 166 of the 133<sup>rd</sup> General Assembly, repealed).

<sup>28</sup> Section 5.

<sup>29</sup> Sections 10 and 11.

<sup>30</sup> R.C. 5165.15(E) and 5165.26.



## Points earned for quality metrics

The amount of a nursing facility's quality incentive payment is based in part on the number of points that the U.S. Centers for Medicare and Medicaid Services (CMS) assigns to the facility under its five-star quality rating system for certain quality metrics. The act specifies that a nursing facility's quality incentive payment for FY 2021 is based, in part, on the number of points that CMS assigns to the facility under its rating system based on the most recent four-quarter average data available in the Nursing Home Compare database maintained by CMS, as of May 2020.<sup>31</sup>

The quality metrics used are:

- The percentage of the nursing facility's long-stay residents (residents who have resided in the facility for at least 102 days) at high risk for pressure ulcers who had pressure ulcers;
- The percentage of long-stay residents who had a urinary tract infection;
- The percentage of long-stay residents whose ability to move independently worsened;
- The percentage of long-stay residents who had a catheter inserted and left in their bladder.<sup>32</sup>

## 80% licensed occupancy requirement

With certain exceptions, the act prohibits a nursing facility from receiving a quality incentive payment for FY 2021 if its licensed occupancy percentage is less than 80%. Former law provided that the 80% licensed occupancy requirement did not apply under certain circumstances, including if the facility was initially certified for participation in the Medicaid program. The act clarifies that exception applies if the facility was initially certified *on or after January 1, 2019*, and adds two new exceptions.

Under the act, the 80% licensed occupancy requirement does not apply if one or more licensed beds could not be used for patient care during calendar year 2019 due to causes beyond the facility's reasonable control. The requirement also does not apply if the facility underwent a renovation between January 1, 2018, and January 1, 2020, that (1) involved a capital expenditure of at least \$50,000, excluding expenditures for equipment, staffing, or operational costs and (2) directly impacted the area where the licensed beds are located. A nursing facility using either of these two new exceptions must provide the Department of Medicaid written documentation of the number of days the beds were unusable and the specific reason or written documentation confirming the renovation and expenditures.<sup>33</sup>

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<sup>31</sup> R.C. 5165.26(C).

<sup>32</sup> R.C. 5165.26(C)(1).

<sup>33</sup> R.C. 5165.26(D)(2), (4), and (5).

The act revises the method by which a nursing facility's licensed occupancy percentage is determined for the purpose of the 80% licensed occupancy requirement. Under the act, the first step is to multiply the facility's licensed capacity *as of* December 31, 2019 (instead of on the last day of the measuring period), *as identified on its Medicaid cost report*, by 365 (instead of by the number of days in the measuring period). The second step is to divide the *total* number of the facility's inpatients for 2019 (instead of *for* that period) *as identified on its Medicaid cost report*, by the product determined under the first step. The third step is to divide the quotient determined under the second step by 100.<sup>34</sup>

### **No payment for new facilities and facilities that change operator**

The act provides that a nursing facility is not eligible to receive a quality incentive payment for FY 2021 if it obtains its initial Medicaid provider agreement or underwent a change of operator during calendar year 2019 or FY 2021.<sup>35</sup>

### **Total amount to be spent on payments**

The act increases the total amount to be spent on quality incentive payments for FY 2021 by increasing one factor used to determine the total amount to 5.2% (from 2.4%) of the nursing facilities' base rate for nursing facility services. The base rate is the amount of a nursing facility's Medicaid rate that is comprised of its rates for ancillary and support costs, capital costs, direct care costs, and tax costs, its critical access payment, and a \$16.44 add-on.<sup>36</sup>

### **Capital reappropriations**

The act reappropriates approximately \$1.28 billion in capital funds for the biennium ending June 30, 2022, (that is, for FYs 2021 and 2022).<sup>37</sup> For more details, consult the Legislative Budget Office's [Fiscal Note & Analysis](#) for H.B. 481.

### **Land conveyances**

The act authorizes 26 public land conveyances; 23 are outright sales, and three grant easements. The act includes legal descriptions of the property to be conveyed, but permits the DAS Director to adjust the descriptions if corrections or modifications are needed.<sup>38</sup>

The authority for each conveyance expires June 19, 2023 (three years after the act's effective date).<sup>39</sup>

This table summarizes the authorized transactions, including the state agency that uses or superintends the property currently, the grantee, a brief property description, the county

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<sup>34</sup> R.C. 5165.26(D)(3).

<sup>35</sup> R.C. 5165.26(E).

<sup>36</sup> R.C. 5165.26(E) and (F).

<sup>37</sup> Sections in Titles 200, 500, and 600.

<sup>38</sup> Sections 1 through 26.

<sup>39</sup> Sections 1 through 26.

where the property is located, the financial or other consideration related to the transaction, and, where applicable, the state funds that are to receive the proceeds.

Act Section	Agency	Grantee	Description	County	Consideration	Fund
1	Broadcast Educational Media Commission	High bidder of sealed bid auction	4.07 acres of vacant land south of Newmans-Cardington Rd. and West of Benzler Rd., Pleasant Township	Marion	Price determined by auction	Broadcast Educational Media Commission's Affiliate Services Fund (Fund 4F30)
2	Broadcast Educational Media Commission	Greater Dayton Public Television, Inc.	16.14 acres of land containing a communications tower that is owned by the grantee	Montgomery	To be determined through real estate purchase agreement	Broadcast Educational Media Commission's Affiliate Services Fund (Fund 4F30)
3	Cleveland State University	Midtown Inspirion, LLC	0.16 acre perpetual easement on the SE corner of East 30 <sup>th</sup> St. & Chester Ave., Cleveland	Cuyahoga	\$1	GRF
4	Department of Administrative Services	Martin R. Knapke	3.77 acres of vacant land along Skeels Rd., Liberty Township	Mercer	To be determined through real estate purchase agreement	GRF
5	Department of Mental Health and Addiction Services	High bidder of sealed bid auction	8.99 acres of vacant land at 2201 Mapleview Ave., Dayton	Montgomery	Price determined by auction	Department of Mental Health and Addiction Services Trust Fund (Fund 4P90)
6	Department of Developmental Disabilities	Board of County Commissioners of Gallia County	6,600 sq. ft. vocational training facility on 4.21 acres located at 652 Jackson Pike, Gallipolis	Gallia	\$1	Mental Health Facilities Improvement Fund (Fund 7033)

Act Section	Agency	Grantee	Description	County	Consideration	Fund
7	Department of Developmental Disabilities	Guernsey County Community Development Corp.	3,310 sq. ft. building on 0.5 acre located at 66737 Toland Dr., Cambridge	Guernsey	To be determined through real estate purchase agreement	Mental Health Facilities Improvement Fund (Fund 7033)
8	Department of Developmental Disabilities	Grantee to be determined	18,296 sq. ft. residential treatment facility on 10.01 acres located along Mill Creek Rd., Gallipolis	Gallia	To be determined through real estate purchase agreement	GRF
9	Department of Public Safety	High bidder of sealed bid auction	5,800 sq. ft. office building and 6,000 sq. ft. flex building on 10.00 acres at 4300 Lincoln Way West, Massillon	Stark	Price determined by auction	Public Safety – Highway Purposes Fund (Fund 5TM0)
10	Department of Rehabilitation and Correction	American Electric Power	8.00 acres of vacant land located off State Route 104, Chillicothe	Ross	To be determined through real estate purchase agreement	Adult and Juvenile Correctional Facilities Bond Retirement Fund (Fund 7097)
11	Department of Job and Family Services	The Columbus Partnership	167,606 sq. ft. office building on 1.17 acres located at 145 South Front St., Columbus	Franklin	\$3 million	Unemployment Compensation Special Administrative Fund (Fund 4A90)
12	Kent State University	CK Properties, Ltd.	3.61 acres of vacant land located along the south side of Ravenna Rd., Twinsburg	Summit	\$1	Unspecified

Act Section	Agency	Grantee	Description	County	Consideration	Fund
13	Ohio State University	To be determined through direct sale	4.52 acres of vacant land located along N. Hamilton Rd., Gahanna	Franklin	Price acceptable to the OSU Board of Trustees	University accounts for purposes to be determined by the OSU Board of Trustees
14	Ohio State University	To be determined through direct sale	29.82 acres of vacant land located along Walker Rd., Mansfield	Richland	Price acceptable to the OSU Board of Trustees	University accounts for purposes to be determined by the OSU Board of Trustees
15	Ohio State University	City of Columbus	0.07 acre perpetual easement located at 1490 Hawthorne Ave., Columbus	Franklin	\$1	Unspecified
16	Ohio University	High bidder of sealed bid auction	8,237 sq. ft. education building with 476 sq. ft. detached garage on 0.68 acre at 7077 Glenn Highway, Cambridge	Guernsey	Price determined by auction	University accounts for the benefit of Ohio University
17	Ohio University	Athens County Public Library	4.34 acres located at 30 Home St., Athens which is encumbered with a ground lease to Athens County Public Library and improved with a library building	Athens	\$1	GRF
18	Ohio University	Lawrence County Port Authority	23,034 sq. ft. building on 8.26 acres at 300 Main St., Hanging Rock	Lawrence	\$219,000	University accounts for the benefit of Ohio University
19	Ohio University	High bidder of sealed bid auction	0.08 acres improved with a 3,465 sq. ft. building at 10 East Union St., Athens	Athens	Price determined by auction	University accounts for purposes determined by the President

Act Section	Agency	Grantee	Description	County	Consideration	Fund
						and Board of Trustees of Ohio University
20	Shawnee State University	High bidder of sealed bid auction	4,500 sq. ft. residential building on 1.64 acres at 3060 Camelot Dr., Portsmouth	Scioto	Price determined by auction	University accounts for the benefit of Shawnee State University
21	University of Akron	City of Akron	5,150 sq. ft. building on 3.20 acres at 1000 George Washington Blvd., Akron	Summit	\$1	University accounts for purposes to be determined by the Board of Trustees of Akron University
22	University of Akron	High bidder of sealed bid auction	16,928 sq. ft. building and 13,362 sq. ft. building on 0.46 acre located at 354 East Market St., and 0.3 acres containing a parking lot on adjacent parcels at 18, 20, and 24 South Fir Hill St., Akron	Summit	Price determined by auction	University accounts for purposes to be determined by the Board of Trustees of the University of Akron
23	University of Akron	Lone Star Alumni Association	0.40 acre of vacant land located along Vine St., Akron	Summit	To be swapped for 0.027 acre of land containing two residential facilities at 496-502 Vine St., Akron	Although the act specifies that proceeds are to be deposited to university accounts as determined by the Board of Trustees of the University of Akron, consideration of the sale

Act Section	Agency	Grantee	Description	County	Consideration	Fund
						includes no monetary exchange
24	University of Cincinnati	GCOH Owner LLC	0.14 acre easement for up to 99 years along Goodman Dr., Cincinnati	Hamilton	\$1	Unspecified
25	University of Toledo	To be determined through direct sale	275,000 sq. ft. classroom, office, and athletic space on 169.40 acres at 2225 Nebraska Ave. and 328 North Westwood Ave., Toledo	Lucas	Price acceptable to the Board of Trustees of the University of Toledo	University accounts for purposes to be determined by the University Board of Trustees
26	Department of Veterans Services	High bidder of sealed bid auction	6 vacant residential homes on 4.0 acres along Dewitt Ave., Sandusky	Erie	Price determined by auction	The act specifies that proceeds should be deposited to the credit of the "Department of Veterans Services General Fund." Because there is no such fund, it is unclear which fund would receive the proceeds.

### **Manner of conveyance**

To carry out a conveyance, the Auditor of State prepares a deed with the assistance of the Attorney General. Deeds for outright sales are executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State,

presented in the Office of the Auditor of State for recording, and delivered to the grantee.<sup>40</sup> Documents granting only easements are executed by the DAS Director and need not be countersigned by the Secretary of State.<sup>41</sup>

## Conditions

The 23 outright sales all include three standard conditions, though some contain additional conditions. The standard conditions are:

- The conveyances include improvements and chattels (personal property) on the property, and are subject to all easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable.
- The property is conveyed in an “as-is, where-is, with all faults” condition.
- The deeds conveying the property may contain restrictions, exceptions, reservations, reversionary interests, and other terms and conditions the DAS Director (and in some cases, the grantor agency) determines to be in the state’s best interest.
- After the conveyances, the state may waive any deed restrictions without further legislation.

Of the 23 outright sales, 14 must be transferred as single tracts<sup>42</sup> and nine may be transferred as single tracts or as multiple parcels.<sup>43</sup>

The three conveyances that only grant easements have fewer conditions. Two only require that the easements state the obligations of, and duties to be observed and performed by, the grantees. The third, which is for a sewer line, contains the same condition with an additional requirement that the grantee assume perpetual responsibility for that sewer line.<sup>44</sup>

## Conveyance costs

The act treats costs associated with the conveyances in various ways. For 19 of the conveyances that involve outright sales, the purchaser must pay all costs associated with the purchase, closing, and conveyance, including surveys, title evidence, title insurance, transfer costs and fees, recording costs and fees, taxes, and any other fees, assessments, and costs that

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<sup>40</sup> Sections 1, 2, 4 through 14, 16 through 23, 25, and 26.

<sup>41</sup> Sections 3, 15, and 24.

<sup>42</sup> Sections 1(D), 2(D), 4(D), 5(D), 6(D), 7(D), 8(D), 10(D), 11(D), 12(D), 17(D), 18(D), 20(D), and 22(D).

<sup>43</sup> Sections 9(D), 13(D), 14(D), 16(D), 19(D), 21(D), 23(E), 25(D), and 26(D).

<sup>44</sup> Sections 3(B), 15(B), and 24(B).



may be imposed.<sup>45</sup> Of the remaining four outright sales, the purchase agreement for three will assign costs after negotiations<sup>46</sup> and one specifically divides different costs among the parties.<sup>47</sup>

The authorization for 16 of the outright sales also make provision for advertising costs incurred before the sales. Those are often addressed where the sale is to be by auction or to account for the potential of alternate purchasers. For 14 of those conveyances, the selling agency must pay any advertising and other costs incident to the sale.<sup>48</sup> For two, advertising costs are to be paid based on terms agreed upon in the purchase agreement.<sup>49</sup>

For the three easement grants, the grantees must pay recording costs.<sup>50</sup>

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## HISTORY

Action	Date
Introduced	01-27-20
Reported, House State & Local Gov't	05-06-20
Passed House (92-3)	05-20-20
Reported, S. General Gov't & Agency Review	06-10-20
Passed Senate (30-2)	06-10-20
House concurred in Senate amendments (93-0)	06-11-20

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<sup>45</sup> Sections 1(E), 2(E), 4(E), 5(E), 6(E), 7(E), 8(E), 9(E), 10(E), 11(E), 12(E), 16(E), 17(E), 18(E), 19(E), 20(E), 22(E), 23(F), and 26(E).

<sup>46</sup> Sections 13(E), 14(E), and 25(E).

<sup>47</sup> Section 21(E).

<sup>48</sup> Sections 1(C), 2(C), 5(C), 6(C), 7(C), 8(C), 9(C), 16(C), 19(C), 20(C), 21(C), 22(C), 23(D), and 26(C).

<sup>49</sup> Sections 13(C) and 14(C).

<sup>50</sup> Sections 3(D), 15(D), and 24(E).