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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 75  
135<sup>th</sup> General Assembly\*

## Bill Analysis

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**Version:** As Reported by House Economic and Workforce Development

**Primary Sponsor:** Sen. Blessing

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### SUMMARY

#### Joint economic development districts

- Authorizes a joint economic development district (JEDD) comprised of solely municipalities if one of them meets at least two distress criteria and both are within close proximity to each other.
- Requires voter approval of a municipal-only JEDD contract if the JEDD is in a municipal corporation that either does not levy an income tax or levies an income tax at a rate of 1% or less.
- Allows such a municipal corporation to create a JEDD without voter approval, subject to a petition-initiated referendum, if certain requirements are met.
- Replaces the township representative on the board of directors of a municipal-only JEDD with a second municipal representative.

#### Universal Regulatory Sandbox Program

- Creates the Universal Regulatory Sandbox Program (referred to in this analysis as the "sandbox program").
- Establishes the Universal Regulatory Sandbox Program Advisory Committee and a regulatory relief division, within the Governor's Common Sense Initiative (CSI) office, to administer the sandbox program.
- Provides guidelines and required materials for the sandbox program application.

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

- Describes the evaluation process of applicants to the sandbox program.
- Establishes guidelines on the limits of an approved participant’s demonstration and offering.
- Requires participants in the sandbox program to make certain disclosures to consumers before engaging in transactions.
- Establishes recordkeeping requirements for sandbox program participants.
- Permits a five-year demonstration period, but allows the participant to request up to three 12-month extensions of the demonstration period.
- Implements reporting requirements for sandbox program participants, state agencies, and the regulatory relief division.
- Requires the regulatory relief division to collect public suggestions to reform state laws and regulations to reduce regulatory burdens.

### **Insurance coverage for occupational therapy, physical therapy, and chiropractic services**

- Prohibits a health benefit plan from imposing cost sharing for occupational therapy, physical therapy, or chiropractic services that is greater than the cost sharing for an office visit to a primary care physician or osteopath physician.
- Requires a health plan issuer to clearly state on its website and on all relevant literature that coverage for occupational therapy, physical therapy, and chiropractic services is available along with any limitations.
- Makes a violation of the bill’s provisions an unfair and deceptive practice in the business of insurance.

### **Political yard signs**

- Prohibits homeowners, neighborhood, civic, and other associations from restricting the display of political yard signs.

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## DETAILED ANALYSIS

### Joint economic development districts

A joint economic development district (JEDD) is a territorial district created by multiple local governments who enter into a contract. A JEDD is governed by a board of directors, which may extend and levy a member municipality’s income tax within the district to promote economic development or redevelopment, create or preserve jobs, and improve the economic welfare of the district. JEDD income tax revenue may be used to enhance infrastructure in the area surrounding the district, provide new and additional services and facilities to the district, and supplement the revenue of the local governments that create the JEDD. Under the most common JEDD arrangement, a municipal corporation that levies an income tax enters into a contract with a township whereby the municipality’s income tax is extended to territory of the township. In essence, such a JEDD allows a township to collect revenue from a municipal income tax that it is unable to independently levy.

Under continuing law, there are three sets of procedures that may be used to create a JEDD. Two are “restricted” and limited to political subdivisions that meet specific requirements. The bill does not affect those procedures, it applies only to the general procedure that may be used by any municipal corporations and townships that are located in the same or adjacent counties.

## **Municipal-only JEDD eligibility**

The bill specifically authorizes the creation of a JEDD comprised solely of municipal corporations. It is unclear whether such a municipality-exclusive JEDD is permissible under current law. For a municipal-only JEDD to be formed under the bill, the area from one of the municipal corporations that is to be included in the JEDD must meet certain “distress” criteria and the two municipal corporations must meet criteria regarding their proximity to each other.

The “distress” criteria are any two from a list of criteria used to determine whether a local government may designate a particular area as an enterprise zone. (Under continuing law, improvements and businesses with an enterprise zone are subject to partial property tax exemptions and, in some cases, other tax incentives.) Those criteria are:

- The municipal corporation is a principal city of a metropolitan statistical area;
- The municipal corporation is in a county designated as being in the federally designated Appalachian Region;
- The average rate of unemployment in the area during the most recent 12 months for which data are available, equals at least 125% of the average rate for the state for the same period;
- There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;
- The population of the area, according to the 2000 census, decreased by at least 10% between 1980 and 2000;
- At least 51% of the area’s residents have incomes less than 80% of the median income of residents in the municipal corporation;
- The area contains structures previously used for industrial purposes, but not currently used as such due to age, obsolescence, deterioration, relocation of the former occupant’s operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;
- The area is located within one or more adjacent city, local, or exempted village school districts, each of which has an income-weighted tax capacity that is less than 70% of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available from the Department of Taxation.

The proximity requirements mandate that, if a municipal-only JEDD is to be formed, the territory of each member municipal corporation must be at least partially within the same

county. Each member municipality must also be contiguous to another member municipality, or contiguous to a township that is contiguous to one of those municipalities.<sup>1</sup>

The effect of a municipal-only JEDD would be to allow a municipality that levies no income tax or levies a tax with a rate of 1% or less to create an area in which a second municipality's higher income tax rate would apply. Similar to a municipal-township JEDD, this arrangement would create a stream of development revenue for that no-tax or low-tax municipality.

### **Municipal-only JEDD voter approval or rejection**

When a JEDD is formed between a township and municipal corporation, continuing law requires the JEDD's creation be submitted to the township's voters for approval unless certain requirements are met. Those are:

- The board of township trustees approves the resolution authorizing the JEDD unanimously;
- A majority of the property owners in the proposed JEDD have signed petitions seeking its creation;
- The territory to be included in the JEDD is zoned in a manner appropriate to the JEDD's functions.

If a township approves a JEDD without voter approval, its creation is subject to a petition-initiated referendum.

The bill extends the voter-approval requirement, and exception, to municipal corporations attempting to form a municipal-only JEDD in municipal territory that is not already subject to a municipal income tax above 1% – the threshold above which municipal income taxes are subject to voter approval generally.<sup>2</sup> In other words, if such a JEDD is proposed in the territory of a municipal corporation, and that municipal corporation does not already levy an income tax above the 1% cap, the JEDD must be submitted for voter approval in that municipal corporation unless exception criteria are satisfied. The same exceptions to voter approval that currently exist for townships proposing JEDDs, and the possibility of a petition-initiated referendum, are extended to municipal-only JEDDs under the bill.<sup>3</sup>

### **Municipal-only JEDD board membership**

If a JEDD is formed among only municipal corporations, the bill requires that the board of director seat that would normally represent the township or townships in the JEDD be filled by a second representative to represent the municipal corporations that make up the JEDD. Under continuing law, the board makeup varies depending on whether there are businesses or employees located in the JEDD, but in either case, one board member is required to represent

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<sup>1</sup> R.C. 715.72(A)(1), (C)(1), and (C)(3); R.C. 5709.61, not in the bill.

<sup>2</sup> R.C. 718.04(C)(2), not in the bill.

<sup>3</sup> R.C. 715.72(M) and (N).

member municipal corporations and, under current law, one member represents member townships.<sup>4</sup>

## **Universal Regulatory Sandbox Program**

### **Creation of sandbox program**

The bill requires the Governor’s Common Sense Initiative (CSI) office to establish a Universal Regulatory Sandbox Program. Unlike the existing regulatory sandbox program found in Chapter 1355 of the Revised Code, which only pertains to novel financial products or services, this universal regulatory sandbox program (referred to, hereafter, as the “sandbox program”) applies to a wider range of innovative products or services. Businesses may apply to offer a new product or service through the sandbox program which would otherwise be prohibited by certain state laws or regulations, or without the business needing to obtain a license or authorization that might otherwise be required. If the application is approved, certain laws or regulations may be temporarily waived or suspended with respect to that product or service, permitting the business to demonstrate the value of relaxing certain statutory or regulatory restrictions on businesses and industries.

The bill largely excludes the beer, wine, and automotive industries from participating in the sandbox program.<sup>5</sup>

### **Regulatory relief office**

The bill requires the Governor to establish a regulatory relief division within the CSI office, which is responsible for administering the sandbox program and applications for participation. The regulatory relief division will also act as the liaison between private businesses and state agencies to identify state laws or regulations that could be waived or suspended under the sandbox program.<sup>6</sup>

The bill permits the regulatory relief division to do all of the following:

- Identify state laws and regulations which the division believes unnecessarily inhibit the creation and success of new companies or industries in Ohio;
- Make recommendations to the Governor and the General Assembly regarding modifying those laws and regulations;
- Create a framework through which to analyze the risk to health, safety, and well-being of consumers as a result of permanently removing or temporarily waiving state laws and regulations that inhibit the creation or success of new and existing companies or industries in Ohio;

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<sup>4</sup> R.C. 715.72(P)(1)(b) and (P)(2)(b).

<sup>5</sup> R.C. 1357.01(I) and (L) and 1357.02(A); R.C. 1355.02, not in the bill.

<sup>6</sup> R.C. 1357.02(B).

- Propose reciprocity agreements between states that use, or are proposing to use, similar regulatory sandbox programs to the sandbox program proposed by the bill, or to the existing sandbox program under Chapter 1355 of the Revised Code.<sup>7</sup>

The regulatory relief division is permitted to adopt rules as necessary to administer the sandbox program, including rules that establish application and reporting requirements, and that allow for cooperation and consultation with the Superintendent of Financial Institutions to ensure cohesive implementation with the existing regulatory sandbox program under Chapter 1355 of the Revised Code.<sup>8</sup>

### **Universal Regulatory Sandbox Program Advisory Committee**

The bill creates the Universal Regulatory Sandbox Program Advisory Committee (referred to, hereafter, as the “Advisory Committee”) within the CSI office. The Advisory Committee is comprised of 11 members who will advise and make recommendations to the regulatory relief division. The bill requires the Advisory Committee to review applications for participation in the sandbox program and to make recommendations to the regulatory relief division as to whether an application should be approved.<sup>9</sup>

The bill establishes the initial Advisory Committee members as follows:

- Three members, appointed by the Governor, representing business interests from a variety of industry clusters, who will serve a term ending January 1, 2027;
- Three members, appointed by the Governor, representing business interests from a variety of industry clusters, who will serve a term ending January 1, 2029;
- Two members, appointed by the Governor, representing state agencies which regulate business, who will serve a term ending January 1, 2027;
- One member, appointed by the Governor, representing state agencies which regulate business, who will serve a term ending January 1, 2029;
- One member of the Senate, appointed by the President of the Senate, who will serve a term ending January 1, 2029;
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives, who will serve a term ending January 1, 2029.

The Committee members, who serve without compensation, must be appointed within 30 days after the provision’s effective date. Subsequent vacancies on the Advisory Committee must be filled in the same manner by the same appointing authority within 60 days of the vacancy occurring. After the initial term for each member appointed by the Governor, each subsequent member will serve a term lasting four years. Committee members appointed from the Senate or

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<sup>7</sup> R.C. 1357.02(C).

<sup>8</sup> R.C. 1357.02(C)(4).

<sup>9</sup> R.C. 1357.04(A).

the House of Representatives will serve a term of two years or for the remainder of their legislative term, whichever is less.<sup>10</sup>

The Governor will select a chairperson for the Advisory Committee each year, and the Committee will meet at the call of the chairperson. The initial meeting must occur within 30 days after the last member's appointment. A majority of members constitutes a quorum for the Advisory Committee to conduct business. If needed, the regulatory relief division will provide technical and administrative support to the Committee. The Advisory Committee is not a public body required to conduct public meetings.<sup>11</sup>

## **Application to the sandbox program**

### **Required materials**

The bill requires any person seeking to participate in the sandbox program to submit an application to the regulatory relief division. If requested, the division must assist a person interested in participating in the sandbox program with preparing an application, including by helping to identify state agencies that regulate the person's business and laws or regulations that could have an adverse impact on the success of that business. The form and manner of the application are set by the regulatory relief division, but the bill requires it to include, at a minimum, all of the following:

- Confirmation that the applicant is subject to the jurisdiction of the CSI office;
- Confirmation that the applicant has established a physical or virtual location in the state, from which it will demonstrate an innovative offering and where all required records, documents, and data will be maintained;
- The applicant's relevant personal and contact information, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief division;
- Disclosure of any criminal convictions of the applicant or other participating individuals;
- A list of the state agencies that regulate the applicant's business;
- Other information required by the regulatory relief division.<sup>12</sup>

The application must also include a description of the applicant's innovative offering. The applicant must describe how the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the sandbox, and each law or regulation which the applicant seeks to waive or suspend while participating. Alongside this, the applicant must describe the proposed demonstration plan, including its estimated duration and how the

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<sup>10</sup> R.C. 1357.04(B), (C), and (D).

<sup>11</sup> R.C. 1357.04(E), (F), and (G).

<sup>12</sup> R.C. 1357.06(A) and (B).



regulatory sandbox would enable the applicant to successfully demonstrate the offering. Lastly, the application must describe each of the following:

- The offering's benefits to consumers;
- How the offering differs from others available in Ohio;
- The risks that may exist for consumers who use or purchase the offering;
- How the applicant will end the demonstration and protect consumers if the offering fails;
- Acknowledgement that the applicant is subject to all laws and regulations regarding the offering after the demonstration concludes.<sup>13</sup>

If an applicant seeks to demonstrate more than one offering through the sandbox program, the applicant must file a separate application for each offering.<sup>14</sup>

### **Fees**

The Governor may impose an application fee to offset the costs of the regulatory relief division and the CSI office in administering the sandbox program. The bill creates the Universal Regulatory Sandbox Program Fund within the state treasury, into which the fees must be deposited. Money in the fund will be used for the purposes of the bill.<sup>15</sup>

### **Regulatory relief office review**

The bill requires the regulatory relief division to process and review applications for participation in the sandbox program. The division must consult with applicable government agencies which regulate the applicant's business and, if more information is required from the applicant, must seek out that information. The contents of each application and any related information provided by the applicant are considered confidential, and the application is not a public record.

The regulatory relief division must review an application and refer it to the appropriate agency within five business days after receipt. In addition, it must provide the applicant with acknowledgement of receipt as well as the name and contact information for each state agency reviewing the application.<sup>16</sup>

### **Agency review**

Within 30 days after receiving a complete application, the bill requires a state agency to review the application and provide a report to the regulatory relief division which recommends that the applicant be admitted, or denied entrance, into the sandbox program. The report must describe any identifiable, likely, and significant harm addressed by the law or regulation the application seeks or waive or suspend. The bill permits an agency to extend the general, 30-day

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<sup>13</sup> R.C. 1357.06(A)(5).

<sup>14</sup> R.C. 1357.06(D).

<sup>15</sup> R.C. 1357.06(C).

<sup>16</sup> R.C. 1357.06(E), (F), and (G).

deadline by five business days by providing written notice to the regulatory relief division. Only one extension is allowed for each application. If an agency fails to deliver a report by the deadline, the regulatory relief division is required to proceed as though the agency does not object to temporarily waiving or suspending the relevant laws or regulations.<sup>17</sup>

### **Preliminary application denial**

If an agency recommends that an applicant be denied entrance into the sandbox program, the report submitted to the regulatory relief division must include the reasons for that recommendation. The reasons must include the agency's reasoning why a temporary waiver or suspension of the relevant laws or regulations would potentially cause significant harm to the health, safety, or financial well-being of consumers or the public, why it may create unreasonable expenses for the state's taxpayers, and the likelihood of the harm or expenses. If the agency determines that consumers or the public can be protected through less restrictive means than existing laws or regulation, the bill requires the agency to recommend how that may be achieved.<sup>18</sup>

Under the bill, the regulatory relief division must reject an application under the following circumstances:

- An applicable state agency recommends that the applicant be denied entrance to the sandbox program;
- An applicable state agency determines that the applicant's offering fails to comply with standards or specifications required by federal law or regulations;
- The regulatory relief division determines that the applicant is better suited for the existing regulatory sandbox program under Chapter 1355 of the Revised Code;
- The applicant, or any person seeking to participate with the applicant in the sandbox program, has been convicted of any crime involving significant theft, fraud, or dishonesty, or has entered a plea of guilty or no contest for such a crime.<sup>19</sup>

### **Advisory Committee review**

The regulatory relief division must provide all applications not rejected for a reason described above, and their corresponding agency reports, to the Advisory Committee. The Committee must meet to review an application no less than 30 days, but not more 120 days, after receipt of the application from the regulatory relief division. Additionally, the Committee must meet at least once per calendar quarter to review these applications and agency reports, unless there are no applications available to review.<sup>20</sup> In reviewing an application, the Committee is required to consider the following factors:

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<sup>17</sup> R.C. 1357.07(A)(1), (2), and (5).

<sup>18</sup> R.C. 1357.07(A)(3) and (4).

<sup>19</sup> R.C. 1357.07(B).

<sup>20</sup> R.C. 1357.07(C)(1) to (3).

- Whether the applicable agency previously issued a license or other authorization to the applicant;
- Whether the agency has previously investigated, sanctioned, or pursued legal action against the applicant;
- Whether a competitor to the applicant is or has been a participant in the sandbox program;
- Whether the applicant’s plan adequately protects consumers from harm;
- The risk of harm to consumers compared to the potential benefits of the applicant’s participation in the sandbox program.<sup>21</sup>

After reviewing an application and the corresponding agency reports, the Advisory Committee must provide a recommendation to the Governor and the CSI office as to whether the applicant should be admitted or denied entrance to the sandbox program.<sup>22</sup>

If the Committee recommends that an applicant be admitted to the sandbox program, the regulatory relief division may consult with the Governor and enter into a written agreement with the applicant to admit the applicant to the sandbox program. This agreement must describe the specific laws or regulations that are waived or suspended as part of the applicant’s participation in the sandbox program.<sup>23</sup>

### **Application denial**

The bill permits the regulatory relief division, the CSI office, and the Governor to deny an application for any reason, such as an evidence-based determination that suspending or waiving a law or regulation would cause significant risk of harm to consumers or Ohio residents. As described above, the regulatory relief division, CSI office, or Governor must provide to the applicant a written description of the reasons for the application’s denial. However, any application denial by the regulatory relief division, CSI office, or the Governor is final.<sup>24</sup>

## **Participation in the sandbox program**

### **General**

The bill permits a participant in the sandbox program to demonstrate their offering for five years following the date the participant entered into the agreement with the regulatory relief division (referred to in the bill as the “demonstration period”). During this period, the participant is not subject to enforcement of the laws or regulations waived or suspended by the agreement. The bill prohibits prosecutors from filing or pursuing charges against the participant related to those laws or regulations during the demonstration period. Similarly, state agencies may not

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<sup>21</sup> R.C. 1357.07(D).

<sup>22</sup> R.C. 1357.07(C)(5).

<sup>23</sup> R.C. 1357.08(A)(1) and (2).

<sup>24</sup> R.C. 1357.07(E).

pursue punitive action against a participant related to those laws or regulations. However, the participant does not have immunity related to any criminal offense committed during their participation in the sandbox program.<sup>25</sup>

Additionally, an agreement admitting an applicant to the sandbox program must not waive or suspend any tax levied by the state or other authority within the state, or any law or regulation which allows consumers to seek restitution in the event they are harmed.

The agreement's provisions to waive or suspend a law or regulation only apply with respect to that participant and consumers who are residents of this state. They do not apply to businesses not participating in the sandbox program, nor to consumers who are not Ohio residents. However, participation in the sandbox program does not impact a participant's ability to conduct business for which it is licensed or authorized in another jurisdiction.<sup>26</sup>

### **Required disclosures**

Any participant in the sandbox program is required to disclose all of the following to a consumer before demonstrating the offering:

- The name and contact information of the sandbox participant;
- That the offering is authorized under the sandbox program;
- If applicable, that the participant does not have a license or other authorization to provide the offering under state law outside of the sandbox program;
- That the offering is undergoing testing, it may not function as intended, and it may expose the consumer to risks identified in the agency's report;
- That the participant is not immune from civil liability for losses or damages caused by the offering;
- That the participant is not immune from criminal prosecution if it violates state law or regulations not waived or suspended by the sandbox program;
- That the offering is a temporary demonstration;
- The expected end date of the demonstration;
- That the consumer may contact the regulatory relief division to file a complaint regarding the offering;
- The regulatory relief division's telephone number and website address where a complaint may be filed.

The disclosures must be clearly and conspicuously provided to a consumer. If the offering is internet or application-based, a consumer must acknowledge receipt of the disclosures before

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<sup>25</sup> R.C. 1357.08(A)(2), (D), and (E).

<sup>26</sup> R.C. 1357.08(A)(3), (A)(4), and (B).

the transaction may be completed. Furthermore, the regulatory relief division may require a participant to make additional disclosures to a consumer.<sup>27</sup>

### **Recordkeeping requirements**

Under the bill, each participant must retain any records, documents, or data produced in the ordinary course of business regarding the offering demonstrated through the sandbox program. If a participant ends its offering prior to the end of the demonstration period, it must notify the regulatory relief division and each applicable agency and report on actions taken to ensure that consumers have not been harmed.

The bill permits the regulatory relief division to request records, documents, or data from a participant and requires the participant to provide that information for inspection upon such a request.<sup>28</sup>

### **Removal from the sandbox program**

The regulatory relief division may remove a participant from the sandbox program at any time and for any reason by providing written notice. This includes situations where the regulatory relief division, CSI office, or the Governor determines that the participant is not operating in good faith to bring an innovative offering to market.<sup>29</sup>

The regulatory relief division may also remove a participant from the sandbox program if it determines that the participant has engaged in, is engaging in, or will imminently engage in any practice or transaction that violates the bill, or any other law or regulation not waived or suspended by the sandbox program.<sup>30</sup>

If a participant's inclusion in the sandbox program is ended, neither the regulatory relief division nor its employees are liable for any business losses or application expenses incurred by the participant in relation to the sandbox program.<sup>31</sup>

### **Demonstration period expiration and extensions**

The bill requires participants in the sandbox program to notify the regulatory relief division no less than 30 days before the end of the five-year demonstration period whether the participant is seeking an extension or plans to exit the sandbox program. If the division does not receive this notice by the required deadline, then the demonstration period will end on the date five years after the date on which the participant entered into the agreement with the division. However, if a demonstration includes an offering that requires ongoing duties, the bill requires

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<sup>27</sup> R.C. 1357.09.

<sup>28</sup> R.C. 1357.12(A), (B), and (C).

<sup>29</sup> R.C. 1357.08(F).

<sup>30</sup> R.C. 1357.12(G).

<sup>31</sup> R.C. 1357.08(G).

the sandbox participant to continue to fulfill those duties after the sandbox program demonstration period ends.<sup>32</sup>

If a participant properly requests an extension of the demonstration period prior to the deadline, the regulatory relief division must grant or deny the request before the end of the demonstration period. If approved, the division may grant an extension for no more than 12 months following the date on which the initial demonstration period ended. The participant may apply for, and the division may grant, as many as three 12-month extensions to the participant's demonstration period.<sup>33</sup>

## **Reporting requirements**

### **CSI office**

Beginning October 1, of the year following the effective date of this provision, the CSI office must submit a written report to the General Assembly regarding the activities of the regulatory relief division. This report must contain all of the following:

- Information regarding each participant in the sandbox program, including the industry that the participant represents and the anticipated or actual cost savings experienced by each participant;
- Information on the sandbox program's impact on consumer outcomes;
- Recommended changes to laws or regulations that the regulatory relief division determines unnecessarily inhibit the creation and success of new companies or industries;
- Recommended changes to the sandbox program or the regulatory relief division.<sup>34</sup>

### **Sandbox participants**

The regulatory relief division is required to establish quarterly reporting requirements for each participant in the sandbox program, including information about consumer complaints.<sup>35</sup>

In addition, a sandbox participant is required to notify the regulatory relief division and any applicable agency of any incident that results in harm to the health, safety, or financial well-being of a consumer. Failure to do so permits the regulatory relief division to immediately remove the participant from the sandbox program.<sup>36</sup>

Within 30 days after exiting the sandbox program, the bill requires the participant to submit a written report to the regulatory relief division and each applicable agency detailing the demonstration, including any incidents of harm to consumers, any legal action filed against the

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<sup>32</sup> R.C. 1357.10.

<sup>33</sup> R.C. 1357.11.

<sup>34</sup> R.C. 1357.05.

<sup>35</sup> R.C. 1357.12(B).

<sup>36</sup> R.C. 1357.12(D).

participant as a result of the demonstration, and any complaints filed with an applicable agency as a result of the demonstration.<sup>37</sup>

### **State agencies**

Within 30 days after an applicable agency receives a quarterly report or written report from a sandbox participant, the bill requires the agency to provide a written report to the regulatory relief division describing any statutory or regulatory reform the agency recommends based on the demonstration.<sup>38</sup>

### **Public suggestions and recommendations**

The bill requires the regulatory relief division to create and maintain a public webpage on the CSI office's website through which Ohio residents and businesses can make suggestions regarding laws and regulations that could be modified or eliminated. On a quarterly basis, if not more frequently, the regulatory relief division is required to compile all suggestions submitted through the webpage and provide a written report to the Governor and the General Assembly which describes the most common suggestions. In compiling the report, the regulatory relief division and the Advisory Committee must ensure that private information of the residents and businesses remains private.

The regulatory relief division may evaluate the report and provide suggestions regarding which state laws or regulations could be modified or eliminated, with the purpose of reducing the regulatory burden on Ohio residents and businesses while still protecting consumers.<sup>39</sup>

### **Insurance coverage for occupational therapy, physical therapy, and chiropractic services**

The bill prohibits a health benefit plan (a contract offered by a health plan issuer to provide for or pay for health care services) from imposing a cost-sharing requirement (any out-of-pocket expense requirement under a health benefit plan) for services rendered by a licensed occupational therapist, physical therapist, or chiropractor that is greater than the cost-sharing requirement for an office visit to a licensed primary care physician or osteopath physician.

In addition, the bill requires a health plan issuer (an entity that contracts to provide or reimburse health care costs under a health benefit plan, including a sickness and accident insurance company, a health insuring corporation, a fraternal benefit society, a self-funded multiple employer welfare arrangement, or a nonfederal, government health plan) to clearly state on its website and on all relevant literature that coverage for occupational therapy, physical therapy, and chiropractic services is available under the issuer's health benefit plans, as well as all related limitations, conditions, and exclusions.

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<sup>37</sup> R.C. 1357.12(E).

<sup>38</sup> R.C. 1357.12(F).

<sup>39</sup> R.C. 1357.13.

A violation of the bill's provisions is considered an unfair and deceptive practice in the business of insurance, potentially subjecting the violator to an injunction, license suspension, fines, or other penalties.<sup>40</sup>

### **Exemption from review by the Superintendent of Insurance**

The bill's limitation on cost sharing for services rendered by a licensed occupational therapist, physical therapist, or chiropractor might be considered a mandated health benefit. Under R.C. 3901.71, if the General Assembly enacts a provision for mandated health benefits, that provision cannot be applied to any health benefit plan until the Superintendent of Insurance determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal "Employee Retirement Income Security Act of 1974" (ERISA),<sup>41</sup> and to employee benefit plans established or modified by the state or any of its political subdivisions. ERISA appears to preempt any state regulation of such plans.<sup>42</sup> The bill contains provisions that exempt its requirements from this restriction.<sup>43</sup>

### **Political yard signs**

Under current law, homeowners, neighborhood, civic, and other associations are prohibited from enacting rules, regulations, or bylaws restricting the placement or display of certain flags. The bill expands this protection to include political yards signs, if the signs are displayed in accordance with relevant state and local laws and ordinances.<sup>44</sup>

A yard sign is considered political for the purposes of the bill if it endorses a particular political candidate, party, or belief and does not violate state or federal hate crime laws.<sup>45</sup>

The prohibition might not be enforceable with respect to deed restrictions, rules, regulations, bylaws, and governing documents adopted before the bill's effective date. Both the U.S. Constitution and the Ohio Constitution prohibit the General Assembly from enacting laws "impairing the obligation of contracts."<sup>46</sup> Deed restrictions and the governing documents of homeowners, neighborhood, and civic associations create contractual rights and obligations. The U.S. Supreme Court has held that the contract clause does not prohibit states from enacting laws to protect the vital interests of citizens which could, presumably, include free speech interests.<sup>47</sup> However, the Court stipulates that a state's regulation of contracts must be reasonably designed

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<sup>40</sup> R.C. 3902.63; R.C. 3902.50 and 3901.19 through 3901.26, not in the bill.

<sup>41</sup> 29 United States Code (U.S.C.) 1001.

<sup>42</sup> 29 U.S.C. 1144.

<sup>43</sup> R.C. 3902.63.

<sup>44</sup> R.C. 5301.072(A)(5).

<sup>45</sup> R.C. 5301.072(B); R.C. 2927.12, not in the bill, and 18 United States Code 249.

<sup>46</sup> Ohio Constitution, Article II, Section 28; U.S. Constitution, Article I, Section 10.

<sup>47</sup> *Home Bldg. & Loan Assn. v. Blaisdell*, 290 U.S. 398, 434 (1934).



and appropriately tailored to achieve a legitimate public purpose.<sup>48</sup> Only a court can determine whether the bill meets that standard.

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## HISTORY

Action	Date
Introduced	02-28-23
Reported, S. Local Government	10-10-23
Passed Senate (29-1)	10-11-23
Reported, H. Economic and Workforce Development	---

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<sup>48</sup> *United States Trust Co. v. New Jersey*, 431 U.S. 1, 20 (1977).