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H.B. 665  
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## Final Analysis

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**Version:** As Passed by the General Assembly

**Primary Sponsors:** Reps. Jones and Wilkin

**Effective date:** April 12, 2021

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## SUMMARY

### Ohio Fair Law

- Modernizes the law governing agricultural societies and county fairs conducted by them.
- Increases the amount that a county or independent agricultural society receives from a county for operational expenses.
- 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 allows the sale of intoxicating liquor on its fairgrounds use any proceeds it receives from the sale first to pay the cost of insurance on all buildings on the fairground.
- 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 before 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 stating that the report has been filed and that the public may obtain a copy of it.
- 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.

- Allows an agricultural society 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 of the board of directors of a county or independent agricultural society.
- Specifies that an Ohio State University Extension member serves with the board as a nonvoting member instead of an ex officio member as in prior 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 board of directors candidate from counting or recording election votes.
- Requires a board of county commissioners to notify the agricultural 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, it must return specified money from the Ohio Fairs Fund that the Director previously distributed to it.
- Modifies a tax exemption for property owned by a county agricultural society.
- Repeals antiquated provisions governing the use of fairgrounds by a municipal corporation.

## **Lapsed time-specific changes**

- If the act had taken effect before December 1, 2020, the following would have applied until that date:
  - Amusement parks and water parks could have immediately opened, notwithstanding an order of the Director of Health, provided that they operated in accordance with the Director of Agriculture's standards and guidelines; and
  - An agricultural society would have retained control and management of the land occupied by it if an annual fair could not be held.

**\*\* (Note: the provisions discussed above have no substantive effect because the time period for their operation passed prior to the act's effective date.) \*\***

## **Technical changes**

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

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## **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 2021 season.<sup>1</sup> The act modernizes the language throughout the law governing county and independent agricultural societies. It also makes several substantive changes to the law as outlined below.<sup>2</sup>

### **County payments to societies**

The act 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 continuing 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.<sup>3</sup>

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

<sup>2</sup> 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.

<sup>3</sup> 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.)<sup>4</sup>
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. (Prior to the act, a board had to appropriate between \$1,500 and \$2,000 to the county agricultural society to encourage agricultural fairs. The act retains the \$1,500 minimum.)<sup>5</sup>
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. (Prior to the act, a board had to appropriate between \$500 and \$2,000 to the independent agricultural society to encourage agricultural fairs.)<sup>6</sup>

### **Liquor sale proceeds**

The act removes the requirement that a county or independent agricultural society that allows the sale of intoxicating liquor on its fairgrounds apply any proceeds it receives first to pay the cost of insurance on all buildings on the fairground.<sup>7</sup>

### **Debt authorization**

The act expands the total amount of debt that a society may incur. Under prior law, a society's total net indebtedness could not exceed an amount equal to 25% of its annual revenues. The act, 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.<sup>8</sup>

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 prior law), if the board of county commissioners pays or has paid money out of the county treasury to purchase the society's fairgrounds.<sup>9</sup>

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<sup>4</sup> R.C. 1711.03.

<sup>5</sup> R.C. 1711.22(A).

<sup>6</sup> R.C. 1711.22(B).

<sup>7</sup> R.C. 1711.09.

<sup>8</sup> R.C. 1711.13.

<sup>9</sup> R.C. 1711.13 and 1711.33.

## **Society finances**

The act modernizes the manner in which a county agricultural society must annually publish its financial information. Under prior law, the society had to publish an abstract of its treasurer's account in a newspaper of general circulation in the county. Instead, the act requires a county agricultural society to annually 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:

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 treasurer's contact information that a person may use to obtain a copy of the report.

In addition, under prior law, societies had to file one financial report with the State Auditor and a different financial report with the Director. The act clarifies that a society must complete only one report and send it to both the State Auditor and the Director.<sup>10</sup>

The act also clarifies the duties of a society treasurer. 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. Prior law did not specify who was responsible for these tasks.<sup>11</sup>

## **Society's board of directors**

The act 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 Ohio State University (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.

Regarding the annual election of society board members, the act grants a society secretary the option to provide notice of the election on the society's website three weeks prior to holding the election. It retains the authorization that also allows notice by publication in a newspaper or through a mailing to each member of the society. It also specifies that after an election of the board of directors, the society's secretary must send to the Director of Agriculture a copy of the document containing each society member's signature verifying the member voted in the election. (The laws governing elections generally refers to this document

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<sup>10</sup> R.C. 1711.05; See R.C. 117.38, not in the act.

<sup>11</sup> R.C. 1711.071.

as a “pollbook” or “poll book”) Finally, the act prohibits a board of directors candidate from counting or recording election votes.<sup>12</sup>

### **Land sale by society**

Continuing law allows a board of county commissioners to sell or exchange agricultural society fairgrounds when the county has title to the property. The act requires the board to provide written notice to the applicable society of its intention to make the sale or exchange 14 days prior to the sale or exchange.<sup>13</sup>

### **Ticket sales**

The act 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.

It 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. The society’s treasurer must deposit any funds generated from the ticket sales to an appropriate fund used by or for the benefit of the society.<sup>14</sup>

### **Horse racing**

Under continuing law, an agricultural society or the Ohio Exposition Commission may conduct horse races at alternative locations or alternative dates or times if there is unfavorable weather or another cause. Regarding the Commission, the other cause must be unavoidable. Generally, the Director must approve any changes in location, date, or time. However, the act specifies that an agricultural society or the Commission may provide for alternative accommodations for a race without the Director’s approval if either:

1. The cause for moving the location, date, or time of the race occurs during a state of emergency declared by the Governor; or
2. The receipt of the Director’s approval is not practical.

Any alternative accommodations for a race must be agreed to by the Ohio Harness Horsemen’s Association.<sup>15</sup>

The act also specifies that if a county or independent agricultural society or the Commission is unable to conduct an annual fair:

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

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<sup>12</sup> R.C. 1711.07.

<sup>13</sup> R.C. 1711.26.

<sup>14</sup> R.C. 1711.091.

<sup>15</sup> R.C. 3769.082 and 3769.0811.

2. The Commission must return the Ohio Fairs Fund money distributed by the Director for horse racing.

However, the society or Commission may keep the money if it cancels the annual fair because of unfavorable weather or another cause (unavoidable cause for the Commission), provided that the society or Commission still conducts live horse racing.<sup>16</sup>

## **Taxation of county agricultural society property**

### **Property tax exemption**

The act modifies an existing tax exemption for property owned by a county agricultural society. Under prior law, *fairgrounds* owned by an agricultural society were exempt from taxation. The act instead exempts *any* property owned by an agricultural society, so long as that property is “used in furtherance” of the society’s purposes.<sup>17</sup>

### **Repeal of antiquated fairground laws**

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

Repealed laws	
Former law section number	Description of law
R.C. 755.35	Specified that any real estate that was within, adjacent to, or near any municipal corporation and used for fairs and was controlled and managed by any agricultural society (whether owned by a society, a county, or jointly by both) could be jointly used as a site for fairs and as a public park of a municipal corporation.
R.C. 755.36	Specified that if fairgrounds were jointly used by a society and a municipal corporation, the term of the joint use and all the terms for the use had to be agreed upon between the two entities, or if the county had any interest in the real estate, then the agreement had to be made between all three entities.
R.C. 755.37	Specified that a municipal corporation that jointly used a fairgrounds had to have had the same authority to improve, equip, and maintain the fairgrounds as a public park and had to do all things necessary for its use and enjoyment as a public park.

<sup>16</sup> R.C. 3769.086.

<sup>17</sup> R.C. 5709.10.

The act also repeals an antiquated authorization that specified that, in a county without an agricultural society, a majority of the presidents of the farmers' institutes of the county, under the oversight of the trustees of the Ohio State University, could choose a representative to represent the county at the annual meeting of county agricultural societies.<sup>18</sup>

## Lapsed time-specific changes

**\*\* (Note: the provisions discussed below have no substantive effect because the time period for their operation passed prior to the act's effective date.) \*\***

If the act had taken effect before December 1, 2020, both of the following would have applied until that date:

1. Amusement parks and water parks could 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 Director of Agriculture, in consultation with the Director of Health, would have had to establish standards and guidelines to limit the spread of infectious disease at the parks and park owners would have had to ensure compliance with them.
2. An agricultural society would have retained control and management of the land occupied by the agricultural society if an annual fair was not able to be held.<sup>19</sup>

## Technical changes

The act 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 prior law and the new codified section.<sup>20</sup>

Recodified amusement safety law sections	
Prior 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

<sup>18</sup> R.C. 901.07.

<sup>19</sup> Section 4.

<sup>20</sup> Chapter 993 (conforming changes also in R.C. 3749.01 and Chapter 1711).



Recodified amusement safety law sections	
Prior section	H.B. 665 section
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 act also removes outdated language regarding the law governing fairs (for example, it removes a reference to the Chief of the Division of Fairs, which is no longer a position in the Ohio Department of Agriculture).<sup>21</sup>

It also makes technical changes throughout the law (for example, incorrect division references).<sup>22</sup>

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<sup>21</sup> R.C. 901.71(A)(1).

<sup>22</sup> R.C. 901.74(B).

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## HISTORY

Action	Date
Introduced	05-19-20
Reported, H. Agriculture & Rural Development	06-11-20
Passed House (62-26)	06-11-20
Reported, S. Agriculture & Natural Resources	12-10-20
Passed Senate (22-9)	12-22-20
House concurred in Senate amendments (59-23)	12-22-20

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