



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 5*

131st General Assembly

(As Reported by S. Government Oversight and Reform)

Reps. Kunze and Koehler, Rogers, Boose, Hambley, Amstutz, Anielski, Antonio, Baker, Barnes, Bishoff, Blessing, Boyd, Brenner, Brown, Buchy, Burkley, Celebrezze, Cera, Conditt, Cupp, Dever, Dovilla, Duffey, Ginter, Green, Grossman, Hackett, Henne, Kraus, McClain, McColley, M. O'Brien, S. O'Brien, Reineke, Retherford, Rezabek, Romanchuk, Ruhl, Ryan, Schaffer, Scherer, Schuring, Sheehy, K. Smith, R. Smith, Sprague, Stinziano, Strahorn, Sweeney, Terhar, Thompson, Young, Rosenberger

BILL SUMMARY

Feasibility studies

- Allows a state agency or local public office to request that the Auditor of State conduct a feasibility study to determine if greater efficiency or cost savings could be realized by sharing services or facilities with other state agencies or local public offices.
- Requires the team that conducts performance audits to conduct feasibility studies as funds allow.
- Requires the Auditor to use not more than 50% of the funds in the Leverage for Efficiency, Accountability, and Performance Fund to conduct feasibility studies.
- Requires the Auditor to notify each state agency or local public office that is identified in a feasibility study request, before commencing the study, and allows a state agency or local public office to opt out of review as part of a feasibility study.
- Requires the Auditor to conduct a public hearing regarding feasibility study findings.

* This analysis was prepared before the report of the Senate Government Oversight & Reform Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

Shared equipment service agreement program

- Allows the Auditor to establish a Shared Equipment Service Agreement Program.
- Allows a shared service agreement to provide that, when capital equipment is shared, the recipient state agency or political subdivision assumes liability in a civil action for damages allegedly resulting from use of the equipment.

CONTENT AND OPERATION

Feasibility studies

The bill allows a state agency or local public office to request that the Auditor of State conduct a feasibility study to determine if greater efficiency or cost savings could be realized by the state agency or local public office sharing services or facilities with other state agencies or local public offices. In the request, the requesting state agency or local public office must identify for the Auditor the specific state agencies or local public offices that may be included within the proposed plan for sharing services or facilities. "State agency" means every organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government. "Public office" means any state agency, public institution, political subdivision, other organized body, office, agency, institution, or entity established by Ohio laws for the exercise of any function of government. "Public office" does not include JobsOhio.¹ The team that conducts performance audits must conduct the requested feasibility studies as funds allow. The Auditor must pay the costs incurred by the Auditor or the auditing team in conducting feasibility studies.²

The bill requires the Auditor to use, during a fiscal year, not more than 50% of Leverage for Efficiency, Accountability, and Performance (LEAP) Fund moneys to pay the costs of conducting feasibility studies. The other 50% of the LEAP Fund money must be used to make loans to state agencies and local public offices to pay costs of conducting performance audits. Currently, the Auditor uses all the moneys in the Fund to make loans to state agencies and local public offices to pay the costs of conducting performance audits.³

Under the bill, the Auditor must provide written notification to each state agency and local public office that is identified in a feasibility study request. The Auditor may

¹ R.C. 117.01(D) and (F), not in the bill.

² R.C. 117.473.

³ R.C. 117.47.

review only those identified state agencies or local public offices that do not opt out. To opt out, a state agency or local public office must provide an opt out notice to the Auditor within 60 days of the date on which the Auditor's notification to the state agency or local public office is postmarked. If a state agency or local public office opts out of a requested feasibility study, the Auditor, at the Auditor's discretion, may cancel the feasibility study or may proceed to conduct the feasibility study considering only the identified state agencies and local public offices that have not opted out.

The bill also requires the Auditor, not later than ten days before starting a feasibility study, to provide written notice to the requesting state agency or local public office and any other state agency or local public office that consented to being reviewed. Finally, the bill requires the Auditor to conduct a public hearing on the feasibility study findings within 180 days after completing the study. The Auditor, not later than ten days before the date of the public hearing, must give written notice of the date, time, and location of the hearing to the state agency or local public office that requested the feasibility study, to any other state agency or local public office that consented to being reviewed, and also must give notice on the Auditor's website.⁴

Shared equipment service agreement program

The bill authorizes the Auditor to establish a Shared Equipment Service Agreement Program. Under the Program, state agencies and political subdivisions may voluntarily enter into an agreement whereby the lender state agency or political subdivision lends its capital equipment to the recipient state agency or political subdivision for temporary use in the performance of a governmental or proprietary function by the recipient state agency or political subdivision.⁵

The bill also provides that a shared service agreement, whether entered into under the Program or under other authority (see **COMMENT**), may include a provision regarding the assumption of liability. Specifically, the agreement may provide that the recipient state agency or political subdivision, and its officers and employees, as the case may be, assume any potential liability in a civil action for damages for injury, death, or loss to person or property allegedly caused by an act or omission of the recipient state agency or political subdivision or its officers or employees resulting from the use of the equipment in the performance of the recipient state agency's or political subdivision's governmental or proprietary functions. Such an assumption of liability applies insofar as the recipient state agency or political subdivision or any of its officers

⁴ R.C. 117.473.

⁵ R.C. 117.48(B). For definitions of "governmental function," "political subdivision," and "proprietary function," see R.C. 2744.01, not in the bill. R.C. 117.48(A).



or employees is engaged in use of the equipment covered by the agreement in the performance of a governmental or proprietary function.⁶

COMMENT

The bill does not explicitly authorize a state agency or a political subdivision to enter into a shared service agreement outside of the Auditor's Shared Equipment Service Agreement Program, which is set forth in the bill. But, such authorization may otherwise exist in a municipal corporation or county charter. Furthermore, Ohio law⁷ authorizes political subdivisions to enter into agreements, when legally authorized to do so, "to exercise any power, perform any function, or render any service for the contracting recipient political subdivision . . ."⁸ This law, in conjunction with action by the legislative bodies of the participating political subdivisions, might be deemed to authorize the lending of capital equipment as contemplated in the bill.

HISTORY

ACTION	DATE
Introduced	01-28-15
Reported, H. Local Gov't	03-24-15
Passed House (95-0)	04-29-15
Reported, S. Gov't Oversight & Reform	---

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⁶ R.C. 117.48(C), 2743.31, and 2744.11.

⁷ R.C. 9.482, not in the bill.

⁸ R.C. 9.482(B), not in the bill.

