CORRECTED VERSION*

OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis Alyssa Bethel, Erika Padgett, and other LSC staff

H.B. 49

132nd General Assembly
(As Introduced)

Rep. R. Smith

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This analysis is arranged by state agency, beginning with the Department of Administrative Services and continuing in alphabetical order. Items that do not directly involve an agency are located under the agency that has regulatory authority over the item, or otherwise deals with the subject matter of the item.

The bill consolidates several health-related boards into one of the following: the State Medical Board, the State Board of Pharmacy, or one of three new boards. The analysis of the consolidation, as well as the changes made to the laws governing the consolidated boards, can be found in the "Consolidation of Health-Related Boards" category. The analysis concludes with a Local Government category, a Miscellaneous category, and a note on effective dates and the expiration clause.

Within each agency and category, a summary of the items appears first (in the form of dot points) followed by a discussion of their content and operation. Items generally are presented in the order in which they appear in the Revised Code.

* This version now includes the Opportunities for Ohioans with Disabilities Agency and discussions relative to the Agro Ohio Fund and the Animal and Consumer Protection Laboratory Fund. It also makes several technical changes.

DEPARTMENT OF ADMINISTRATIVE SERVICES

Veteran's and reservist's preference in classified civil service

- Eliminates the different civil service examination preferences for veterans and certain reservists in the armed forces and applies a single preference to both veterans and reservists in good standing who have completed entry-level training.

- Expands eligibility for preference in the classified civil service to any person who has honorably completed service as a reservist in the U.S. armed forces, as a member of the Merchant Marine Service during wartime, or as a member of the Ohio Organized Militia under certain conditions.

- Removes residency requirement from veteran's and reservist's preference in classified civil service.

Suspension of state purchasing and contracting requirements

- Authorizes the Department of Administrative Services (DAS) to suspend state purchasing and contracting requirements when a state agency is experiencing a "state procurement emergency."

Electronic licensing system

- Authorizes the Office of Information Technology to assess a transaction fee, not to exceed $3.50, to an individual who uses an electronic licensing system operated by the Office to apply for or renew a license or registration.

- Creates the Professions Licensing System Fund for the purpose of operating the electronic licensing system and requires the amounts from the transaction fees to be deposited in the Fund.

Tenant improvement services

- Removes the DAS Director's authority with respect to construction project services for state agencies and instead authorizes the Director to provide tenant improvement services.

- Eliminates the Minor Construction Project Management Fund.

Statewide state agency data sharing program

- Allows DAS to establish a program to gather, combine, and analyze unspecified types of data provided by state agencies that participate in the program.

- Specifies the program's purposes are to measure outcomes of state-funded programs, to develop policies to promote effective, efficient, and best use of state resources, and to identify, prevent, or eliminate fraudulent use of state funds, resources, or programs.

- Notwithstands the entire Revised Code to specify that a state agency's provision of data under the program is a permitted use and does not violate any contrary laws that apply to the data the state agency provides.

- Specifies that a state agency providing data under the program retains ownership over the data and is the only state agency that must comply with Ohio law regarding requests for records or information.

- Subjects data in possession of participating state agencies to any confidentiality laws that apply to the data when in the possession of the state agency that provided the data.

- Subjects employees of DAS and other state agencies who have access to data under the program to any confidentiality laws or duty to maintain confidentiality of the data that apply to the state agencies that provided the data.

- Specifies that results of the data analysis are subject to the most stringent confidentiality obligations that apply to the source data.

- Requires DAS to develop a data-sharing protocol to which participating state agencies are subject, and a security plan to state how data will be protected.

- Requires any system with personal information derived under the program to comply with Personal Information Systems Law.

Antitrust review by DAS Director

- Requires the Director to review and approve or disapprove actions or proposed actions that have been referred to the Director and that may have antitrust implications taken by boards and commissions that regulate an occupation or industry.

- Voids an action or proposed action disapproved by the Director.

- Allows a board or commission that has taken or proposes to take an action, person who is affected or is likely to be affected by an action taken or proposed to be taken by a board or commission, or a person granted a stay in court under the bill to refer an action for review by the Director.

- Requires a person to obtain a determination from the Director before pursuing a court action for a violation of antitrust laws and grants the state, a board or commission, or a member of a board or commission the right to request a stay of antitrust proceedings pending in a court that lasts until the Director approves or disapproves the action.

- Exempts the following persons from the exhaustion requirement and the stay of court proceedings: the Attorney General, a county prosecutor, or any assistant prosecutor designated to assist a county prosecutor.

- Exempts from the Director's review any action by a board or commission that is limited by statute to only the members of the board or commission representing the public.

- Requires the Director to adopt rules under the Administrative Procedure Act to implement and administer the bill's review provisions.

Repeal of Ohio Building Authority Law

- Repeals the Ohio Building Authority (OBA) Law (H.B. 153 of the 129th General Assembly transferred the building and facility operations and management functions of OBA to DAS and replaced OBA with the Treasurer of State as the issuing authority for obligations to finance capital facilities housing agencies of state government, but retained the OBA Law).

- Codifies DAS's authority to provide certain facility management services and charge rental and other charges for the use of its facilities.

- Retains the provision of the OBA Law that permits, under certain circumstances, firearms in motor vehicles in the Riffe Center parking garage.

Veteran's and reservist's preference in classified civil service

(R.C. 124.23, 124.26, and 124.27)

The bill expands eligibility for the armed forces preference in the classified civil service and eliminates different treatment of veterans and reservists. The bill extends eligibility for the preference to any person that honorably served in the Merchant Marine Service during wartime and any person who has honorably served in the Ohio Organized Militia in a full-time national guard capacity for more than 30 days in addition to the U.S. armed forces and the National Guard as under current law.

Under current law, an Ohio resident who receives a passing grade on a civil service examination is eligible to receive additional credit on the examination equal to 20% of the person's total grade if any of the following apply:

- The person has completed service in the uniformed services.
- The person has been honorably discharged from the uniformed services or transferred to a reserve component of the uniformed service with evidence of satisfactory service.
- The person is a member of a reserve component of the U.S. armed forces, including the Ohio National Guard, and has completed more than 180 days of active duty service pursuant to an executive order of the President of the United States or an act of the U.S. Congress.

Additionally, under current law, a person who passes a civil service examination can receive additional credit on the examination equal to 15% of the person's total grade if the person is a member in good standing of a reserve component of the U.S. armed forces, including the Ohio National Guard, and has successfully completed basic training.

The bill eliminates the different percentages of extra credit for which a person may be eligible and applies a single preference of 20% to an honorably discharged armed forces veteran or reservist, and to a serving reservist who is in good standing and has completed basic training. Additionally, the bill applies to the preference to both residents and nonresidents of Ohio.

Suspension of state purchasing and contracting requirements

(R.C. 125.04 and 125.061)

The bill authorizes the Department of Administrative Services (DAS) to suspend state purchasing and contracting requirements in current law for any state agency experiencing a "state procurement emergency." A "state procurement emergency" includes all of the following: (1) a threat to public health, safety, or welfare, (2) an immediate and serious need for supplies or services that cannot be met through normal procurement methods, and (3) a serious threat of harm to the functioning of state government, the preservation or protection of property, or the health or safety of any person.

Although somewhat similar to the current process for a suspension for the Emergency Management Agency and other agencies participating in response and recovery activities, this new suspension authority is permissible under emergency

conditions that do not rise to the level of an emergency declared by Congress, the President, or other chief executive.

For a state procurement emergency suspension, the director or administrative head of the state agency must request DAS to suspend the purchasing and contracting requirements in R.C. Chapter 125. (for example, competitive bidding). The request must include information detailing the immediacy of the emergency and a description of the necessary supplies or services that cannot be timely purchased through normal procurement methods required under state law. Notwithstanding the suspension authority, the bill provides that whenever practical, the agency must obtain a release and permit from DAS under current law in Chapter 125. before making purchases under this suspension authority. Additionally, before any purchases may be made DAS must send notice of the suspension, as approved by DAS, to the Director of Budget and Management and to members of the Controlling Board. The notice must provide details of the request and a copy of the director's approval.

Current law pertaining to the DAS joint purchasing program does not apply to purchases of supplies or services for state agencies acting under the bill's suspension authority.

Electronic licensing system

(R.C. 125.18; Section 207.40)

The bill allows the Office of Information Technology, an office within DAS, to assess a transaction fee, not to exceed $3.50, to an individual who uses an electronic licensing system operated by the Office to apply for or renew a license or registration. The bill allows the DAS Director to collect the fee or require a state agency for which the electronic licensing system is being operated to collect the fee. The bill requires amounts received from the fees to be deposited in the Professions Licensing System Fund, which is created by the bill for the purpose of operating the electronic licensing system.

Tenant improvement services

(R.C. 125.28)

The bill removes authorization for the DAS Director to provide minor construction project management services to any state agency, and instead authorizes the Director to provide tenant improvement services and to collect reimbursement costs for providing those services. The bill also requires money collected for those services to be deposited into the state treasury to the credit of the Building Management Fund. Under current law, money collected for minor construction project management must

be deposited to the credit of the Minor Construction Project Management Fund. The bill eliminates that Fund.

Statewide state agency data sharing program

(R.C. 125.32)

The bill allows DAS to establish an enterprise data management and analytics program to gather, combine, and analyze unspecified types of data provided by state agencies that participate in the program. The bill specifies the purposes of the program are to measure outcomes of state-funded programs, to develop policies to promote effective, efficient, and best use of state resources, and to identify, prevent, or eliminate fraudulent use of state funds, resources, or programs.

The bill requires a state agency to provide data for use under the program. Notwithstanding the entire Revised Code, a state agency's provision of data under the program is considered a permitted use under Ohio law and is not in violation of any contrary laws by providing the data.

The bill specifies that a state agency providing data under the program retains ownership over the data. The bill also nothwithstands the entire Revised Code to provide that only the state agency that provides data must comply with Ohio law regarding requests for records or information including, specifically, public records requests, subpoenas, warrants, and investigatory requests.

Participating state agencies must maintain confidentiality of data under the applicable laws. Employees of DAS and other state agencies who have access to data under the program are subject to any confidentiality requirements or duties that apply to the data when in the possession of the state agency that provided it. Results of the data analysis must be compared against the confidentiality laws that apply to the source data. The comparison must determine if the results of the data analysis retain any attributes of the source data that would result in the need to apply any confidentiality obligations to the data analysis that would have applied to the source data. If a data analysis does retain attributes of the source data and there is a conflict between which confidentiality obligation applies between the results of the data analysis and the source data, the data is subject to the most stringent confidentiality obligations that apply to the state agencies that provided the data.

In consultation with participating state agencies, the bill requires DAS to develop a data-sharing protocol to which participating state agencies are subject, and a security plan to state how data will be protected. The protocol must specify how participating state agencies may use confidential data in accordance with confidentiality laws that apply to the provided data, who has authority to access data gathered under the

program, and how participating state agencies must make, verify, and retain corrections to personal information gathered under the program.

The bill requires any collection of data derived under the program to comply with Personal Information Systems Law under R.C. Chapter 1347. The bill defines "system" as any collection or group of related records that are kept in an organized manner and that are maintained by a state or local agency, and from which personal information is retrieved by the name of the person or by some identifying number, symbol, or other identifier assigned to the person. "System" includes both records that are manually stored and records that are stored using electronic data processing equipment.

The bill also defines "personal information" as any information that describes anything about a person, or that indicates actions done by or to a person, or that indicates that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by, a name, identifying number, symbol, or other identifier assigned to a person.[1]

Antitrust review by DAS Director

(R.C. 125.92)

The bill requires the DAS Director to review and approve or disapprove certain board or commission actions that have been referred to the Director (see "**Reviewable actions**," below). Only certain entities may refer an action to the Director for review (see "**Parties**," below). The Director must adopt rules under the Administrative Procedure Act to implement and administer the bill's provisions.

Covered entities

Under the bill, "board or commission" generally means any multi-member body created by state law that licenses or otherwise regulates an occupation or industry to which at least one of the body's members belongs. The bill expressly includes all of the following boards and commissions in the definition:

[1] R.C. 1347.01, not in the bill.

Boards expressly subject to antitrust review				
Accountancy Board	Architects Board	Board of Embalmers and Funeral Directors	Board of Executives of Long-Term Services and Supports	Crematory Review Board
Motor Vehicle Dealers Board	Motor Vehicle Repair Board	Motor Vehicle Salvage Dealer's Licensing Board	Ohio Athletic Commission	Ohio Construction Industry Licensing Board
Ohio Landscape Architects Board	Ohio Real Estate Commission	Real Estate Appraiser Board	State Auctioneers Commission	State Behavioral Health and Social Work Board
State Cosmetology and Barber Board	State Board of Career Colleges and Schools	State Board of Education	State Board of Emergency Medical, Fire, and Transportation Services	Board of Nursing
State Board of Pharmacy	State Board of Registration for Professional Engineers and Surveyors	State Board of Sanitarian Registration	State Physical Health Services Board	State Dental Board
State Medical Board	State Veterinary Medical Licensing Board	State Vision and Hearing Professionals Board	State Chiropractic Board	

Reviewable actions

Under the bill, the Director must review board or commission actions referred to the Director that could be subject to state or federal antitrust law if undertaken by a private person or combination of private persons, including actions that directly or indirectly have the following effects:

- Fixing prices, limiting price competition, or increasing prices of goods or services provided by the occupation or industry that the board or commission regulates;

- Dividing, allocating, or assigning customers or markets in Ohio among the members of the occupation or industry that the board or commission regulates;

- Excluding present or potential competitors from the occupation or industry that the board or commission regulates;

- Limiting in Ohio the output or supply of goods or services provided by members of the occupation or industry that the board or commission regulates.

The bill exempts the following actions from review by the Director, unless the action is referred to the Director by a party granted a stay in a pending antitrust suit (see "**Exhaustion and stay**," below):

- Denying an application for a license because the applicant has violated Ohio law or administrative rules.

- Taking disciplinary action against an individual or corporation that is licensed by a board or commission for violations of Ohio law or administrative rules.

Under the bill, an action is not subject to review by the Director if participation in the action is limited by statute to only the public members of the board or commission.

Parties

The bill allows the following parties to refer an action to the Director for review:

- A board or commission that has taken or is proposing to take an action;

- A person who is affected or is likely to be affected by an action taken or proposed to be taken by a board or commission;

- A person who has been granted a stay by a court (see "**Exhaustion and stay**," below).

Referral of an action or proposed action to the Director for review does not constitute an admission that the action violates state or federal law.

Procedure

A board or commission or person who refers an action to the Director for review under the bill must prepare a brief statement explaining the action and describing its consistency or inconsistency with state or federal antitrust law and file it with the Director. If the board or commission's action or proposed action is in writing, the party referring the action must attach it to the party's statement.

The Director must determine whether a referred action is supported by, and consistent with, a clearly articulated state policy expressed in the statutes creating the board or commission or the statutes and rules setting forth the board's or commission's powers, authority, and duties. If the Director finds the action to be consistent with a clearly articulated state policy, the Director must then determine whether the clearly articulated state policy is merely a pretext by which the board or commission enables the members of the occupation or industry the board or commission regulates to engage in anticompetitive conduct that could be subject to antitrust law if undertaken by private persons.

The Director must approve an action if the Director determines that the action is consistent with a clearly articulated state policy, and the state policy is not a pretext for the members of the regulated profession to engage in anticompetitive conduct. The Director must disapprove an action if the Director determines that the action is not consistent with a clearly articulated state policy, or that the state policy is a pretext for the members of the regulated profession to engage in anticompetitive conduct.

A board or commission may proceed with or continue an action approved by the Director. If the Director disapproves an action, the action is void.

The Director must prepare a written memorandum that explains the Director's approval or disapproval. The Director must transmit a copy of the memorandum to all parties involved in the review and post it to the DAS website.

A person affected by a board's or commission's action, or who is likely to be affected by a proposed action, must refer the action to the Director for review within 30 days after receiving notice of the action. If a person refers an ongoing or proposed action to the Director for review, the board or commission must cease the action or refrain from taking the action until the Director prepares and transmits a memorandum approving the action.

Exhaustion and stay

Generally, the bill requires any person who has standing to commence and prosecute a state or federal antitrust action against a board or commission to seek review by the Director before pursuing the antitrust claim. The requirement does not apply to the Attorney General, a county prosecutor, or any assistant prosecutor designated to assist a county prosecutor.

If an antitrust suit is pending in a court, but the action that forms the basis for the suit has not been reviewed by the Director, then the state, a board or commission, or a member of a board or commission may request a stay of the suit. A court must grant the stay unless the lawsuit was initiated by the Attorney General, a county prosecutor, or

an assistant prosecutor designated to assist a county prosecutor. Any stay granted under the bill continues until the Director has completed and transmitted the memorandum described under "**Procedure**," above.

Repeal of Ohio Building Authority Law

(R.C. 123.011 and 154.11; repealed R.C. Chapter 152.)

Background

H.B. 153, the Main Operating Budget enacted by the 129th General Assembly, did both of the following in *uncodified* law:

--Transferred the building and facility operations and management functions of the Ohio Building Authority (OBA) to DAS;

--Superseded and replaced OBA with the Treasurer of State as the issuing authority for obligations to finance capital facilities for housing branches and agencies of state government.

The OBA Law (R.C. Chapter 152.), however, was retained.

The bill

The bill repeals the OBA Law, except for the provision that permits, under certain circumstances, firearms in motor vehicles in the Riffe Center parking garage. It also codifies DAS's authority to charge rentals for the use of its buildings and other properties and to provide its tenants with medical, food, and other services.

DEPARTMENT OF AGING

State Long-term Care Ombudsman Program

- Requires the State Long-term Care Ombudsman to conduct advocacy visits with long-term care providers, residents, or recipients.

- Prohibits a long-term care provider, provider employee, or individual from willfully interfering with an Ombudsman representative in the performance of any duties or exercise of any rights.

- Specifies that certain actions under the State Long-term Care Ombudsman Program may be taken only to the extent permitted by federal law.

- Eliminates provisions regarding investigations by the Department of Aging of alleged violations of the long-term care facility Residents' Rights Law, but retains the State Ombudsman's role as a residents' rights advocate.

- Modifies the duties of the Department or a program administrator to provide services under the Long-term Care Consultation Program.

- Eliminates provisions specifying the categories of individuals to whom a long-term care consultation must or may be provided and the time frames in which the consultation must be provided and requires those decisions to be made in accordance with rules to be adopted by the Director of Aging.

Long-term Care Consumer Guide fee

- Authorizes the Department to establish a deadline for payment by long-term care facilities of annual fees for publication of the Ohio Long-term Care Consumer Guide.

- Authorizes the Department to impose a late penalty if the annual fee is not received within 90 days of any deadline it establishes.

Board of Executives of Long-term Services and Supports

- Specifies that the representatives of the Department of Health and Office of the State Long-term Care Ombudsman, respectively, are nonvoting members on the Board of Executives of Long-term Services and Supports.

- Specifies that a majority of the voting members of the Board constitutes a quorum, and requires a quorum for the Board to act.

- Expands the Board's authority to create education and training programs for nursing home administrators.

- Revises the authority of the Board to take disciplinary action against a nursing home administrator by allowing the Board to impose civil penalties and fines, revising fine amounts, and permitting, rather than requiring, a court to fine or imprison a person for a violation.

Assisted Living Program settings

- Authorizes the Director of Aging to specify additional settings in which home and community-based services may be provided under both the Medicaid-funded and state-funded parts of the Assisted Living Program.

References to defunct programs

- Eliminates references to the defunct Ohio Transitions II Aging Carve-Out Program.

- Eliminates references to the defunct Choices Program.

- Repeats, in an uncodified section of the bill, the authority the Department of Medicaid already has in ongoing law to provide for the Department of Aging to assess whether Medicaid applicants and recipients need a nursing facility level of care.

- Repeats, in an uncodified section of the bill, a requirement the Department of Aging already has in ongoing law to provide long-term care consultations to help individuals plan for their long-term health care needs.

- Repeats, in an uncodified section of the bill, the duty the Department of Aging already has in ongoing law to administer the PASSPORT Program, Assisted Living Program, and PACE.

- Permits the Department of Aging to design and utilize a method of paying for PASSPORT administrative agency operations that includes a pay-for-performance incentive component.

- Extends the authority of the Office of the State Long-term Care Ombudsman to MyCare Ohio.

State Long-term Care Ombudsman Program

(R.C. 173.01, 173.14, 173.15, 173.17, 173.19, 173.20, 173.21, 173.22, 173.24, 173.28, 173.99, and 5101.61)

The bill makes several changes to the law governing the State Long-term Care Ombudsman Program. At present, the program receives and investigates complaints relating to long-term care, including care provided to residents of long-term care facilities and to recipients in their own homes or community care settings. The program does not regulate long-term care facilities or home or community care services providers, but assists in the resolution of complaints brought by facilities, providers, residents, recipients, or their families.[2]

Advocacy visits

Under the bill, the State Long-term Care Ombudsman must conduct advocacy visits with long-term care providers, residents, or recipients. The bill also requires the Ombudsman to authorize other representatives of the Office of the State Long-term Care Ombudsman to conduct such visits.

"Advocacy visit" is defined as a visit to a long-term care provider, resident, or recipient when the purpose of the visit is one or more of the following:

(1) To establish a regular presence that creates awareness of the availability of the Office;

(2) To increase awareness of the services the Office provides;

(3) To address any other matter not related to the representative's investigation of a specific complaint.

The bill also provides that an advocacy visit may unexpectedly involve addressing uncomplicated complaints or lead to an investigation of a complaint when needed.

Complaints

Existing law requires the State Ombudsman and regional long-term care ombudsman programs to receive, investigate, and attempt to resolve complaints made by residents, recipients, or their representatives, sponsors, or long-term care providers. Such complaints must relate to the health, safety, welfare, or civil rights of a resident or

[2] For more information on the State Ombudsman, *see* <https://aging.ohio.gov/services/ombudsman/>.

recipient or to an action, inaction, or decision on the part of a specified entity adversely affecting the health, safety, welfare, or right of resident or recipient. With respect to the entities identified under current law, the bill includes Medicaid managed care organizations.

Willful interference

The bill prohibits a long-term care provider or other entity, provider or entity employee, or individual from engaging in willful interference. For the purposes of the bill, "willful interference" is defined as any action or inaction that is intended to prevent, interfere with, or impede a representative of the Office of the State Long-term Care Ombudsman from exercising any of the rights or performing any of the duties of an ombudsman.

Any individual or entity who engages in willful interference is subject to a criminal or civil penalty. In lieu of a fine not to exceed $500 for each violation that may be imposed for a criminal offense, the Director of Aging may impose a fine not to exceed $500 for each day the violation continued. The Director must do so in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

Private communication and access rights

In order to fulfill the duties of the Office of the State Long-term Care Ombudsman, current law grants a representative of the Office with the right to private communication with residents, recipients, and their sponsors as well as the right of access to long-term care facilities and sites. Existing law also provides for the imposition of civil and criminal penalties if a representative is denied communication or access. The bill clarifies this law by specifically prohibiting a long-term care provider or other entity, provider or entity employee, or individual from knowingly denying a representative of the Office the right of private communication with a resident, recipient, or sponsor or the right of access to any facility or site.

Retaliation

The bill expands the law prohibiting long-term care providers, other entities, or provider or entity employees from retaliating against residents or recipients for providing information to or participating in the registering of a complaint with the Office in the following ways:

(1) It prohibits any individual from engaging in retaliatory actions.

(2) It also prohibits retaliation against provider or entity employees, representatives of the Office, or other individuals.

(3) It includes discharge and termination of employment within the list of prohibited retaliatory actions.

Delegation

The bill prohibits the State Long-term Care Ombudsman from delegating to a staff member any authority or duty that federal law requires to be exercised or performed by the Ombudsman.

Suspected violations of law

Ohio law permits suspected violations of certain laws discovered during the course of an investigation conducted by the State Ombudsman or any other representative of the Office to be reported. With respect to the law governing nursing homes or residential care facilities, suspected violations are to be reported to the Ohio Department of Health. Any suspected criminal violation is to be reported to the Ohio Attorney General or other appropriate law enforcement authority. The bill broadens this law by authorizing any suspected violation of state law discovered during the course of an investigation or advocacy visit to be reported to an appropriate authority. However, the bill specifies that this authority to report is limited to the extent permitted by federal law.

Abuse, neglect, or exploitation

The bill exempts the State Ombudsman and representatives of the Office from the law requiring certain individuals to report suspected adult abuse, neglect, or exploitation to county departments of job and family services. Permission to report is retained, but the bill specifies that the authority is limited to the extent permitted by federal law.

Provider records

With respect to giving oral consent for the State Ombudsman or representative of the Office to access a resident's or recipient's records, the bill eliminates the requirement that, in the case of records maintained by a long-term care provider, the resident's or recipient's oral consent must be witnessed in writing by an employee of the long-term care provider. In a related provision, it eliminates the requirement that each long-term care provider designate one or more employees to be responsible for witnessing the giving of oral consent.

The bill also eliminates the requirement that the State Ombudsman take necessary action to return records obtained from a long-term care provider during the course of an investigation to the provider no later than three years after the investigation's completion.

Investigative files

The bill specifies that any records relating to advocacy visits made by representatives of the Office contained within the Office's investigative files are not public records subject to inspection. It also exempts from the law governing the maintenance of personal information systems by state or local agencies the investigative files of the Office, including any proprietary records of a long-term care provider or any records relating to advocacy visits made by representatives of the Office contained within such files.

Annual reports

Current law requires the State Ombudsman to prepare an annual report regarding the types of problems experienced by residents and recipients and the complaints made by or on their behalf. The report must be submitted to certain officials, including the Directors of the Department of Health and the Department of Job and Family Services. Under the bill, the report must also be submitted to the Medicaid Director and Director of the Department of Mental Health and Addiction Services.

Residents' rights and the Ohio Department of Aging

The bill eliminates provisions requiring the Department of Aging to conduct investigations related to grievances filed by or on behalf of nursing home and residential care facility residents regarding alleged violations of Ohio's Residents' Rights Law. Under law unchanged by the bill, these grievances are investigated by the Ohio Department of Health, and the State Ombudsman continues to serve as a residents' rights advocate.

Long-term Care Consultation Program

(R.C. 173.42 and 173.424)

The bill modifies the Department's responsibilities regarding the Long-term Care Consultation Program. Under the program, individuals or their representatives are provided with information through professional consultations about options available to meet long-term care needs and about factors to consider in making long-term care decisions.

As part of the Program, current law requires the Department or a program administrator to provide the following services: (1) assist an individual or an individual's representative in accessing all appropriate sources of care and services for which the individual is eligible and (2) provide for the conduct of assessments or evaluations and the development of individualized plans of care or services. Under the

bill, the Department or a program administrator is permitted, but not required, to provide those services as part of the program.

The bill eliminates provisions that specify which individuals must be given a long-term care consultation. Under current law, a consultation must be given to the following: individuals who apply or indicate an intention to apply for admission to a nursing facility, individuals who request a consultation, and individuals identified by the Department or a program administrator as being likely to benefit from a consultation. The bill instead requires a consultation to be provided to each individual for whom the Department or a program administrator determines such a consultation is appropriate and permits the Director of Aging to adopt rules specifying criteria for identifying such individuals.

The bill eliminates provisions specifying time frames in which the consultations must be provided and completed. Under current law, a consultation must generally be provided within five calendar days after the Department or program administrator receives notice that an individual must be provided with a consultation, unless the individual has applied for Medicaid and the consultation is being provided within the time frames established for a level of care assessment. The bill instead requires a consultation to be provided or completed within time frames that are to be established in rules.

The bill modifies the Director's duty to adopt rules to implement the Long-term Care Consultation Program by making the duty mandatory rather than permissive. The bill permits the rules to specify any standards or procedures the Director considers necessary.

Long-term Care Consumer Guide fee

(R.C. 173.48)

The bill authorizes the Department to establish by rule a deadline for payment of annual fees for the Ohio Long-term Care Consumer Guide. Current law requires each long-term care facility to pay an annual fee for the Guide, but does not specify a deadline. Under the bill, if the annual fee is not paid within 90 days of any deadline established by the Department, a long-term care facility may be required to pay a late penalty equal in amount to the annual fee.

Current law provides that Consumer Guide fees paid by nursing facilities that participate in Medicaid are to be reimbursed by the Medicaid program. The bill extends the reimbursement to the late penalty, but provides for both the fee and the late penalty that reimbursement is to be made "unless prohibited by federal law." Like fees, late penalties are to be credited to the existing Long-term Care Consumer Guide Fund.

Board of Executives of Long-term Services and Supports

Nonvoting board members

(R.C. 4751.03)

The bill specifies that the representatives of the Department of Health and the Office of the State Long-term Care Ombudsman are nonvoting members on the Board of Executives of Long-term Services and Supports and only serve in an advisory capacity. Accordingly, the bill clarifies that a majority of the voting members of the Board constitutes a quorum, and requires a quorum for the Board to act. Under current law, the representatives of the Department of Health and Office of the State Long-term Care Ombudsman are both voting members.

Education and training programs for nursing home administrators

(R.C. 4751.04, 4751.043, 4751.044, and 4751.14)

The bill modifies the Board's duty to create education, training, and credentialing opportunities. Current law requires the Board to create such opportunities for nursing home administrators and others in leadership positions who practice in long-term services and supports settings. The bill adds persons interested in becoming licensed nursing home administrators. It also adds credentialed individuals to the list of individuals for whom the Board must identify appropriate core competencies and areas of knowledge.

The bill requires the Board to approve continuing education courses for nursing home administrators and permits training and education programs developed by the Board to be conducted in person or through electronic media. It also permits the Board to establish and charge a fee for the programs and for approving the programs. The fees must be deposited into the Board of Executives of Long-term Services and Supports Fund.

The bill permits the Board to enter into a contract with a government or private entity to develop and conduct the education and training programs. The contract may authorize the entity to pay the costs associated with the programs and to collect any program enrollment fees as all or part of the entity's compensation under the contract.

Disciplinary authority

(R.C. 4751.04, 4751.10, 4751.14, and 4751.99)

The bill revises the authority of the Board to take disciplinary action against a nursing home administrator. Under the bill the Board may impose a civil penalty, fine,

or any other Board-authorized sanction against a nursing home administrator for failure to substantially conform to Board standards. The sanctions added by the bill are in addition to the Board's authority under continuing law to revoke or suspend a nursing home administrator's license or registration. The bill also eliminates current law's requirement that disciplinary proceedings to suspend or revoke a license or registration be instituted by the Board or begin by filing written charges with the Board.

The bill permits, rather than requires as under current law, a court to fine or imprison a person who violates the Nursing Home Administrator Licensing Law. The bill revises the fine amounts to not more than $500 for each violation. Currently, the fine amounts are $50 to $500 for a first violation and $100 to $500 for each subsequent violation. Additionally, the bill specifies that a court's existing authority to fine or imprison a person for violating the Law does not preclude the Board from imposing other civil penalties or fines. Any civil penalties and fines collected by the Board under the bill must be deposited into the existing Board of Executives of Long-term Services and Supports Fund.

Assisted Living Program settings

(R.C. 173.541 and 173.544)

Current law requires individuals to reside in residential care facilities while receiving home and community-based services under the Medicaid-funded or state-funded parts of the Assisted Living Program. This includes (1) residential care facilities owned or operated by metropolitan housing authorities that have contracts with the U.S. Department of Housing and Urban Development to receive operating subsidies or rental assistance for residents and (2) county and district homes licensed as residential care facilities. Under the bill, to qualify for either part of the Assisted Living Program, individuals must reside in those types of residential care facilities or any other setting the Director of Aging specifies in rules.

References to defunct programs

Ohio Transitions II Aging Carve-Out Program

(R.C. 5166.01, 5166.16, and 5166.30; repealed R.C. 5166.13)

The bill eliminates references to the defunct Ohio Transitions II Aging Carve-Out Program. The Program was a Medicaid waiver program administered by the Department of Aging. The federal waiver authorizing the Program expired July 1, 2015, and persons enrolled in it were allowed to transfer to the PASSPORT Program, which is

another part of the Medicaid program that covers home and community-based services pursuant to a federal waiver.[3]

Choices Program

(R.C. 173.42, 173.51, 173.55, and 5166.16; repealed R.C. 173.53)

The bill eliminates references to the defunct Choices Program, which was a Medicaid waiver program administered by the Department of Aging. The Program ceased to operate on June 30, 2014.

Nursing facility level of care assessments

(Sections 209.20 and 809.10)

The bill permits the Department of Medicaid to enter into an interagency agreement with the Department of Aging under which the Department of Aging assesses whether Medicaid applicants and recipients need a nursing facility level of care. Although this provision of the bill has no effect after June 30, 2019, the Department of Medicaid has this authority on an ongoing basis under continuing law.[4]

Long-term care consultations

(Sections 209.20 and 809.10)

The bill requires the Department of Aging to provide long-term care consultations to help individuals plan for their long-term health care needs. Although this provision of the bill has no effect after June 30, 2019, the Department has this authority on an ongoing basis under continuing law.[5]

Administration of parts of the Medicaid program

(Sections 209.20 and 809.10)

The bill requires the Department of Aging to administer the following parts of the Medicaid program through an interagency agreement with the Department of Medicaid: the PASSPORT Program, Assisted Living Program, and PACE. Although this

[3] Amendment to the Ohio Transitions II Aging Carve-Out Program, approved September 15, 2014, by the U.S. Department of Health and Human Services.

[4] R.C. 5165.04, not in the bill.

[5] R.C. 173.42.

provision of the bill has no effect after June 30, 2019, the Department of Aging has this duty on an ongoing basis under continuing law.[6]

Performance payment method for PASSPORT administrative agencies

(Sections 209.20 and 809.10)

The bill permits the Department of Aging to design and utilize a method of paying for PASSPORT administrative agency operations that includes a pay-for-performance incentive component. A PASSPORT administrative agency would earn an incentive payment by achieving consumer and policy outcomes. This provision of the bill has no effect after June 30, 2019.

State Long-term Care Ombudsman authority regarding MyCare Ohio

(Section 209.30)

The bill extends the authority of the Office of the State Long-term Care Ombudsman to MyCare Ohio while that program is operated. MyCare Ohio, called the Integrated Care Delivery System in the Revised Code, is a demonstration project the Department of Medicaid operates. Its purpose is to test and evaluate the integration of the care that individuals eligible for both Medicaid and Medicare (i.e., dual eligible individuals) receive under the programs.

[6] R.C. 173.50, 173.52, and 173.54, none of which are in the bill.

DEPARTMENT OF AGRICULTURE

Nursery stock collector or dealer license fee exemption

- Revises an exemption from the nursery stock collector or dealer license fee for a person who is not a nurseryman, dealer, or collector by limiting the exemption to persons who:

  --Conduct the sale of nursery stock as a fund raiser for a nonprofit organization for no more than two days a year; and

  --Make no more than $2,000 in revenue from the sale of nursery stock during a calendar year, rather than $200 as in current law.

Bee colony and equipment inspection fee allocation

- Reallocates money generated from inspection fees charged for the inspection of bee colonies and beekeeping equipment to the existing Plant Pest Program Fund rather than the General Revenue Fund as provided in current law.

Interstate Pest Control Compact

- Eliminates the Interstate Pest Control Compact, which serves to remedy funding restraints, bridge the jurisdictional gaps that exist among federal and state governments, and address the realities of dynamic plant pest infestations or outbreaks.

Appraisal of animals ordered destroyed

- Allows the Director of Agriculture to order the destruction of an animal because of disease before it is appraised, rather than prohibiting the destruction order until after appraisal as under current law.

- Requires the Director to take an inventory of each animal that is destroyed and record sufficient information in order for an appraisal to be conducted.

- Revises procedures in current law that authorize the owner of an animal that is ordered destroyed to have the deceased animal appraised, to request an appraisal by the Department of Agriculture, and, if the two appraisals are not in agreement, to have a third appraisal conducted by a disinterested party.

- Requires the owner of an animal to have an appraisal conducted and to request an appraisal by the Department within 30 days of the destruction order.

Captive deer licenses – civil penalties

- Authorizes the Director to assess a civil penalty for violations of the law that requires captive deer propagators and animal preserves with captive deer to be licensed.

- Specifies that the civil penalties cannot exceed $500 for a first offense in a five-year time period, $2,500 for a second offense within a five-year time period, and $10,000 for a third or subsequent offense within a five-year time period.

Food processing establishment registration

- Authorizes the Director to assess a civil penalty against a person who is operating a food processing establishment (for example: a confectionery, cannery, or bottler) without registering the establishment with the Director.

- Specifies that the civil penalty cannot exceed $500 for a first offense within a five-year time period, $1,500 for a second offense within a five-year time period, or $5,000 for a third or subsequent offense within a five-year time period.

- Expands the exemption from the payment of a food processing establishment registration fee to all bakeries, rather than solely home bakeries as under current law.

Wine tax diversion to Ohio Grape Industries Fund

- Extends through June 30, 2019, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund.

Ohio Agriculture Scholarship Program – Agro Ohio Fund

- Alters the purposes for which money generated from the registration and renewal of "Ohio Agriculture" license plates may be used by requiring the Director to use all of the money for promoting agriculture, rather than requiring the money also to be used to provide agriculturally related college scholarships.

- Eliminates the Ohio Agriculture License Plate Scholarship Program and the Ohio Agriculture License Plate Scholarship Fund Board, which makes decisions relating to the Program.

- Requires money generated from the registration and renewal of "Ohio Agriculture" license plates to be deposited in the Agro Ohio Fund rather than the Ohio Agriculture License Plate Scholarship Fund, which is eliminated by the bill.

Uses of money in the Agro Ohio Fund

- Revises the purposes for which money in the Agro Ohio Fund may be used, including eliminating the Agro Ohio Fund grant program under which the Director awards grants for the purpose of promoting agriculture in Ohio.

Animal and Consumer Protection Laboratory Fund

- Allocates money generated from the registration and renewal of livestock brands to the existing Animal and Consumer Protection Laboratory Fund, which is used to operate the Department's animal industry laboratory and consumer protection laboratory, rather than the Brand Registration Fund.

- Eliminates the Brand Registration Fund, which is used to pay the costs and expenses of administering the livestock brand registration program.

Nursery stock collector or dealer license fee exemption

(R.C. 927.55)

The bill revises an exemption from the nursery stock (plants, shrubs, and trees) collector or dealer license fee for a person who is not a nurseryman, dealer, or collector by limiting the exemption to persons who:

(1) Conduct the sale of nursery stock as a fund raiser for a nonprofit organization for no more than two days a year; and

(2) Make no more than $2,000 in revenue from the sale of nursery stock during a calendar year, rather than $200 as in current law.

Bee colony and equipment inspection fee allocation

(R.C. 909.10)

The bill reallocates money generated from inspection fees charged for the inspection of bee colonies and beekeeping equipment to the existing Plant Pest Program Fund rather than the General Revenue Fund as provided in current law. The Department of Agriculture uses money in the Plant Pest Program Fund to administer the law governing nursery stock, plant pests, and apiaries.

Under continuing law, the Director of Agriculture may issue a permit authorizing the shipment or movement of bee colonies or used beekeeping equipment

into Ohio if the state or country of origin has no inspection facilities. The Department must inspect the colonies or equipment upon entry into Ohio and charge an inspection fee. The fee is 50¢ for each colony plus a flat rate of $20 per day.

Interstate Pest Control Compact

(Repealed R.C. 921.60 to 921.65)

The bill eliminates the Interstate Pest Control Compact and all provisions associated with implementing the Compact. The Compact was formed in 1968 with the assistance of the Council of State Governments. It serves to remedy funding restraints, bridge the jurisdictional gaps that exist among federal and state governments, and address the realities of dynamic plant pest infestations or outbreaks. According to the Department, the Compact is being eliminated because the functions authorized under the Compact are now performed under the National Association of State Departments of Agriculture Pest Eradication Assistance and Resources Program.

Appraisal of animals ordered destroyed

(R.C. 941.12 and 941.55)

The bill revises the appraisal procedures that apply to an owner of an animal that is ordered destroyed by the Director because the animal is diseased. The appraisal is used to determine the amount of indemnification for the animal that the person may claim, which is capped under current law at $50 per head for a grade animal and $100 per head for a purebred animal. The bill also allows the Director to order the destruction of an animal before it is appraised, which under current law is prohibited.

Under the bill, if an animal is ordered destroyed by the Director, the Director must take an inventory of the animal that is destroyed and record sufficient information in order for an appraisal to be conducted, if necessary. Similar to current law, the owner of the animal must do both of the following:

(1) Request the information recorded by the Director, as specified above, and have an appraisal of the animal conducted at the owner's expense; and

(2) Request that the Department conduct an appraisal of the animal.

If the owner and the Department do not agree on the value of the animal ordered destroyed, the two must select a third disinterested person, at the owner's expense, to appraise the animal. The appraisal conducted by that person is the value of the animal for purposes of indemnification.

The bill requires the owner of an animal to have an appraisal conducted and request an appraisal by the Department within 30 days of the destruction order. Otherwise, the owner waives the right to indemnification for that animal.

Captive deer licenses – civil penalties

(R.C. 943.23)

The bill authorizes the Director, after providing an opportunity for a hearing under the Administrative Procedure Act, to assess a civil penalty against a person who has violated or is in violation of the law requiring animal preserves with captive deer and captive deer propagators to be licensed. It establishes the amount of the civil penalties as follows:

(1) If within five years of the violation, the Director has not assessed a civil penalty against the person who has committed such a violation, up to $500.

(2) If within five years of the violation, the Director has assessed one civil penalty against the person who has committed such a violation, up to $2,500.

(3) If within five years of the violation, the Director has assessed two or more civil penalties against the person who has committed such a violation, up to $10,000.

Money collected from civil penalties assessed under the bill must be credited to the existing Captive Deer Fund, which the Director uses to administer the captive deer program.

Food processing establishment registration

(R.C. 3715.041)

Civil penalties

The bill enhances the Director's enforcement authority regarding the registration of food processing establishments by authorizing the Director to assess a civil penalty against a food processing establishment that is not registered under current law. A food processing establishment is a premises or part of a premises where food is processed, packaged, manufactured, or otherwise held or handled for distribution to another location or for sale at wholesale. Confectioneries, canneries, and bottlers are examples of food processing facilities.

If the Director finds that a person is operating a food processing establishment without registering the establishment, the bill requires the Director to issue a letter of warning to the person and give the person ten days to register the establishment. If the

person fails to register the establishment within the ten-day time period, the Director may assess a civil penalty against the person. If the Director assesses a civil penalty, the Director must do so as follows:

(1) If, within five years of the issuance of the warning letter, the Director has not previously assessed a civil penalty against the person, in an amount not exceeding $500;

(2) If, within five years of the issuance of the warning letter, the Director has previously assessed one civil penalty against the person, in an amount not exceeding $1,500; or

(3) If, within five years of the issuance of the warning letter, the Director has previously assessed two or more civil penalties against the person, in an amount not exceeding $5,000.

Exemptions

Existing law exempts home bakeries from the requirement to pay the fee for registering as a food processing establishment. The bill expands the exemption to include all bakeries. The existing annual registration fee is between $50 and $300, depending on the square footage of the establishment.

Wine tax diversion to Ohio Grape Industries Fund

(R.C. 4301.43)

The bill extends through June 30, 2019, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund. Continuing law imposes a tax on the distribution of wine, vermouth, and sparkling and carbonated wine and champagne at rates ranging from 30¢ per gallon to $1.48 per gallon. From the taxes paid, a portion is credited to the Fund for the encouragement of the state's grape and wine industry. The remainder is credited to the GRF.

Ohio Agriculture Scholarship Program – Agro Ohio Fund

(R.C. 901.04, 4503.503, and 4503.77; repealed R.C. 901.90)

The bill alters the purposes for which money generated from the registration and renewal of "Ohio Agriculture" license plates may be used. Under the bill, the Director must use the money solely for promoting agriculture in Ohio. Current law also requires the money to be used for the Ohio Agriculture License Plate Scholarship Program, which benefits students who attend an institution of higher learning located in Ohio and who are enrolled in a program that is related to agriculture. For purposes of the Program, the Ohio Agriculture License Plate Scholarship Fund Board must adopt rules

governing all aspects of the Program, including eligibility requirements, the application process, scholarship amounts, and any requirements a student must meet in order to retain a scholarship. The bill eliminates the Board, the Scholarship Program, the Ohio Agriculture License Plate Scholarship Fund, and requires money generated from the license plates to be deposited in the existing Agro Ohio Fund.

Uses of money in the Agro Ohio Fund

The bill revises the allowable uses of money credited to the Agro Ohio Fund by first eliminating the Director's authority to use money in the Fund to administer a grant program to promote agriculture in Ohio. Second, the bill eliminates the requirement that money deposited in the Fund that is derived from the proceeds of land escheated to the state in rural areas be used for the "benefit of agriculture." The bill then retains two purposes for which the money may be used and adds an additional purpose as follows:

(1) If the money is from a federal source, in accordance with the terms that federal law prescribes (retained from current law);

(2) If the money is derived from the registration and renewal of "Ohio Sustainable Agriculture" license plates, for the benefit of sustainable agriculture markets in Ohio (retained from current law);

(3) For all other money deposited in the Fund, for the purpose of promoting agriculture in Ohio as determined by the Director.

Animal and Consumer Protection Laboratory Fund

(R.C. 947.06 and 901.43)

The bill allocates money generated from the registration and renewal of livestock brands to the existing Animal and Consumer Protection Laboratory Fund, rather than to the Brand Registration Fund. It also eliminates the Brand Registration Fund, which currently is used to pay the costs and expenses of administering the Department's livestock brand registration program. The Animal and Consumer Protection Laboratory Fund is used by the Department to pay the expenses necessary to operate the animal industry laboratory and the consumer protection laboratory, including the purchase of supplies and equipment.

OHIO AIR QUALITY DEVELOPMENT AUTHORITY

- Repeals the authority of the Ohio Air Quality Development Authority (OAQDA) to issue bonds to fund loans and grants for advanced energy projects, but retains OAQDA authority to issue such loans and grants from related funds.

- Clarifies that bonds and notes issued by the OAQDA for air quality projects are not general obligations.

Repeal of bond-issuing authority for advanced energy projects

(R.C. 166.08, 166.11, and 3706.27; repealed R.C. 3706.26)

The bill repeals the authority of the Ohio Air Quality Development Authority (OAQDA) to issue bonds to fund loans and grants for advanced energy projects. An advanced energy project is any technologies, products, activities, or management practices or strategies that facilitate the generation or use of electricity or energy and that reduce or support the reduction of energy consumption or support the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users.[7]

Under continuing law, OAQDA retains authority to make loans and provide grants for advanced energy projects from any money remaining in the Advanced Energy Research and Development Taxable Fund (for loans) or the Advanced Energy Research and Development Fund (for grants).[8] These funds are currently funded by the bonds that the bill no longer allows to be issued. Current law also permits some of the proceeds from the state's transfer to JobsOhio of spirituous liquor distribution to go to the two advanced energy funds.[9]

Clarification regarding bonds and notes for air quality projects

(R.C. 3706.05)

The bill clarifies that bonds and notes issued by the OAQDA for air quality projects are not general obligations. It also emphasizes that the bonds and notes are payable *solely* out of OAQDA revenues.

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[7] R.C. 3706.25, not in the bill.

[8] R.C. 166.30, not in the bill.

[9] R.C. 4313.02(B)(3), not in the bill.

- Requires the Attorney General to notify the Director of the Office of Budget and Management (OBM) of the amount of money to be collected or received under, and the terms of, a court order naming Ohio or a state agency or officer as the recipient of the money.
- Provides for the distribution and transfer from the Attorney General Court Order Fund to the appropriate fund of the money ordered by a court to be paid to Ohio or a state agency or officer.
- Prohibits state agencies from agreeing to any monetary settlement that obligates payments from any fund within the state treasury without consulting with the OBM Director.

Monetary settlements for Ohio or state agencies

(R.C. 109.112 and 126.071)

The bill requires the Attorney General to notify the Director of the Office of Budget and Management (OBM) of the amount of any money to be collected or received under, and the terms of, a court order, if Ohio or any state agency or officer is named as the recipient of the money. Under the bill, the OBM Director must determine, in consultation with the Attorney General, the appropriate distribution of the money. Upon its collection or receipt, the Attorney General must transfer the money from the Attorney General Court Order Fund to the appropriate fund (or funds) as determined by the OBM Director. Current law requires all money to be received or secured by, or delivered to, the Attorney General as a result of a court order to be deposited into the Attorney General Court Order Fund. The money in the Fund, including any investment earnings, must only be used to make payments as directed in the court order.[10]

The bill also prohibits state agencies from agreeing to any monetary settlement that obligates payments from any fund within the state treasury without consulting with the OBM Director.

[10] R.C. 109.111, not in the bill.

- Requires state agencies and state issuers seeking changes to certain state public obligations laws to timely submit those changes to the Director of Budget and Management for review and comment.

- Authorizes the Director to correct accounting errors committed by any state agency or state institution of higher education.

- Permits the Director, under certain circumstances, to transfer interest earned by any state fund to the GRF.

- Authorizes the Director, during the biennium ending June 30, 2019, to transfer up to $200 million in cash to the GRF from non-GRF funds that are not constitutionally restricted.

- Appropriates any money the Controlling Board approves for expenditure, or any increase in appropriation the Controlling Board approves, pursuant to existing law.

- Abolishes various uncodified funds.

Review of public obligation law changes

(R.C. 126.11)

The bill requires state agencies or state issuers seeking new legislation or changes to existing law relating to public obligations for which the state or a state agency is the direct obligor, or obligor on any backup security or related credit enhancement facility, to timely submit the legislation or changes to the Director of Budget and Management for review and comment. For this purpose, "public obligations" means obligations of a public issuer to make payments under installment sale, lease, lease purchase, or similar agreements, which obligations may bear interest or interest equivalent.[11]

[11] R.C. 133.01(GG)(2), not in the bill.

Correction of accounting errors

(R.C. 126.22)

The bill authorizes the Director to correct accounting errors committed by any state agency or state institution of higher education, including, the reestablishment of encumbrances cancelled in error.

Transfers of interest to the GRF

(Section 512.10)

The bill permits the Director, through June 30, 2019, to transfer interest earned by any state fund to the GRF as long as the source of revenue of the fund is not restricted or protected under the Ohio Constitution or federal law.

Transfers of non-GRF funds to the GRF

(Section 512.20)

The bill authorizes the Director, during the biennium ending June 30, 2019, to transfer up to $200 million in cash to the GRF from non-GRF funds that are not constitutionally restricted.

Expenditures and appropriation increases approved by Controlling Board

(Section 503.110)

The bill states that any money the Controlling Board approves for expenditure, or any increase in appropriation the Controlling Board approves, as permitted under existing law[12] is hereby appropriated for the period ending June 30, 2019.

Various uncodified funds abolished

(Section 512.90)

The bill requires the Director to abolish various uncodified funds pertaining to certain state agencies, as indicated in the bill, after (1) transferring their cash balances to other funds, and (2) cancelling and reestablishing encumbrances. The amendment or repeal of any Revised Code sections that create any of the abolished funds is addressed in other parts of this analysis.

[12] See, for example, R.C. 127.14, 131.35, and 131.39, not in the bill.

- Removes an obsolete reference in Capitol Square Review and Advisory Board Law that pertains to the Board's prior involvement in the management of the Ohio Governmental Telecommunications System.

Ohio Governmental Telecommunications System

(R.C. 105.41)

The bill removes an obsolete reference in Capitol Square Review and Advisory Board Law that pertains to the Board's prior involvement in the management of the Ohio Governmental Telecommunications System. This involvement was terminated and transferred in 2001 by H.B. 94 of the 124th General Assembly.

DEPARTMENT OF COMMERCE

Financial institutions

Banking Commission

- Eliminates the Savings and Loan Associations and Savings Banks Board and, instead, increases the membership of the Banking Commission by two and revises the qualifications of members to include directors or officers of savings banks, savings associations, bank holding companies, or savings and loan holding companies.

- Extends the terms of Commission members from three to four years.

Banks Fund

- Eliminates the Savings Institutions Fund and, instead, requires that the assessments, examination and other fees, and forfeitures paid by savings and loan associations and savings banks be deposited into the Banks Fund.

Assessments and examination fees

- Reinstates the authority of the Superintendent of Financial Institutions to (1) charge banks application fees and the costs of special or follow-up examinations and visitations and (2) assess banks, savings banks, and savings and loan associations as necessary to fund the operations of the Division of Financial Institutions.

Bank examination records

- Requires the Superintendent to preserve bank examination reports for 10 rather than 20 years, as is required under current law.

Bedding and toy tests

- Explicitly authorizes private laboratories that are designated by the Superintendent of Industrial Compliance within the Department of Commerce to be used for tests and analysis of bedding and stuffed toys.

State Fire Marshal vacancy

- Eliminates certain notification requirements by the State Fire Council when a vacancy occurs in the position of the State Fire Marshal.

- Eliminates the requirement that the Council make a list of all qualified applicants for the position of State Fire Marshal when a vacancy occurs.

Boilers – certificates of operation and fees

- Eliminates the requirement of a satisfactory inspector's report for the Superintendent of Industrial Compliance to issue or renew a certificate of operation for newly installed or operating power boilers, high pressure, high temperature water boilers, low pressure boilers, and process boilers, but maintains the inspection report requirement for certain boilers used to control corrosion.

- Requires the Superintendent, in considering whether to issue or renew a certificate, to find that the owner or user of boilers used to control corrosion kept certain records and did not operate the boiler at pressures exceeding the safe working pressure.

- Replaces the Director of Commerce with the Superintendent of Industrial Compliance as the person who may increase the fees for licensing, inspections, and issuing certificates.

- Authorizes the Superintendent to establish fees to pay the costs necessary to fulfill the duties of the Division of Industrial Compliance in relation to boilers.

Elevator fees

- Limits the authority of the Division of Industrial Compliance to charge fees for elevator, escalator, and moving walk inspections to attempted inspections by a general inspector that failed through no fault of the inspector or the Division; eliminates the fee for successful inspections.

- Requires any person who fails to pay a certificate of operation fee within 45 days after the certificate's expiration to pay a late fee equal to 25% of the inspection fee.

- Allows the Superintendent of Industrial Compliance to increase the inspection fees and the fees for issuing and renewing certificates of operation.

- Allows the Superintendent to establish fees to pay the costs of the Division incurred in connection with administering and enforcing the Elevator Law.

Licenses for real estate brokers and salespersons

- Clarifies that licensed real estate brokers and salespersons are not subject to the Standard Renewal Procedure Law.

Merger of Manufactured Homes Commission into the Department

- Abolishes the Manufactured Homes Commission and transfers its duties to the Department of Commerce.

Financial institutions

Banking Commission

(R.C. 1123.01, 1123.02, and 1123.03; repealed R.C. 1181.16 and 1181.17; Section 803.30)

The bill eliminates the Savings and Loan Associations and Savings Banks Board and, instead, increases the membership of the Banking Commission by two and revises the qualifications of its members. It provides, however, for a transition period in which the membership of the Board and the Banking Commission are combined: on the effective date of this portion of the bill, the Banking Commission is to additionally consist of the six members appointed to the Savings and Loan Associations and Savings Banks Board. Each such member is to serve until the end of the term for which the member was appointed. Likewise, the appointed members serving on the Banking Commission as of that date are to serve until the end of the term for which the member was appointed.

The bill increases the membership of the Banking Commission from seven to nine members. One of the members is to be the Deputy Superintendent for Banks and the remaining eight members are to be appointed by the Governor, with the advice and consent of the Senate. After the second Monday in January of each year, the Governor is to appoint two members. Members are to serve four-year terms (increased from three years) commencing on February 1 and ending on January 31. No appointee may serve more than two consecutive full terms.

The bill adapts continuing law to reflect the addition of the two additional members and the expansion of authority over savings and loan associations and savings banks. At least six of the eight appointed members must be, at the time of appointment, executive officers of banks, savings and loan associations, or savings banks transacting business under authority granted by the Superintendent of Financial Institutions and all of the appointed members must have banking experience as a director or officer of a bank, savings bank, or savings association insured by the FDIC, a bank holding company, or a savings and loan holding company. The membership must be representative of the banking industry as a whole, including representatives of banks of various asset sizes and ownership structures, as determined by the Governor after

consultation with the Superintendent. As under continuing law, no one who has been convicted of, or has pleaded guilty to, a felony involving, dishonesty or breach of trust can hold office as a member; the bill expands this list of prohibited felonies to include felonies involving an act of fraud, theft, and money laundering. The only compensation the members are to receive is payment for their expenses incurred in the performance of their duties. The Governor may remove any of the eight appointed members whenever in the Governor's judgment the public interest requires removal.

In addition to its current duties, the Banking Commission is required to (1) consider the annual schedule of assessments proposed by the Superintendent and determine whether to confirm it and (2) determine whether to increase the assessments during a fiscal year (see below). Further, the bill permits the Commission to hold meetings by teleconference if a specific location is provided for public attendance.

Banks Fund

(R.C. 1121.30, 1155.07, 1155.10, 1163.09, 1163.13, and 1181.06; repealed R.C. 1181.18; Section 512.120)

The bill eliminates the Savings Institutions Fund and, instead, requires that the assessments, examination and other fees, and forfeitures paid by savings and loan associations and savings banks be deposited into the existing Banks Fund. The Banks Fund is to be used to defray the costs of the Division of Financial Institutions in administering the laws governing banks, savings and loan associations, and savings banks and the Money Transmitters Law.

Assessments and examination fees

(R.C. 1121.10, 1121.24, and 1121.29)

The bill reinstates the authority of the Superintendent to (1) charge banks application fees and the costs of the Division's special or follow-up examinations and visitations and (2) annually assess banks, savings and loan associations, and savings banks for purposes of funding the operations of the Division.[13]

Under the bill, the Superintendent is to assess, on an annual or periodic basis, each bank, savings and loan association, and savings bank that is subject to inspection and examination by the Superintendent. The assessment is to be based on the total assets of the particular institution as of December 31 of the prior year and is to be used to fund the operations of the Division.

[13] This authority was repealed in 2015 by H.B. 340 of the 131st General Assembly.

To establish the schedule of assessments, the Superintendent is to determine the Division's budget for examination and regulation of the institutions and take into consideration any cash reserves and amounts collected by not yet expended or encumbered in the previous fiscal year's budget and remaining in the Banks Fund. The Superintendent must present the actual schedule to the Banking Commission for confirmation. If, prior to the end of the fiscal year, the Commission determines additional money is needed to adequately fund the Division's operations, it may increase the assessment for that fiscal year.

With respect to the charging of bank fees, the bill requires the Superintendent to periodically establish a schedule of fees for examinations and applications, for certifying copies of documents filed with the Division, and for publication or serving of required notices. The fees must be reasonable considering the Division's direct and indirect costs. Fees may be waived to protect the interests of depositors and for other fair and reasonable purposes determined by the Superintendent.

The bill permits the Superintendent to charge a bank for any (1) special examination requested by the bank's board of directors or a majority of its shareholders and (2) additional examination and follow-up visitation within the 24-month examination schedule that the Superintendent believes is necessary due to the condition or conduct of the bank. The Superintendent may also charge a bank for *any* examination of its operations as a trust company and data processing facility.

All assessments and fees charged by the Superintendent, and any forfeitures required to be paid to the Superintendent, must be deposited into the Banks Fund.

Bank examination records

(R.C. 1121.10(E))

The bill reduces, from 20 to 10 years, the period of time that a bank's examination report and all related correspondence must be preserved by the Superintendent.

Bedding and toy tests

(R.C. 3713.04)

The bill explicitly authorizes private laboratories that are designated by the Superintendent of Industrial Compliance within the Department of Commerce as being qualified to conduct tests and analysis of bedding and stuffed toys to be used for these tests and analysis. It also removes language authorizing the Superintendent to designate these laboratories in "various sections of the state," the effect of which is unclear.

State Fire Marshal vacancy

(R.C. 3737.21)

The bill eliminates the requirement that, when a vacancy occurs in the position of the State Fire Marshal, the State Fire Council notify all known or discoverable fire chiefs and fire protection engineers of this fact. In addition, the bill eliminates the requirement that the Council, no earlier than 30 days after mailing the notification described above, make a list of all qualified applicants for the position of State Fire Marshal. Under existing law, the Council is required to submit the names of at least three applicants from this list to the Director of Commerce. The bill instead requires the Council to submit the names of at least three qualified applicants to the Director. Under continuing law, the Director will appoint a State Fire Marshal from this list or may request the Council to submit additional names.

Boilers – certificates of operation and fees

(R.C. 4104.15 and 4104.18)

Under existing law, if, after inspecting a newly installed or operating boiler, an inspector finds the boiler to be in safe working order, the inspector reports his findings to the Superintendent of Industrial Compliance. If the Superintendent finds that the Administrative Code's boiler provisions have been complied with and the appropriate fees have been paid, the Superintendent must issue or renew a certificate of operation for the boiler.

The bill generally eliminates from this procedure the requirement that the inspector, after finding that a newly installed or operating boiler to be in safe working order, report to the Superintendent. This eliminated duty to report applies to all of the following:

(1) Power boilers;

(2) High pressure, high temperature water boilers;

(3) Low pressure boilers;

(4) Process boilers.

The bill, however, appears to maintain the inspection report requirement for certain operating boilers used to control corrosion. In addition, under continuing law if the inspector finds that the boiler is not in safe working order, the inspector is required to report the inspector's findings to the Superintendent who may revoke, suspend, or deny the certificate of operation and not renew the certificate until the boiler is made

safe. The bill additionally requires the Superintendent to find that the owner or user of these types of boilers both:

- Did not operate the boiler at pressures exceeding the safe working pressure;
- Kept a record that:
  - Will show that boiler water samples were taken at required intervals;
  - Will show that the water conditions in the boilers met required standards;
  - Will show the times and reasons the boilers were out of service;
  - Was made available to the boiler inspector for examination.[14]

The bill additionally distinguishes between an initial certificate of operation fee and an annual certificate renewal fee. This distinction does not change the fees charged under continuing law.

The bill replaces the Director of Commerce with the Superintendent of Industrial Compliance as the person who may increase the fees for licensing, inspections, and issuing certificates of operation. It also authorizes the Superintendent to establish fees to pay the costs necessary to fulfill the duties of the Division of Industrial Compliance in relation to boilers.

Elevator fees

(R.C. 4105.17)

The bill limits the fees that the Superintendent of Industrial Compliance may charge in relation to the required inspection of elevators, escalators, and moving walks to fees charged for failed inspection attempts. Under continuing law, the Superintendent charges a fee when a general inspector (an inspector hired by the state, as opposed to a special inspector, who is not hired by the state) inspects an elevator, escalator, or moving walk.[15] The bill eliminates the fee associated with these inspections. The Elevator Law continues to impose a fee for such an inspection that was attempted but was not successfully completed through no fault of the inspector or the Division of Industrial Compliance. But, the bill eliminates the authority of the Superintendent to

[14] R.C. 4104.13, not in the bill.

[15] R.C. 4105.08, not in the bill.

charge an additional fee for reinspection when the previous attempted inspection was unsuccessful through no fault of the inspector or the Division. Under existing law, the initial and reinspection fee for elevators is $120 plus $10 for each floor where the elevator stops. The initial inspection fee for escalators and moving walks is $300, and the reinspection fee is $150.

The bill requires any person who fails to pay a certificate of operation fee within 45 days after the certificate's expiration to pay a late fee equal to 25% of the inspection fee.

The bill allows the Superintendent to increase the inspection fees and the fees for issuing and renewing certificates of operation. The bill also allows the Superintendent to establish fees to pay Division costs incurred in connection with the Elevator Law. The fees must bear some reasonable relation to the cost of administering and enforcing the Elevator Law.

Licenses for real estate brokers and salespersons

(R.C. 4745.01)

The bill removes from the definition of "standard renewal procedure" licensed real estate brokers and salespersons. As such, those licensees are not subject to the Standard Renewal Procedure Law, which requires a licensee to send any license renewal materials to the State Treasurer. Continuing law requires the Division of Real Estate, not the State Treasurer, to process license renewals for real estate brokers and salespersons.

Merger of Manufactured Homes Commission into the Department

(R.C. Chapter 4781.; repealed R.C. 4781.02, 4781.03, 4781.05, 4781.13, 4781.54, and 4781.55; Section 515.20; conforming changes in R.C. 1923.02, 3781.06, and 4505.181)

Transfer to Department of Commerce

The bill abolishes the Manufactured Homes Commission effective January 21, 2018, and transfers its duties to the Department of Commerce and the Director of Commerce, dividing those duties between the Division of Industrial Compliance and the Division of Real Estate. The bill transfers most of the Commission's duties to the Division of Industrial Compliance, in particular the following provisions relating to the installation of manufactured homes:

- The licensure of manufactured housing installers, including the issuance of fees for license applications and renewals;

- Establishment of uniform standards for installing manufactured housing;
- The review of design plans and periodic inspection of manufactured homes and manufactured home installation;
- The investigation of complaints concerning violations of Ohio's Manufactured Homes Law; and
- The adoption of rules to administer Ohio's Manufactured Homes Law.

The bill transfers to the Division of Real Estate the Commission's duties regarding manufactured housing dealers, manufactured housing brokers, and manufactured housing salespersons.

Funds and fees

Industrial Compliance Operating Fund

The bill abolishes the Manufactured Homes Commission Regulatory Fund and instead directs that the following fees that currently are deposited into that fund be instead deposited into the Industrial Compliance Operating Fund:

- Fees collected for violations of the rules adopted by the Manufactured Homes Commission;
- Fees for annual licenses to operate a manufactured home park.

The bill directs that the following fees be deposited into the Industrial Compliance Operating Fund, instead of the Occupational Licensing and Regulatory Fund, as under existing law:

- Fees for reviewing plans;
- Fees for conducting inspections;
- Fees for issuance of permits and inspections for manufactured home parks located within a 100-year flood plain.

Manufactured Homes Regulatory Fund

The bill directs that the following fees be deposited into the Manufactured Homes Regulatory Fund, instead of the Occupation Licensing and Regulatory Fund, as under existing law:

- License fees for a manufactured housing broker, dealer, or salesperson;

- All licensing, administration, and enforcement fees collected by the Division of Real Estate related to the licensure of manufactured housing brokers, dealers, and salespersons.

Duties eliminated

The bill eliminates the authority to adopt rules to govern the training, experience, and education requirements for manufactured housing dealers, manufactured housing brokers, and manufactured housing salespersons. It appears that no rules of this nature are in effect.

Although the bill repeals R.C. 4781.55, which requires the Manufactured Homes Commission to comply with the law requiring the suspension of licenses upon learning of a conviction of the offense of human trafficking, it appears that law would still operate with regard to the licenses issued by Department of Commerce under the Manufactured Homes Law.[16]

Transition provisions

The bill also includes transition provisions governing the merger of the Manufactured Homes Commission into the Department. Under the bill, the Department is successor to, assumes the rights and obligations, and assumes the authority of the Commission. Whenever the Manufactured Homes Commission is referred to in any document, the reference is to be deemed to refer to the Department of Commerce or the Director of Commerce, as appropriate. The formal actions of the Commission continue in effect as the actions of the Department until modified, rescinded, or replaced.

The Department must designate the positions and employees of the Commission to be transferred to the Department. Any employee so transferred retains the employee's respective classification, but the Department may reassign and reclassify the employee's position and compensation. In addition, the Department may establish a retirement incentive plan for eligible Commission employees who are members of the Public Employees Retirement System. Such a plan must remain in effect until January 20, 2018.

[16] R.C. 4776.20, not in the bill.

STATE COSMETOLOGY AND BARBER BOARD

- Combines the State Board of Cosmetology and the Barber Board into the State Cosmetology and Barber Board.
- Creates a straight razor license and prohibits a person from engaging in, or attempting to engage in, the aspects of barbering related to shaving the face around the vicinity of the ears and neckline or trimming facial hair without that license.
- Increases several Cosmetology Law fees the Board may charge subject to a limit, changes other Cosmetology Law fees from a set fee to a fee that may not exceed the current fee, and requires the Board to adjust the fees charged every two years, subject to those limits, to provide sufficient revenues to meet expenses.

Merger of the State Board of Cosmetology and the Barber Board

(R.C. Chapter 4709. and 4713.; repealed R.C. 4709.04, 4709.06, 4709.26, 4709.27; conforming change in R.C. 125.22)

The bill combines the Barber Board and the State Board of Cosmetology into the State Cosmetology and Barber Board, effective January 21, 2018. Under existing law the Barber Board has three members and the State Board of Cosmetology has 11 members. The bill combines the membership of the two boards, adding two barbers to the membership of the State Board of Cosmetology, an employer barber and an employee barber. The bill permits the Governor to remove any member of the Board for cause.

On January 21, 2018, the Barber Board is abolished and all of its powers, duties, assets, and employees are transferred to the State Cosmetology and Barber Board. Between January 21, 2018, and June 30, 2019, the Executive Director of the combined Board may establish, change, and abolish positions of the Board and assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all Board employees who are not subject to the Public Employees Collective Bargaining Law. This authority includes assigning or reassigning an exempt employee to a bargaining unit classification, but includes provisions if the new position is in a lower classification. These actions are not subject to appeal to the State Personnel Board of Review.

In addition, the Barber Board may establish a retirement incentive plan for eligible employees of the Barber Board who are members of the Public Employees Retirement System. The plan must remain in effect until January 20, 2018.

Under the bill, anywhere the State Board of Cosmetology or State Barber Board is used, that terminology should be replaced with the State Cosmetology and Barber Board or the Executive Director of the State Cosmetology and Barber Board depending on the context. Similarly, anywhere Executive Director of the State Board of Cosmetology or State Barber Board is used, that terminology should be replaced with the Executive Director of the State Cosmetology and Barber Board.

Straight razor license for barbers

(R.C. 4709.01, 4709.02, and 4709.07)

The bill creates a straight razor license, which authorizes a person to shave a person's face around the vicinity of the ears and neckline and to trim facial hair. The bill prohibits a person from engaging in these activities without a straight razor license. This prohibition takes effect April 21, 2018. As shaving and trimming remain part of the practice of barbering, this license would be in addition to, not separate from, the barber license.

An applicant for a straight razor license must include in the application the applicant's name and evidence that the applicant meet the following requirements:

(1) The applicant is at least 18.

(2) The applicant has an eighth grade or equivalent education.

(3) The applicant has completed either of the following: (a) at least 240 hours of training in shaving and trimming from a Board-approved barber school or (b) at least 120 hours of training in shaving and trimming from a Board-approved barber school if the person has a current cosmetology or hair designer license. No hours earned five or more years prior to application submission count towards this requirement.

The application must also include two signed, current photos of the applicant and the required application fee, which is specified by the Board. The Board must issue a license to any applicant who satisfies these requirements.

Cosmetology Law fees

(R.C. 4713.10)

Existing Cosmetology Law permits the Board to charge a variety of fees. For some of these fees, the bill establishes that the current statutory amount is the ceiling for that fee. For other fees, the bill increases the amount the Board may charge, subject to a ceiling. The returned check fee remains unchanged.

The fees that potentially increase under the bill are as follows:

Type of fee	Existing fee	Under the bill
Temporary pre-examination work permit	$7.50	Not more than $15
Initial application to take an examination	$31.50	Not more than $40
Application to take an examination - applicant previously applied but did not show up to take the examination	$40	Not more than $55
Application to retake examination - applicant previously failed the examination	$31.50	Not more than $40
Issuance of a practicing license, advanced license, or instructor license	$45	Not more than $75
Renewal of a practice license, advanced license, instructor license, or reciprocal license	$45	Not more than $70
Issuance of a salon license	$75	Not more than $100
Change the name or ownership of a salon license	$75	Not more than $100
Renewal of a salon license	$60	Not more than $90
Issuance of a duplicate of a license	$20	Not more than $30

For the following Cosmetology Law fees, the bill does not increase the statutory fee but limits the amount that the Board may charge to *not more than* the existing amount:

Type of fee	Cap
Issuance of a reciprocal license	$70
Issuance or renewal of a cosmetology school license	$250
Lapsed renewal fee for restored practicing, advanced, or instructor license	$45 per license renewal period
Prepare and mail licensee records to another state	$50

Under the bill, the Board must adjust the fees every two years within the limits established above in order to provide sufficient revenue to meet the expenses of the board.

- Requires that the filing fees collected by the Court of Claims for complaints alleging a denial of access to public records be deposited into the Public Records Fund, which is created by the bill, and used by the Court to defray its costs.

Public Records Fund

(R.C. 2743.75)

The bill directs that the filing fees collected by the Court of Claims for complaints alleging a denial of access to public records be deposited into the Public Records Fund, which it creates in the state treasury. The Court is to use the money to defray the costs it incurs in resolving the complaints.

Current law only stipulates that the fees be "kept" by the Court for that purpose.

OHIO STATE DENTAL BOARD

- Increases various fees paid by dentists, dental hygienists, and dental professionals.
- Increases the amount of a dentist's biennial registration fee allocated to the Dentist Loan Repayment Fund.
- Requires any individual applying for or renewing a license, permit, registration, or certificate issued under the Dentists and Dental Hygienists Law to pay a $5 financial services charge in addition to other fees associated with the license, permit, registration, or certificate.

Dental professionals' fees

(R.C. 4715.13, 4715.14, 4715.16, 4715.21, 4715.24, 4715.27, 4715.362, 4715.363, 4715.369, 4715.37, 4715.53, 4715.62, 4715.63, and 4715.70)

The bill requires all individuals applying for or renewing a license, permit, registration, or certificate issued under the Dentists and Dental Hygienists Law to pay a $5 financial service charge in addition to any fee associated with the license, permit, registration, or certificate. The bill also increases the following fees paid by licensed dentists and individuals seeking licenses or permits related to the practice of dentistry:

Type of fee	Current law	Under the bill
License to practice dentistry (issued in odd-numbered year)	$210	$267
License to practice dentistry (issued in even-numbered year)	$357	$454
Biennial registration as a licensed dentist	$245	$312
Fee for late biennial registration as a licensed dentist	$100 + biennial registration fee	$127 + biennial registration fee
Reinstatement of a dentist's license suspended for failure to timely register	$300 + biennial registration fee	$381 + biennial registration fee
Limited resident's license	$10	$13
Limited teaching license	$101	$127

Type of fee	Current law	Under the bill
Temporary limited continuing education license	$101	$127
Renewal of a temporary limited continuing education license	$75	$94
Oral health access supervision permit (issuance/renewal)	$20	$25

The bill also increases the following fees paid by practicing dental hygienists, individuals seeking a certificate or permit related to the practice of dental hygiene, and other dental professionals:

Type of fee	Current law	Under the bill
Dental hygienist certificate of registration (issued in odd-numbered year)	$96	$120
Dental hygienist certificate of registration (issued in even-numbered year)	$147	$184
Biennial dental hygienist registration	$115	$144
Reinstatement of a dental hygienist's certificate suspended due to failure to timely register	$31 + biennial registration fee	$39 + biennial registration fee
Dental hygiene teacher's certificate	$58	$73
Permit to practice under the oral health access supervision of a dentist (issuance/renewal)	$20	$25
X-ray machine operator certificate (issuance/renewal)	$25	$32
Expanded function dental auxiliary registration (issuance/renewal)	$20	$25

The bill increases, from $20 to $40, the amount of a dentist's biennial registration fee paid to the Dentist Loan Repayment Fund. It also eliminates the express requirement that biennial registration fees for practicing dentists be paid to the Treasurer of State. The bill also appears to eliminate the current law option for a dental hygienist to pay the fee for a permit to practice under the oral health access supervision of a dentist with a personal check.

- Authorizes the Chief Investment Officer of JobsOhio to designate an individual to serve on the CIO's behalf on the TourismOhio Advisory Board.

- Renames the Office of Small Business within the Development Services Agency the "Office of Small Business and Entrepreneurship" (OSBE).

- Eliminates some of the duties of the OSBE that are similar to duties also performed by the Governor's Common Sense Initiative Office, and requires the OSBE to inform the public about job placement resources available from OhioMeansJobs.

TourismOhio Advisory Board

(R.C. 122.071)

The bill authorizes the Chief Investment Officer (CIO) of JobsOhio to designate an individual to serve on the CIO's behalf on the TourismOhio Advisory Board. Currently, the CIO serves on the Board along with the Director of the Office of TourismOhio and nine members, appointed by the Governor, representing various tourism-related industries. Under continuing law, the TourismOhio Advisory Board advises the Director of Development Services and the TourismOhio Director on strategies for promoting tourism in the state.

Office of Small Business and Entrepreneurship

(R.C. 122.08 and 122.081)

The bill makes several changes to the Office of Small Business within the Development Services Agency. The office is responsible, generally, for acting as a liaison between the state and the small business community, assisting individuals in establishing and operating small businesses, disseminating information on rules that affect small businesses, and addressing complaints from small businesses.

First, the bill renames the office the "Office of Small Business and Entrepreneurship." Second, the bill eliminates the Office's duty to (a) receive and analyze complaints from small businesses that concern government activity and (b) annually report on the number of rules affecting small businesses created by state agencies. These duties overlap with similar duties that are currently performed by the Common Sense Initiative Office in the Governor's office. Third, the bill requires the

Office to inform the public about the job search and placement resources available on the OhioMeansJobs website and at local OhioMeansJobs one-stop centers.

DEPARTMENT OF DEVELOPMENTAL DISABILITIES

ICFs/IID

- Changes the statutory formula used to determine Medicaid payment rates for ICF/IID services provided during FYs 2018 and 2019.
- Changes the categorization of ICFs/IID into peer groups by increasing the number of peer groups to five (from three).
- Beginning in FY 2019, modifies the statutory Medicaid payment rate formula for ICF/IID services by changing the calculation of the following cost centers: capital costs, direct care costs, and indirect care costs.
- Changes the calculation of initial rates for new ICFs/IID.
- Makes changes to reflect an upcoming change in the Ohio Department of Developmental Disabilities' (ODODD's) grouper methodology.
- Modifies a requirement that each ICF/IID provider submit quarterly resident assessment data to ODODD.
- Beginning in fiscal year 2020, requires ODODD to determine a quality incentive payment rate add on for each qualifying ICF/IID.
- Requires ODODD to retain a workgroup to evaluate the revisions to the ICF/IID Medicaid payment rate formula.
- Modifies a county department of developmental disabilities' responsibility to pay the nonfederal share of Medicaid expenditures for residents of ICFs/IID.
- Eliminates a requirement that a resident of an ICF/IID be under 22 years of age to qualify for outlier ICF/IID services available to certain Medicaid recipients dependent on a ventilator.

Community facility sale proceeds

- Permits a county board of developmental disabilities or board of county commissioners to use the proceeds from the sale of a community adult facility or a community early childhood facility to renovate or make accessible housing for individuals with developmental disabilities.
- Permits the DD Director to establish, and extend, a deadline by which the county board or board of county commissioners must use sale proceeds.

- Defines "renovation" as work done to a building, including architectural and structural changes and modernization of mechanical and electrical systems, to restore it to an acceptable condition and to make it functional for use by individuals with developmental disabilities.

Medicaid rates for homemaker/personal care services

- Provides for the Medicaid rate for each 15 minutes of routine homemaker/personal care services provided to a qualifying enrollee of the Individual Options (IO) waiver program to be, for 12 months, 52¢ higher than the rate for such services provided to an Individual Options enrollee who is not a qualifying enrollee.

County board share of expenditures

- Requires the DD Director to establish a methodology to be used in FYs 2018 and 2019 to estimate the quarterly amount each county board of developmental disabilities is to pay of the nonfederal share of the Medicaid expenditures for which the county board is responsible.

Developmental centers

- Permits a developmental center to provide services to persons with developmental disabilities living in the community or to providers of services to these persons.

Innovative pilot projects

- Permits the DD Director to authorize, in FYs 2018 and 2019, innovative pilot projects that are likely to assist in promoting the objectives of state law governing the Department of Developmental Disabilities and county boards of developmental disabilities.

Use of county subsidies

- Requires, under certain circumstances, that the DD Director pay the nonfederal share of a claim for ICF/IID services using subsidies otherwise allocated to county boards of developmental disabilities.

Updating statute citations

- Provides that the DD Director is not required to amend any rule for the sole purpose of updating the citation in the Ohio Administrative Code to its authorizing statute to reflect that the act renumbers the authorizing statute or relocates it to another Revised Code section.

Fiscal year 2018 Medicaid rates for ICFs/IID in peer groups 1 and 2

(Section 261.170)

Under current law, ICFs/IID are placed in three different peer groups for the purpose of Medicaid payment rates. Peer group 1 consists of ICFs/IID with a Medicaid-certified capacity exceeding eight. Peer group 2 consists of ICFs/IID with a Medicaid-certified capacity not exceeding eight, other than ICFs/IID in peer group 3. Peer group 3 consists of ICFs/IID (1) that are first certified after July 1, 2014, (2) that have a Medicaid-certified capacity not exceeding six, (3) that have contracts with the Ohio Department of Developmental Disabilities (ODODD) that are for 15 years and include a provision for ODODD to approve all admissions and discharges, and (4) whose residents are admitted directly from a developmental center or have been determined by ODODD to be at risk of admission to a developmental center.

The bill includes provisions governing the FY 2018 Medicaid payments rates for ICFs/IID in peer groups 1 and 2. The provisions make modifications to the statutory formula used to determine the rates and require ODODD to reduce the rates if the U.S. Centers for Medicare and Medicaid Services requires the ICF/IID franchise permit fee to be reduced or eliminated.

Modifications to rate formula

The bill requires ODODD to modify the formula used in determining the FY 2018 Medicaid payment rates for ICFs/IID in peer groups 1 and 2. One set of modifications applies to existing ICFs/IID (i.e., ICFs/IID that have valid Medicaid provider agreements on June 30, 2017 and during FY 2018 and ICFs/IID that undergo a change of operator that takes effect during FY 2018, for which the exiting operators have valid provider agreements on the day immediately preceding the effective date of the change of operator, and for which the entering operators have valid provider agreements during FY 2018). Another set of modifications applies to new ICFs/IID for which initial provider agreements are obtained during FY 2018.

An existing ICF/IID's FY 2018 Medicaid payment rate is to be the same as the ICF/IID's payment rate for ICF/IID services provided on June 30, 2017. The bill permits ODODD to increase the Medicaid rate through the rate reconsideration process if the ICF/IID's most recent quarterly case-mix score is at least 25% greater than its case-mix score for the immediately preceding calendar quarter.

A new ICF/IID's rate is to be adjusted as follows:

(1) In place of the initial rate for capital costs otherwise determined for it, the initial rate for capital costs is to equal the median rate for the new ICF/IID's peer group for FY 2017.

(2) In place of the initial rate for direct care costs otherwise determined for it when there is no cost or resident assessment data for it, its initial rate for direct care costs is to be determined as follows:

(a) The median of the costs per case-mix units is to be determined for each peer group.

(b) The median determined above for its peer group is to be multiplied by the median annual average case-mix score for its peer group for calendar year 2015.

(c) The product determined above is to be multiplied by 1.014.

(3) In place of the initial rate for indirect care costs otherwise determined for it, its initial rate for indirect care costs is to be $68.98 if it is in peer group 1 or $59.60 if it is in peer group 2.

(4) In place of the initial rate for other protected costs otherwise determined for it, its initial rate for other protected costs is to be the median FY 2017 rate determined for existing ICFs/IID multiplied by 1.014.

Rate reduction if franchise permit fee is reduced or eliminated

The bill requires ODODD, if the Centers for Medicare and Medicaid Services requires that the ICF/IID franchise permit fee be reduced or eliminated, to reduce the amount it pays ICFs/IID in peer groups 1 and 2 for FY 2018 as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

Combined maximum payment limits for peer group 2

(Repealed R.C. 5124.28; conforming changes in R.C. 5124.17 and 5124.21)

The bill repeals a provision permitting the Director of Developmental Disabilities to adopt rules providing for the determination of a combined maximum payment limit for indirect care costs and costs of ownership for ICFs/IID in peer group 2.

Peer group designation

(R.C. 5124.01; conforming changes in numerous other R.C. sections)

Effective July 1, 2018, the bill modifies the categorization of ICFs/IID into peer groups by increasing the number of peer groups to five (from three). Under these changes, peer group 1 consists of facilities with a Medicaid-certified capacity exceeding 16. Peer group 2 consists of facilities with a Medicaid-certified capacity between 9 and 16. Peer group 3 consists of facilities with a Medicaid-certified capacity of eight. Peer group 4 consists of facilities with a Medicaid-certified capacity not exceeding seven, other than ICFs/IID in peer group 5. Peer group 5 consists of ICFs/IID (1) that are first certified after July 1, 2014, (2) that have a Medicaid-certified capacity not exceeding six, (3) that have contracts with ODODD that are for 15 years and include a provision for ODODD to approve all admissions and discharges, and (4) whose residents are admitted directly from a developmental center or have been determined by ODODD to be at risk of admission to a developmental center.

Payment rates for capital

(R.C. 5124.17; conforming changes in R.C. 5124.01, 5124.15, 5124.30, 5124.38, and 5124.39; Sections 120.30 and 130.31)

Under current law, reasonable capital costs are part of an ICF/IID's costs that are used in determining the ICF/IID's total Medicaid payment rate. Under the bill, effective July 1, 2018, reasonable capital costs are no longer to be used in determining an ICF/IID's total Medicaid payment rate. ODODD must instead use payment rates for capital, which are based on an ICF/IID's fair rental value. An ICF/IID's per diem payment rate for capital is to be calculated prospectively and based on the ICF/IID's fair rental value survey information reported on its cost report for the calendar year immediately preceding the calendar year in which the fiscal year begins.

Under the bill, an ICF/IID's fair rental value per diem is calculated by determining 9% of the sum of its land value and its depreciated current asset value. The resulting value is then divided by the greater of (1) the number of inpatient days the ICF/IID had, as reported on its cost report, for the immediately preceding calendar year, or (2) the number of inpatient days the ICF/IID would have had for that calendar year if its occupancy rate had been 95%.

Land value

An ICF/IID's land value is 10% of its current asset value. An ICF/IID's current asset value is calculated by first multiplying the ICF/IID's total square footage reported

in the fair value survey information by the ICF/IID's value per square foot, then adding the result to the ICF/IID's total equipment value.

An ICF/IID's total square footage includes bedrooms and common space. If an ICF/IID's total square footage is less than 200 square feet per Medicaid-certified bed, it will be treated as if its total square footage per Medicaid-certified bed equals 200. If an ICF/IID's, other than a downsized ICF/IID's, total square footage is greater than 800 square feet per Medicaid-certified bed, it will be treated as if its total square footage per Medicaid-certified bed equals 800. If a downsized ICF/IID's total square footage is greater than 1,000 square feet per Medicaid-certified bed, it will be treated as if its total square footage per Medicaid-certified bed equals 1,000.

An ICF/IID's value per square foot is determined using data published by RS Means for the calendar year in which the fiscal year begins. For ICFs/IID in peer group 1 or 2, the RS Means data for assisted-senior living facility constructions costs is to be used. For ICFs/IID in peer group 3, 4, or 5, the RS Means data for nursing home construction costs is to be used. The precise RS Means data to be used depends on the ICF/IID's county.

An ICF/IID's total equipment value for a fiscal year is the product of its Medicaid-certified capacity as of the first day of the fiscal year and $4,000.

Depreciated current asset value

An ICF/IID's depreciated current asset value is determined by first taking 1.5% of the lesser of the ICF/IID's effective age or 40, then multiplying the result by its current asset value for the fiscal year.

An ICF/IID's effective age takes into account each renovation that costs at least $500 and is listed in the ICF/IID's fair rental value survey information. The effective age is determined as follows:

(1) For each such renovation, divide the renovation's cost and the product of the ICF/IID's total square footage and value per square foot, as determined above.

(2) Determine the difference between the calendar year covered by the cost report listing the renovation and the calendar year in which the ICF/IID's initial construction was completed, or, if unknown, the calendar year in which the ICF/IID was initially licensed to operate.

(3) Multiply each result in (1) by the result in (2) and determine the sum of all of the products.

(4) Determine the difference between the calendar year in which the fiscal year begins and the calendar year in which the ICF/IID's initial construction was completed, or if unknown, the calendar year in which the ICF/IID was initially licensed to operate.

(5) Determine the difference between the result in (4) and the result in (3).

Conforming changes

The bill makes conforming changes throughout the Revised Code to provisions referencing payments for reasonable capital costs. This includes a repeal of a provision permitting ODODD, through a rate reconsideration process, to increase an ICF/IID's rate for capital costs for the costs of adding or replacing Medicaid-certified beds.

ICFs/IID's Medicaid rates for direct care costs

(R.C. 5124.19)

Direct care costs are part of an ICF/IID's costs that are used in determining the facility's total Medicaid payment rate. Continuing law requires ODODD to determine an ICF/IID's cost per case-mix unit as part of the process of determining the facility's Medicaid payment rate for direct care costs. As part of that determination, ODODD must set the maximum cost per case-mix unit for ICFs/IID in each peer group.

Under current law, for ICFs/IID in peer groups 1 and 2, ODODD must base the maximum cost per case-mix unit decision on the cost per case-mix unit of the ICF/IID in the peer group that has the peer group's median number of Medicaid days. Under the bill, effective July 1, 2018, for an ICF/IID in peer group 1, 2, 3, or 4, ODODD must set the maximum cost per case-mix unit at 7% above the ICF/IID's peer group's median cost per case-mix unit for the calendar year immediately preceding the fiscal year in which the rate is to be paid. For an ICF/IID in peer group 5, the maximum cost per case-mix unit is to be set at the 95th percentile of all ICFs/IID in the peer group.

ICFs/IID's Medicaid rates for indirect care costs

(R.C. 5124.21)

Maximum rate for indirect care costs

Indirect care costs are part of an ICF/IID's costs that are used in determining the facility's total Medicaid payment rate. Continuing law requires ODODD to determine the maximum rate for indirect care costs that an ICF/IID may receive and establishes multiple formulas that ODODD must use to make that determination.

Under current law, which formula is used depends on whether the fiscal year ends in an even or odd numbered calendar year. Under the bill, effective July 1, 2018, one formula is used to determine the maximum rate for ICFs/IID in peer group 1, another formula is used for ICFs/IID in peer group 2, 3, 4, or 5, and neither formula is affected by odd or even numbered calendar years.

Under the bill, the maximum rate for indirect care costs for each ICF/IID in peer group 1 must be at least 3.5% above the median indirect care cost for all facilities in peer group 1 for the calendar year immediately preceding the fiscal year in which the rate will be paid, adjusted for inflation. The maximum rate for an ICF/IID in peer group 2, 3, 4, or 5 must be at least 7% above the median indirect care cost for all facilities in the ICF/IID's peer group, adjusted for inflation. When calculating the median indirect care costs for the peer groups, ICFs/IID whose indirect care costs are more than three standard deviations from the mean are excluded.

Maximum efficiency incentive

The bill modifies the formulas used to determine the maximum efficiency incentive used in calculating an ICF/IID's indirect care costs payment rate.

During FY 2019, if the provider of an ICF/IID in peer group 1 or 2 obtains approval to become a downsized or partially converted ICF/IID and the approval is conditioned on the downsizing or conversion being completed not later than July 1, 2018, the maximum efficiency incentive for the ICF/IID is to be 2.5% of the maximum rate for indirect care costs for the ICF/IID's peer group. Otherwise, the maximum efficiency incentive is to be 1.25% of the maximum rate for indirect care costs for the ICF/IID's peer group. For FY 2020 and thereafter, the maximum efficiency incentive for an ICF/IID in peer group 1 or 2 is to be 2.5% of the maximum rate for indirect care costs for the facility's peer group.

For FY 2019 and thereafter, the maximum efficiency incentive for an ICF/IID in peer group 3 is to be 2.5% of the maximum rate for indirect care costs for facilities in peer group 3. The maximum efficiency incentive for an ICF/IID in peer group 4 or 5 is to be 5% of the maximum rate for indirect care costs for the ICF/IID's peer group.

Medicaid payment rates for new ICFs/IID

(R.C. 5124.151)

Effective July 1, 2018, the bill modifies the calculation of the initial Medicaid payment rates for new ICFs/IID. The calculation for the initial rates for new ICFs/IID in peer groups 1, 2, 3, and 4 are the same as the calculations in current law for new ICFs/IID in peer groups 1 and 2, except that the initial rate for capital is to be the

median rate for the new ICF/IID's peer group. For a new ICF/IID in peer group 5, the initial rates for capital, direct care costs, indirect care costs, and other protected costs will be the median of each of those rates for ICFs/IID in peer group 5.

Change in grouper methodology classifications

(R.C. 5124.155)

Continuing law requires ODODD to establish a grouper methodology to be used when determining case-mix scores for ICFs/IID. Pursuant to that methodology, ODODD has established the chronic behaviors and typical adaptive needs classification and the typical adaptive needs and nonsignificant behaviors classification. In an upcoming rule change, ODODD will remove both of those classifications from the grouper methodology and add the infrequent need for assistance classification. To reflect this change, the bill repeals provisions that reference the chronic behaviors and typical adaptive needs classification or the typical adaptive needs and nonsignificant behaviors classification, including a provision establishing the Medicaid payment rate for ICF/IID services provided Medicaid recipients who have been placed in those classifications.

The bill adds a provision specifying that the maximum Medicaid payment rate for services provided by an ICF/IID in peer group 1 or peer group 2 to a Medicaid recipient placed in the infrequent need for assistance classification is $179.06 per Medicaid day.

Resident assessment data

(R.C. 5124.191; Section 261.170)

The bill modifies a requirement that each ICF/IID provider submit quarterly resident assessment data to ODODD. The bill permits the Director of Developmental Disabilities to require that two different types of assessments be made during FY 2018, and the Director may require that the different types be submitted at different times.

Beginning in FY 2019, the bill exempts a provider from the resident assessment data submission requirement if the most recently submitted data remains accurate for each resident. The bill also repeals a provision requiring the resident assessment data to include residents who are on hospital or therapeutic leave from the ICF/IID. Instead, the bill requires the resident assessment data to include residents who are on a temporary absence that qualifies for Medicaid payments to reserve the bed during the absence.

Medicaid payment rate reconsideration

(R.C. 5124.38)

Continuing law requires ODODD to establish a Medicaid payment rate reconsideration process through which ODODD may increase an ICF/IID's payment rate if its costs have increased due to an extreme circumstance. Effective July 1, 2018, the bill establishes that a change in an ICF/IID's quarterly case-mix score of 25% or greater from the previous quarter qualifies as an extreme circumstance for which ODODD may increase an ICF/IID's payment rate. The bill also repeals a provision establishing nonextensive renovations as a qualifying extreme circumstance.

Fiscal year 2019 Medicaid rates for ICFs/IID in peer groups 1, 2, 3, and 4

(Section 261.180)

The bill includes provisions governing the FY 2019 Medicaid payment rates for ICFs/IID in peer groups 1, 2, 3, and 4. The provisions make modifications to the statutory formula used to determine the rates, require ODODD to adjust the rates if the mean rate for the ICFs/IID is other than a certain amount, and require ODODD to reduce the rates if the federal government requires the ICF/IID franchise permit fee to be reduced or eliminated.

Modifications to rate formula

The bill requires ODODD to modify the formula used in determining the FY 2019 Medicaid payment rates for existing ICFs/IID (i.e., ICFs/IID that have valid Medicaid provider agreements on June 30, 2018 and during FY 2019 and ICFs/IID that undergo a change of operator that takes effect during FY 2019, for which the exiting operators have valid provider agreements on the day immediately preceding the effective date of the change of operator, and for which the entering operators have valid provider agreements during FY 2019).

Under the bill, an existing ICF/IID's FY 2019 Medicaid payment rate is to be determined in accordance with the statutory formula. However, an ICF/IID's payment rate must be not less than 96.5% nor more than 103.5% of its Medicaid payment rate for ICF/IID services provided on June 30, 2018.

Adjustment to rates for FY 2019

The bill requires ODODD to adjust, for FY 2019, the total per Medicaid day rate for each ICF/IID in peer group 1, 2, 3, or 4 if the mean total per Medicaid day rate for all ICFs/IID in peer groups 1, 2, 3, and 4, weighted by May 2018 Medicaid days and

determined in accordance with the modifications and limits discussed above as of July 1, 2018, is other than either of the following:

(1) $297.35 if the new ICF/IID Medicaid payment methodology has been fully implemented not later than July 1, 2018 (i.e., the bill's amendments to the ICF/IID payment methodology take effect).

(2) $290.10 if the new methodology has not been fully implemented by July 1, 2018.

ODODD must adjust the total per Medicaid day rate for each ICF/IID in peer group 1, 2, 3, or 4 by a percentage that is equal to the percentage by which the mean total per Medicaid day rate is greater or less than whichever amount specified in (1) or (2) applies.

Rate reduction if franchise permit fee is reduced or eliminated

The bill requires ODODD, if the Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, to reduce the amount it pays ICFs/IID in peer groups 1, 2, 3, and 4 for FY 2019 as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

Quality incentive payment rates

(R.C. 5124.25)

Beginning in FY 2020, the bill requires ODODD to determine a quality incentive payment rate add on for each qualifying ICF/IID.

Conditions to qualify

To qualify for a quality incentive payment rate add on for FY 2020, an ICF/IID must do the following:

(1) Participate in the collection of data specified by ODODD beginning January 1, 2018;

(2) Submit a report of the data to ODODD by June 30, 2018;

(3) Earn at least one point for meeting quality indicators established by ODODD.

To qualify for a quality incentive payment rate add on for FY 2021 and thereafter, an ICF/IID must earn at least one point for meeting quality indicators established by ODODD. The bill requires ODODD to adopt rules establishing the quality indicators,

the method by which ICFs/IID earn points for meeting those indicators, and the medium through which an ICF/IID is to submit satisfactory evidence of having met the indicators.

Amount of payment rate add on

An ICF/IID's quality incentive payment rate add on equals the relative point value for the fiscal year multiplied by the number of quality indicator points earned by the facility for the fiscal year.

The relative point value for a fiscal year is determined through the following steps. For each ICF/IID, multiply the number of inpatient days it would have had for the reporting period if its occupancy rate had been 100% by the number of quality indicator points the facility earns for the fiscal year. Add all of the resulting products, and divide the total amount of funds available for quality incentive payments for the fiscal year by that sum.

ICF/IID Medicaid rate workgroup

(Section 261.190)

The bill requires ODODD to retain the workgroup that was previously convened to assist with the implementation of a new ICF/IID reimbursement methodology. The workgroup is to be retained to assist ODODD with an evaluation of revisions to the Medicaid payment rate formula for ICF/IID services. As part of the evaluation, ODODD and the workgroup must:

(1) Focus primarily on the service needs of individuals with complex challenges that ICFs/IID are able to meet;

(2) Pursue the goal of reducing the Medicaid-certified capacity of individual ICFs/IID and the total number of ICF/IID beds in the state for the purpose of increasing the choices and community integration of individuals eligible for ICF/IID services.

Nonfederal share of Medicaid expenditures for ICFs/IID

(R.C. 5123.38)

The bill modifies a provision of law making a county board of developmental disabilities responsible for the nonfederal share of Medicaid expenditures for certain individuals' care in a state-operated ICF/IID. Under current law, a county board is responsible for the nonfederal share of such expenditures for an individual if the individual has been involuntarily committed to a state-operated ICF/IID and receives supported living or home and community-based services funded by the county board.

The bill removes the condition regarding supported living or home and community-based services, thereby making a county board responsible for the nonfederal share of all expenditures for individuals who have been involuntarily committed from the county served by the county board.

The bill repeals an exemption to the existing requirement that applies to a county board that begins funding supported living or home and community-based services within 90 days of an individual's commitment to the facility. Instead, the bill exempts a county board from the requirement if, within 180 days of an individual's commitment, the county board arranges for the provision of alternative services for the individual, and the individual is discharged from the ICF/IID.

Ventilator-dependent ICF/IID residents

(R.C. 5124.25 with conforming change in R.C. 5124.15)

The bill eliminates a requirement that a Medicaid recipient be under 22 years of age to qualify to receive outlier ICF/IID services. The recipient must continue to be dependent on a ventilator and meet all other eligibility requirements established in rules to qualify. ODODD is permitted by continuing law to pay a Medicaid rate add-on to a facility for outlier ICF/IID services provided to qualifying Medicaid recipients. However, ODODD may not pay the add-on unless the Department of Medicaid has approved the amount of the add-on or the method by which the amount is to be determined.

Community facility sale proceeds

(R.C. 5123.377 and 5123.378)

The bill expands the conditions under which the DD Director may change the terms of an agreement with a county board of developmental disabilities or board of county commissioners regarding the construction, acquisition, or renovation of a community adult facility or a community early childhood facility. The bill permits a county board or a board of county commissioners to use the proceeds of the sale of such a facility for the renovation or accessibility modification of housing for individuals with developmental disabilities. The renovation or modification must comply with the requirements established by the Director. Under current law, agreements for a community adult facility or a community early childhood facility must include a commitment from the county board or board of county commissioners, if the facility is sold, to use the proceeds of the sale for the *acquisition* of housing for individuals with developmental disabilities or to reimburse with the sale proceeds the outstanding balance owed to the Department of Developmental Disabilities under the agreement.

The bill permits the DD Director to establish a deadline by which the county board or board of county commissioners must use the proceeds of a sale of a community adult facility or a community early childhood facility. But, the bill specifies that the Director may extend the deadline as many times as the Director determines is necessary.

Under the bill, "renovation" is work done to a building to restore it to an acceptable condition and to make it functional for use with individuals with developmental disabilities. It includes architectural and structural changes and the modernization of mechanical and electrical systems, but does not include work consisting primarily of maintenance repairs and replacements that are necessary due to normal use, wear and tear, or deterioration. Current law defines a "community adult facility" as a facility where adult services are provided or a facility associated with the provision of those services, which include, for example, services that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.[17] A "community early childhood facility," under current law, is a facility which provides a planned program of habilitation (assistance with acquiring and maintaining life skills) that is designed to meet the needs of children with developmental disabilities who are under six years old, compulsory school age.[18]

Medicaid rates for homemaker/personal care services

(Section 261.210)

The bill requires that the total Medicaid payment rate for each 15 minutes of routine homemaker/personal care services that a Medicaid provider provides to a qualifying enrollee of the Individual Options Medicaid waiver program be 52¢ higher than the rate for services that a Medicaid provider provides to an enrollee who is not a qualifying enrollee. The higher rate is to be paid only for the first 12 months, consecutive or otherwise, that the provider provides the services to the qualifying enrollee during the period beginning July 1, 2017, and ending June 30, 2019.

An Individual Options enrollee is a qualified enrollee for the purpose of this provision if all of the following apply:

[17] R.C. 5126.01(A), not in the bill.

[18] R.C. 3321.01(A)(1) and 5126.01(G) and (K), not in the bill.

(1) The enrollee resided in a developmental center, converted ICF/IID,[19] or public hospital immediately before enrolling in the Individual Options Medicaid waiver program.

(2) The enrollee did not receive before July 1, 2011, routine homemaker/personal care services from the Medicaid provider that is to receive the higher Medicaid rate.

(3) The DD Director has determined that the enrollee's special circumstances (including the enrollee's diagnosis, service needs, or length of stay at the developmental center, converted ICF/IID, or public hospital) warrant paying the higher Medicaid rate.

A similar provision was included in H.B. 64 of the 131st General Assembly. Related provisions were included in H.B. 153 of the 129th General Assembly (as modified by H.B. 487 of that General Assembly) and H.B. 59 of the 130th General Assembly.

County board share of nonfederal Medicaid expenditures

(Section 261.130)

The bill requires the DD Director to establish a methodology to be used in FYs 2018 and 2019 to estimate the quarterly amount each county board of developmental disabilities is to pay of the nonfederal share of the Medicaid expenditures for which the county board is responsible. With certain exceptions, continuing law requires the county board to pay this share for waiver services provided to an individual who the county board determines is eligible for county board services. The Department was similarly required to establish the methodology for FYs 2014 and 2015 under H.B. 59 of the 130th General Assembly and FYs 2016 and 2017 under H.B. 64 of the 131st General Assembly.

Each quarter, the Director must submit to the county board written notice of the amount for which the county board is responsible. The notice must specify when the payment is due.

Developmental center services

(Section 261.150)

The bill permits a residential center for persons with developmental disabilities operated by ODODD (i.e., a developmental center) to provide services to persons with

[19] A converted ICF/IID is an ICF/IID, or former ICF/IID, that converted some or all of its beds to providing services under the Individual Options Medicaid waiver program.

developmental disabilities living in the community or to providers of services to these persons. The Department is permitted to develop a method for recovery of all costs associated with the provision of the services. A similar provision was included in H.B. 59 of the 130th General Assembly and H.B. 64 of the 131st General Assembly.

Innovative pilot projects

(Section 261.160)

For FYs 2018 and 2019, the bill permits the DD Director to authorize the continuation or implementation of innovative pilot projects that are likely to assist in promoting the objectives of state law governing ODODD and county boards of developmental disabilities. Under the bill, a pilot project may be implemented in a manner inconsistent with the laws or rules governing the Department and county boards; however, the Director cannot authorize a pilot project to be implemented in a manner that would cause Ohio to be out of compliance with any requirements for a program funded in whole or in part with federal funds. Before authorizing a pilot project, the Director must consult with entities interested in the issue of developmental disabilities, including the Ohio Provider Resource Association, Ohio Association of County Boards of Developmental Disabilities, Ohio Health Care Association/Ohio Centers for Intellectual Disabilities, the Values and Faith Alliance, and ARC of Ohio. A similar provision was included in H.B. 59 of the 130th General Assembly and H.B. 64 of the 131st General Assembly.

Use of county subsidies to pay nonfederal share of ICF/IID services

(Section 261.200)

The bill requires the DD Director to pay the nonfederal share of a claim for ICF/IID services using funds otherwise appropriated for subsidies to county boards of developmental disabilities if (1) Medicaid covers the services, (2) the ICF/IID services are provided to a Medicaid recipient who is eligible for the services and the recipient does not occupy a bed that used to be included in the Medicaid-certified capacity of another ICF/IID certified by the Director of Health before June 1, 2003, (3) the services are provided by an ICF/IID whose Medicaid certification by the Director of Health was initiated or supported by a county board, and (4) the provider of the services has a valid Medicaid provider agreement for the services for the time that the services are provided. A similar provision was included in H.B. 59 of the 130th General Assembly and H.B. 64 of the 131st General Assembly.

Updating authorizing statute citations

(Section 261.220)

The bill provides that the DD Director is not required to amend any rule for the sole purpose of updating the citation in the Ohio Administrative Code to the statute that authorizes the rule to reflect that the bill renumbers the authorizing statute or relocates it to another Revised Code section. The citations must be updated as the Director amends the rules for other purposes. A similar provision was included in H.B. 59 of the 130th General Assembly and H.B. 64 of the 131st General Assembly.

DEPARTMENT OF EDUCATION

I. School financing

- Maintains the dollar amounts from FY 2017 for the formula amount and all categorical payments for both years of the biennium.

- Provides an additional payment of a "third-grade reading bonus" to each STEM school based on how many of its third grade students score at a proficient level or higher on the English language arts assessment.

- Specifies that a school district's transportation funding must be calculated using a multiplier of the greater of 37.5% or the district's state share index (for FY 2018) or a multiplier of the greater of 25% or the district's state share index (for FY 2019).

- For each city, local, and exempted village school district, adjusts the district's aggregate amount of core foundation funding (excluding some payments) and pupil transportation funding as follows:

  --Imposes a cap that restricts the increase in the aggregate amount of funding over the previous year's state aid to no more than 5% of the previous year's state aid in each fiscal year of the biennium;

  --If a district has a decrease in total ADM between FY 2011 and FY 2016 that is 10% or greater, guarantees that the district receives 95% of the district's amount of state aid in FY 2017;

  --If a district has a decrease in total ADM between FY 2011 and FY 2016 that is between 5% and 10%, guarantees that the district receives a scaled amount between 95% and 100% of the district's amount of state aid in FY 2017;

  --Guarantees that all other districts receive at least the same amount of state aid in each fiscal year of the biennium as in FY 2017.

- For each joint vocational school district, adjusts the district's aggregate amount of core foundation funding (excluding career-technical education and associated services funding and the graduation bonus) in substantially the same manner as it does for city, local, and exempted village school districts.

- Extends the Straight A Program to FYs 2018 and 2019, and makes changes in its operation.

- Repeals sections that prescribe the calculation of school districts' capacity measures for the tangible personal property (TPP) reimbursement in the tax code.

- Repeals two provisions that allow for the recalculation of a school district's state funding due to reductions in the district's property tax base made after the funding was initially computed.

II. College Credit Plus and College-Ready Programs

College Credit Plus (CCP) Program

Student eligibility

- Beginning with the 2018-2019 school year, requires a student, as a condition of eligibility for the CCP Program, to either (1) be "remediation-free" on at least one specified assessment, or (2) score within a specified range of the remediation-free threshold and have at least a 3.0 GPA or an advisor's recommendation.

- Requires the Chancellor of Higher Education, in consultation with the Superintendent of Public Instruction, to adopt rules specifying conditions under which "underperforming" participants may continue participating in the CCP Program.

Payments

- Specifies that, under the default payment structure for the CCP Program, the Department of Education must pay the lesser of (1) the default amount or (2) the college's standard rate for an undergraduate course.

- Prohibits payments made by the Department for a CCP course under an alternative payment structure from exceeding the college's standard rate for an undergraduate course, if that rate is less than the default ceiling amount.

- Prohibits payments made by the Department for a CCP course under an alternative payment structure from being below the default floor amount.

Course eligibility

- Requires the Chancellor, in consultation with the state Superintendent, to adopt rules specifying which courses under the CCP Program are eligible for funding from the Department of Education.

- Specifies that courses may be taken under 'Option B' of the CCP Program only if they are eligible for funding under the adopted rules.

Textbooks

- Beginning with the 2018-2019 school year, requires each public and participating nonpublic high school to enter into a textbook agreement, separate from any other CCP funding agreement, with each college that enrolls the school's participants under 'Option B'.

- Specifies provisions to be included in each textbook agreement, including that the college must provide all textbooks to participants, the high school must pay for textbooks in one of the prescribed manners, and the participant must return textbooks upon completion of the course.

- Prescribes a different structure for home-instructed participants to procure textbooks under CCP.

Appeals and information

- Changes to whom a student may appeal a principal's decision, with regard to the student's participation in the CCP Program, from the State Board of Education to the district superintendent or the applicable governing entity.

- Changes to whom a participant may appeal a dispute, with regard to the granting of credit for CCP courses, from the State Board to the Department of Education.

- Moves the annual deadline, from March 1 to February 1, by which high schools must provide CCP Program information to students in grades 6 through 11.

- Eliminates provisions requiring colleges to notify the state Superintendent of a participant's (1) admission to the college under CCP, (2) courses and hours of enrollment, and (3) chosen participation option ('Option A' or 'Option B').

College-Ready Program

- Establishes the College-Ready Program to provide high school students who do not yet meet remediation-free thresholds with college-ready transitional courses.

III. Educator licensure and preparation

- Creates two new educator licenses (Career-Technical Educator Levels I and II) and, starting July 1, 2018, requires first-time applicants for a career-technical educator license to obtain one of the new licenses, rather than the professional career-technical teaching license.

- Requires the State Board of Education to continue issuing the professional career-technical teaching license until June 30, 2018, and authorizes certain individuals to continue to renew their professional career-technical teaching licenses after that date.

- Requires instruction in opioid and other substance abuse prevention be included in teacher preparation programs for educators and other school personnel for all content areas and grade levels.

- Requires, as a condition for renewal of an educator license, completion of an on-site work experience with a local business or chamber of commerce.

IV. Curriculum and graduation credentials

Credit for integrated course content

- Permits public and chartered nonpublic schools to integrate academic content in subject areas for which the State Board of Education has adopted standards into a course in a different subject area, and to allow a student to receive credit for both subject areas that were integrated into the one course.

- Permits a school to administer a related end-of-course exam in a subject in an integrated course to a student upon completion of the integrated course.

- By July 1, 2018, requires the Department of Education, in consultation with the Department of Higher Education and the Governor's Office of Workforce Transformation, to develop guidance on granting integrated credit.

Credit through subject area competency

- Requires the Department of Education to develop a framework for school districts and community schools to use in granting units of high school credit to students who demonstrate subject area competency through work-based learning experiences, internships, or cooperative education.

- Requires each district and community school to comply with the framework, beginning with the 2018-2019 school year.

Industry-recognized credentials and licenses for graduation

- Requires the Superintendent of Public Instruction, in collaboration with the Governor's Office of Workforce Transformation and representatives of business organizations, to establish by January 1, 2018, a committee to develop and update

biannually a list of industry-recognized credentials and licenses for high school graduation and state report card purposes.

- Eliminates the responsibility for the State Board of Education to approve industry-recognized credentials and licenses.

OhioMeansJobs-Readiness Seal

- Requires the Superintendent of Public Instruction to establish the OhioMeansJobs-Readiness Seal which must be attached or affixed to the diplomas and transcripts of students enrolled in a public or chartered nonpublic school who satisfy specified requirements.

Regional workforce collaboration model

- Requires the Governor's Office of Workforce Transformation, the Department of Education, and the Chancellor of Higher Education to develop a regional workforce collaboration model to provide career services to students by December 31, 2017.

- Requires the Governor's Office of Workforce Transformation to oversee the creation of regional workforce collaboration partnerships.

Pre-apprenticeship training programs

- Requires the Departments of Education and Job and Family Services to establish an option for career-technical education students to participate in pre-apprenticeship training programs that impart the skills and knowledge needed for successful participation in a registered apprenticeship occupation course.

V. Other education provisions

Release of state achievement test questions

- Beginning with the 2017-2018 school year, requires that 40% of questions from each state elementary achievement assessment and high school end-of-course exam become public records, instead of the staggered release of all questions as under current law.

- Prohibits the release in 2017 of any questions from the elementary English language arts and math assessments administered in the 2015-2016 school year.

Payments for Adult Diploma Program

- Requires an entity other than the Department of Education to make full or partial payments for a student participating in the Adult Diploma Pilot Program, if the

Superintendent of Public Instruction and the Chancellor of Higher Education determine that it is appropriate for that entity to make those payments.

STEAM schools, equivalents, and programs of excellence

- Authorizes the creation of science, technology, engineering, arts, and mathematics (STEAM) schools, equivalents, and programs of excellence, which are types of STEM schools, STEM school equivalents, and STEM programs of excellence, respectively.

All-day kindergarten offered by STEM and STEAM schools and equivalents

- Permits STEM and STEAM schools and equivalents to offer all-day kindergarten in the same manner as school districts to conform with provisions of current law that permit STEM schools and equivalents to offer any of grades K-12 (which also apply to STEAM schools and equivalents under the bill).

Application periods for Ed Choice income-based scholarships

- Specifies that the Department of Education need not conduct a second application period for the income-based expansion of the Educational Choice Scholarship Program, if the income-based scholarships awarded in the first application period use the entirety of the amount appropriated for that school year.

Miscellaneous provisions

- Specifies that the employers of minors participating in a STEM program approved by the Department of Education or any eligible classes through the College Credit Plus Program that meet specified requirements are exempt from the state minor labor law, which restricts employment of minors in certain occupations.

- Repeals the requirement that each school district and educational service center appoint a business advisory council.

- Requires each school district superintendent to appoint three nonvoting members who represent local businesses to the board of education.

- Removes the Governor, the Superintendent of Public Instruction, and the Chancellor of Higher Education from the membership of the board of directors of the nonprofit corporation that implements the Bright New Leaders for Ohio Schools Program.

- Limits the ability of an unclassified Department of Education employee to receive payment on separation of employment for sick leave accumulated while employed by a school district to an employee who began employment with the Department before October 1, 2017.

I. School financing

(R.C. 3314.08, 3317.013 3317.014, 3317.017, 3317.02, 3317.022, 3317.0212, 3317.0218, 3317.16, 3326.33, 3326.41, and 5709.92)

H.B. 59 of the 130th General Assembly (the general operating budget act for the 2013-2015 biennium) enacted a new system of financing for school districts and other public entities that provide primary and secondary education, which was subsequently amended by H.B. 64 of the 131st General Assembly (the general operating budget act for the 2015 – 2017 biennium). This system specifies a per-pupil formula amount and then uses that amount, along with a district's "state share index" (which depends on valuation and, for districts with relatively low median income, on median income), to calculate a district's base payment (called the "opportunity grant"). The system also includes payments for targeted assistance (based on a district's property value and income) and supplemental targeted assistance (based on a district's percentage of agricultural property), as well as categorical payments (which include special education funds, kindergarten through third grade literacy funds, economically disadvantaged funds, limited English proficiency funds, gifted funds, career-technical education funds, capacity aid, a graduation bonus, a third-grade reading bonus, and student transportation funds).

The bill makes changes to the current funding system as described below and applies these changes, where applicable, to the core foundation funding formulas for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools. For a more detailed description of the bill's school funding system, see the LSC Redbook for the Department of Education and the LSC Comparison Document for the bill. Click on "Budget Bills and Related Documents," then on "Main Operating," and then on "Redbooks" or "Comparison Document."

Note, as used below, "ADM" means average daily membership. The Department of Education uses the student enrollment that a district is required to report three times during a school year to calculate a district's average daily membership for the specific purposes or categories required for the school funding system, including a district's "formula ADM" and "total ADM."[20]

[20] R.C. 3317.03, not in the bill.

Formula amount

(R.C. 3317.022)

The bill maintains the formula amount from FY 2017 ($6,000) for both FY 2018 and FY 2019. That amount is incorporated in the school funding system to calculate a district's base payment (the "opportunity grant") and is used in the computation of various other payments.

State share index

(R.C. 3317.017)

The bill makes clarifying changes to the calculation of the "state share index" but otherwise maintains the formula as it exists in current law.

The "state share index" is an index that depends on valuation and, for districts with relatively low median income, on median income. It is adjusted for school districts where 30% or more of the potential taxable valuation is exempted from taxation, which reduces the qualifying districts' three-year property valuation in the formula, and, thereby, increases their calculated core funding.

The "state share index" is a factor in the calculation of the opportunity grant, special education funds, catastrophic cost for special education students, kindergarten through third grade literacy funds, limited English proficiency funds, career-technical education funds, career-technical associated services funds, the graduation bonus, the third-grade reading bonus, and transportation funds for city, local, and exempted village school districts.

Targeted assistance

The bill maintains the calculation of targeted assistance funding, which is based on a district's value and income, as it exists in current law. Targeted assistance is paid to city, local, and exempted village school districts, and community schools and STEM schools are paid 25% of the per-pupil amount of targeted assistance funding for each student's resident district (unless the community school is an Internet- or computer-based community school (e-school)).

The bill also maintains the calculation of targeted assistance supplemental funding, which is based on a district's percentage of agricultural property, as it exists in

current law. Targeted assistance supplemental funding is paid only to city, local, and exempted village school districts.[21]

Special education funding

(R.C. 3317.013)

The bill maintains the dollar amounts for the six categories of special education services from FY 2017 for both FY 2018 and FY 2019, as described in the table below. These amounts are used in the calculation of special education funding for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools.

Category	Disability	Dollar amount for FY 18 and FY 19
1	Speech and language disability	$1,578
2	Specific learning disabled; developmentally disabled; other health-impairment minor; preschool child who is developmentally delayed	$4,005
3	Hearing disabled; severe behavior disabled	$9,622
4	Vision impaired; other health-impairment major	$12,841
5	Orthopedically disabled; multiple disabilities	$17,390
6	Autistic; traumatic brain injuries; both visually and hearing impaired	$25,637

Kindergarten through third grade literacy funds

(R.C. 3314.08(C)(1)(d), 3317.022(A)(4), and 3326.33(D))

The bill maintains the dollar amounts from FY 2017 for the calculation of kindergarten through third grade literacy funds for city, local, and exempted village school districts, community schools, and STEM schools for both FY 2018 and FY 2019.

[21] R.C. 3317.0217, not in the bill.

Economically disadvantaged funds

(R.C. 3314.08(C)(1)(e), 3317.02(E), 3317.022(A)(5), 3317.16(A)(3), and 3326.33(E))

The bill maintains the dollar amounts in current law (which were used for the 2015-2017 biennium) for the calculation of economically disadvantaged funds for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools for both years of the biennium.

Funding for limited English proficient students

The bill maintains the dollar amounts in current law (which were used for the 2015-2017 biennium) for the three categories of limited English proficient students for both years of the biennium, as described in the table below. These amounts are used in the calculation of funding for limited English proficient students for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools.[22]

Category	Type of student	Dollar amount for FY 18 and FY 19
1	A student who has been enrolled in schools in the U.S. for 180 school days or less and was not previously exempted from taking the spring administration of either of the state's English language arts assessments (reading or writing)	$1,515
2	A student who has been enrolled in schools in the U.S. for more than 180 school days or was previously exempted from taking the spring administration of either of the state's English language arts assessments (reading or writing)	$1,136
3	A student who does not qualify for inclusion in categories 1 or 2 and is in a trial-mainstream period, as defined by the Department	$758

[22] R.C. 3317.016, not in the bill.

Gifted funding

(R.C. 3317.022(A)(7))

Gifted identification funding

The bill maintains the dollar amount in current law for gifted identification funding ($5.05, which was used for FY 2017) for both FY 2018 and FY 2019. This funding is paid to city, local, and exempted village school districts.

Gifted unit funding

The bill also maintains the dollar amount in current law for each gifted unit ($37,370) for both FY 2018 and FY 2019. The Department must pay gifted unit funding to a city, local, or exempted village school district in an amount equal to the dollar amount for each gifted unit times the number of units allocated to a district. Under continuing law, the Department must allocate funding units to a district for services to identified gifted students as follows:

(1) One gifted coordinator unit for every 3,300 students in the district's gifted unit ADM (which is the district's formula ADM minus the number of its resident students enrolled in community schools and STEM schools), with a minimum of 0.5 units and a maximum of 8 units for the district.

(2) One gifted intervention specialist unit for every 1,100 students in the district's gifted unit ADM, with a minimum of 0.3 units allocated for the district.[23]

Career-technical education funding

(R.C. 3317.014 and 3317.16(D)(2))

The bill maintains the dollar amounts for the five categories of career-technical education services from FY 2017 for both FY 2018 and FY 2019, as described in the table below. These amounts are used in the calculation of career-technical education funding for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools.

[23] R.C. 3317.051, not in the bill.

Category	Career-technical education programs[24]	Dollar amount for FY 18 and FY 19
1	Workforce development programs in agricultural and environmental systems, construction technologies, engineering and science technologies, finance, health science, information technology, and manufacturing technologies	$5,192
2	Workforce development programs in business and administration, hospitality and tourism, human services, law and public safety, transportation systems, and arts and communication	$4,921
3	Career-based intervention programs	$1,795
4	Workforce development programs in education and training, marketing, workforce development academics, public administration, and career development	$1,525
5	Family and consumer science programs	$1,308

Career-technical associated services funding

(R.C. 3317.014)

The bill maintains the dollar amount for career-technical education associated services from FY 2017 ($245) for both FY 2018 and FY 2019. This amount is multiplied by a district's total career-technical ADM and a district's state share index in order to calculate the district's career-technical education associated services funding.

Capacity aid

(R.C. 3317.0218)

The bill maintains the formula for capacity aid for city, local, and exempted village school districts from FY 2017. This payment is based on how much one mill of taxation will raise in revenue for the district.

[24] Continuing law specifies that each career-technical education program must be defined by the Department in consultation with the Governor's Office of Workforce Transformation (R.C. 3317.014).

Graduation bonus

(R.C. 3317.16(A)(7) and 3326.41(B))

The bill maintains the formula in current law for calculating an additional "graduation bonus" payment to each city, local, and exempted village school district,[25] joint vocational school district, community school,[26] and STEM school based on how many students graduate from the district or school, as indicated on the district's or school's most recent report card.

Third-grade reading bonus

(R.C. 3326.41(B)(2))

The bill maintains the formula in current law for calculating an additional "third-grade reading bonus" payment to each city, local, and exempted village school district[27] and community school[28] based on how many of the district's or school's third grade students score at a proficient level of skill or higher on the district's or school's most recent administration of the English language arts assessment. It also provides for the payment of this bonus to each STEM school. (The law was amended at the end of the 131st General Assembly to authorize STEM schools to enroll students in any of grades K-12, rather than any of grades 6-12.)

Transportation funding

(R.C. 3317.0212)

The bill specifies that a school district's transportation funding must be calculated using the following multiplier:

(1) For FY 2018, the greater of 37.5% or the district's state share index;

(2) For FY 2019, the greater of 25% or the district's state share index.

Under current law, this multiplier is the greater of 50% or the district's state share index.

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[25] R.C. 3317.0215, not in the bill.

[26] R.C. 3314.085(B)(1), not in the bill.

[27] R.C. 3317.0216, not in the bill.

[28] R.C. 3314.085(B)(2), not in the bill.

Payments prior to the bill's effective date

(Section 265.210)

As with the past two biennial budget acts, the bill requires the Superintendent of Public Instruction, prior to the bill's effective date, to make operating payments in amounts "substantially equal" to those made in the prior year, "or otherwise," at the Superintendent's discretion.

Payment caps and guarantees

(Sections 265.220 and 265.230)

City, local, and exempted village school districts

The bill adjusts a city, local, or exempted village school district's aggregate amount of core foundation funding and pupil transportation funding by imposing a cap that restricts the increase in the aggregate amount of funding over the previous year's state aid to no more than 5% of the previous year's state aid in each fiscal year of the biennium. A district's core foundation funding and pupil transportation funding is further adjusted by guaranteeing that all districts receive at least the same amount of state aid in each fiscal year of the biennium as in FY 2017, except as follows:

--If a district's percentage change in total ADM between FY 2011 and FY 2016 is a decrease of 10% or more, the district is guaranteed, in each fiscal year of the biennium, 95% of the district's amount of state aid in FY 2017;

--If a district's percentage change in total ADM between FY 2011 and FY 2016 is a decrease between 5% and 10%, the district is guaranteed, in each fiscal year of the biennium, a scaled amount between 95% and 100% of the district's amount of state aid in FY 2017.

For purposes of computing a district's cap and guarantee under the bill, "core foundation funding" does not include the district's payments for career-technical education funding, career-technical associated services funding, the third-grade reading bonus, and the graduation bonus.

Joint vocational school districts

The bill adjusts a joint vocational school district's aggregate amount of core foundation funding in substantially the same manner as it does for city, local, and exempted village school districts. For purposes of computing a joint vocational school district's cap and guarantee under the bill, "core foundation funding" does not include

career-technical education funding, career-technical associated services funding, and the graduation bonus.

Newly established joint vocational school district

The bill also requires the Department to adjust, as necessary, the transitional aid guarantee and cap bases of school districts that participate in the establishment of a joint vocational school district that first begins receiving core foundation funding in FY 2018 or FY 2019 and to establish, as necessary, the guarantee and cap bases of the new joint vocational school district as an amount equal to the absolute value of the sum of the associated adjustments for the participant school districts.

Straight A Program

(Section 265.340)

The bill extends the Straight A Program to FYs 2018 and 2019. This program was created in uncodified law by H.B. 59 of the 130th General Assembly to provide grants for FYs 2014 and 2015, and it was extended by H.B. 64 of the 131st General Assembly, with some changes to the Program's operation, to provide grants for FYs 2016 and 2017. The program currently provides grants to school districts, educational service centers (ESCs), community schools, STEM schools, college-preparatory boarding schools, individual school buildings, education consortia, institutions of higher education, and private or governmental entities partnering with one or more of these educational entities. The purpose of those grants is to fund projects aiming to achieve significant advancement in one or more of the following goals: (1) student achievement, (2) spending reduction in the five-year fiscal forecast, (3) utilization of a greater share of resources in the classroom, and (4) use of a shared services delivery model.

The bill largely retains the provisions of the Straight A Program as extended by H.B. 64. It does, however, change those provisions in the following ways:

(1) Removes "utilization of a greater share of resources in the classroom" as a possible goal for a project that receives a grant under the Program;

(2) Specifies that businesses, nonprofit organizations, and innovation incubators may be part of education consortia that receive grants under the Program; and

(3) Authorizes the following two types of grants under the Program:

--Innovation grants, which must be used to implement a new idea or modification to existing processes; and

--Replication grants, which must be used to replicate a project implemented by an existing or previous grantee that the board has designated as successful and suitable for replication.

The bill appropriates $15 million for each fiscal year from the state lottery profits for the Program.

School district TPP reimbursement

(Repealed R.C. 3317.018 and 3317.019)

The bill repeals sections of the existing school funding law that prescribe the calculation of school districts' capacity measures for the tangible personal property (TPP) reimbursement in the tax code. These calculations were performed once, in FY 2016, for purposes of the TPP reimbursement. (These sections are no longer used for any calculations in the school funding formula.)

School funding adjustments for property tax base reductions

(Repealed R.C. 3317.026 and 3317.027; conforming changes in R.C. 3316.20, 3317.01, 3317.021, and 3317.025)

The bill repeals two provisions that allow for the recalculation of a school district's state funding due to adjustments made in the district's property tax base after the funding was initially computed. The recalculations take into account reductions in property value that (a) result in tax refunds of more than 3% of a district's current expense tax revenue and (b) arise from property owner complaints, late current agricultural use value (CAUV) determinations, and retroactive tax exemptions. The bill eliminates a certification by the Tax Commissioner of changes in the taxable value of public utility property made for the purposes of the recomputation described in (a).

II. College Credit Plus and College-Ready Programs

College Credit Plus (CCP) Program

(R.C. 3365.01, 3365.03, 3365.04, 3365.05, 3365.06, 3365.07, 3365.072 (enact), 3365.091 (enact), and 3365.12; Sections 733.20 and 733.30; conforming change in R.C. 3301.0712)

The bill makes several changes to the College Credit Plus (CCP) Program. The CCP Program allows high school students who are enrolled in public or nonpublic high schools or who are home-instructed to enroll in nonsectarian college courses to receive high school and college credit. Generally, the Program governs arrangements in which the student, upon successful completion of such a course, receives transcripted credit

from the college. CCP courses may be taken at any public or participating private or out-of-state college.

Student eligibility

Students enrolled in public and nonpublic high schools, as well as home-instructed students, are eligible to participate in the CCP Program. Additionally, seventh and eighth grade students may participate in the Program in the same manner as high school students. Currently, any student wishing to enroll in a college under the CCP Program must do both of the following *prior* to participation in the Program:

--Apply to a public or a participating private or out-of-state college in accordance with the college's established procedures for admission; and

--Meet that college's established standards for admission and for course placement, including any course-specific capacity limitations on class size.

Additional conditions of eligibility

(R.C. 3365.03; Section 733.20)

Beginning with students seeking to participate in the CCP Program for the 2018-2019 school year, the bill requires that a student, as a condition of eligibility and prior to participation in the Program, either:

(1) Be considered "remediation-free" on one of the assessments established by the college presidents for the purpose of determining a student's remediation-free status; or

(2) Score within one standard error of measurement below the remediation-free threshold for one of those assessments *and* either (a) have a cumulative GPA of at least 3.0 or (b) receive a recommendation from a school counselor, principal, or career-technical program advisor.

Under current law, the college presidents establish assessments to determine all incoming undergraduate students' level of college readiness.[29]

The bill also requires the student to meet the college's established standards for enrollment (in addition to the college's standards for admission and course placement, as under current law), as well as the relevant academic program's established standards for admission, enrollment, and course placement.

[29] R.C. 3345.061(F).

The additional eligibility conditions prescribed by the bill first apply to students seeking to participate in CCP for the 2018-2019 school year. Students seeking to participate for the 2017-2018 school year remain subject to the eligibility conditions prescribed by current law.

Eligibility of underperforming participants

(R.C. 3365.091)

The bill requires the Chancellor of Higher Education, in consultation with the Superintendent of Public Instruction, to adopt rules specifying the conditions under which an underperforming participant may continue to participate in the CCP Program.

The rules must address at least the following:

(1) The definition of an "underperforming participant";

(2) Additional conditions for participants with repeated underperformance to satisfy;

(3) The timeframe for notifying an underperforming participant who is determined to be ineligible for participation of such ineligibility;

(4) Mechanisms available to assist underperforming participants;

(5) The role of school guidance counselors and college academic advisors in assisting underperforming participants;

(6) If an underperforming participant is determined to be ineligible for participation, any consequences that ineligibility may have on the student's ability to complete the high school's graduation requirements; and

(7) The school year for which implementation of the rules first apply.

When developing the rules, the Chancellor, in consultation with the state Superintendent, must establish a process to receive input from public and private high schools and colleges, as well as other interested parties.

Payments by the Department of Education

Under current law, each student may choose to participate in the CCP Program under 'Option A' (under which the student is responsible for all costs related to participation) or 'Option B' (under which the state, through the Department of Education, makes a payment to the college on the student's behalf). If participating under 'Option B,' the amount of state payments depends upon several factors, including

the type of high school and college in which the participant is enrolled, how the participant receives instruction, and whether the high school and college are operating under the default payment structure or an agreement specifying an alternative payment structure. Payments are calculated according to a per credit hour amount, based on the "formula amount," which is generally prescribed for the school funding formula for two years at a time in each biennial budget act. The bill sets the formula amount at $6,000.

Payment amounts

(R.C. 3365.01 and 3365.07; conforming change in R.C. 3301.0712)

Under the default payment structure for CCP, the Department of Education is currently required to pay the default ceiling amount ($166 per credit hour for FY 2017) or 50% of the default ceiling amount for specified participants. Meanwhile, under an alternative payment structure, payments made by the Department may differ from those under the default payment structure. However, payments cannot be below the default floor amount ($42 per credit hour for FY 2017), unless approved by the Chancellor, or exceed the default ceiling amount. (Under the bill, the default ceiling amount and default floor amount will be unchanged for FY 2018 and FY 2019.)

The bill makes changes to the payment structure. First, it specifies that, if the college's standard rate (see below) is less than the applicable default amount, the Department of Education, instead, must pay the standard rate. Essentially, it prohibits payments made by the Department for a CCP course from exceeding the college's standard rate. "Standard rate" is defined under the bill as "the amount per credit hour assessed by the college for an in-state student who is enrolled in an undergraduate course at that college, but who is not participating in the CCP Program, as prescribed by the college's established tuition policy."

Second, the bill removes current provisions that (1) permit payments under an alternative payment structure to be below the default floor amount and (2) require the Chancellor to approve such payments, if the agreement complies with all other requirements of the CCP Program. Therefore, the bill prohibits payments made by the Department of Education for a CCP course to be below the default floor amount.

Courses eligible for funding

(R.C. 3365.06)

The bill requires the Chancellor, in consultation with the state Superintendent, to adopt rules specifying which courses under the CCP Program are eligible for funding from the Department of Education. The bill further specifies that only courses eligible for funding under those rules may be taken under 'Option B' of the CCP Program.

The rules must address at least the following:

(1) Whether courses must be taken in a specified sequence;

(2) Whether to restrict funding and limit eligibility to certain types of courses, including (a) courses in the statewide articulation and transfer system, (b) courses that apply to multiple degree pathways or to in-demand jobs, or (c) other types of courses;

(3) Whether courses with private instruction, as defined by the Chancellor, are eligible for funding; and

(4) The school year for which implementation of the rules first apply.

When developing the rules, the Chancellor, in consultation with the state Superintendent, must establish a process to receive input from public and private high schools and colleges, as well as other interested parties.

Textbooks for CCP courses

(R.C. 3365.01, 3365.07, and 3365.072; Section 733.30; conforming change in R.C. 3301.0712)

Under current law, the provision of, and payment for, textbooks is governed by the main funding statute for the CCP Program. Therefore, like the structure for CCP payments by the Department, the entity responsible for textbook payments and whether participants may be charged for textbooks varies depending upon the type of high school and college and whether the high school and college are operating under the default payment structure or an agreement specifying an alternative payment structure. Under the bill, students seeking to participate in CCP for the 2017-2018 school year remain subject to the current textbook payment structure. For a detailed description of the current structure, see pp. 31-32 of the LSC Final Analysis for H.B. 487 of the 130th General Assembly, online at the Ohio General Assembly Archives.[30]

However, beginning with participation for the 2018-2019 school year, the bill prescribes two new structures for the provision of, and payment for, textbooks under the CCP Program – one for public and nonpublic high school students and one for home-instructed students. Unlike under current law, the new arrangement for public and nonpublic high school participants applies to all such participants, regardless of the type of high school and college in which that participant is enrolled. Further, it prohibits any public or nonpublic participant from being charged for textbooks. The bill

[30] www.lsc.ohio.gov/analyses130/14-hb487-130.pdf.

also codifies in statutory law the Administrative Code definition for "textbook" as "any paper, electronic, or other purchased coursework material."[31]

Textbooks for public and nonpublic school participants

Beginning with the 2018-2019 school year, each public and participating nonpublic high school must enter into an agreement with each college that enrolls the school's participants under 'Option B' of the Program to specify arrangements for the provision of textbooks. Unlike current law, the arrangement for textbooks must be separate from any other CCP funding agreement.

Under each agreement, the college must provide all required textbooks to participants, the high school must pay for the textbooks, and no participant may be charged for the textbooks. In order to pay for required textbooks under the CCP Program, the bill prescribes the following two options for high schools:

--The high school must pay the college $10 per credit hour per participant. Under this option, the college owns the textbooks and the participant returns the textbooks to the college upon completion of the course.

--The high school and the college must agree on an amount, which the high school must then pay to the college. Under this option, the high school and college also must specify who owns the textbooks and to whom the participant must return the textbooks upon completion of the course.

Regardless of which option is chosen, the bill requires several other administrative and procedural provisions to be included in each textbook agreement, including:

(1) Unless otherwise specified in the agreement, the college may obtain required textbooks from any source offering the textbooks.

(2) The name and contact information of the person at the college and the person at the high school responsible for implementing the agreement's procedures.

(3) The entity and person responsible for ensuring that participants receive all required textbooks in a timely manner.

(4) The entity that owns the textbooks provided to participants.

(5) Protocols and timelines for notifying the college of needed textbooks.

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[31] See O.A.C. 3333-1-65(C).

(6) Participants' responsibilities for acquiring and returning textbooks and each entity's duties with regard to notifying participants of those responsibilities.

(7) Textbook payment procedures. These procedures must specify that (a) not earlier than 14 days after the beginning of the semester, the college must submit a request for payment to the high school, and (b) within 60 days of receipt of the college's request, the high school must remit payment to the college.

(8) Procedures for reimbursing a participant who, after a good faith effort to follow the agreement's procedures, purchases the textbook to ensure having it in time for the course.

(9) If the high school and the college agree to a textbook payment structure that differs from the $10 per credit hour per participant rate, the agreed upon structure and, if applicable, any options available for renting textbooks.

The bill also permits high schools and colleges to establish multi-year payment and arrangement structures for textbooks, if those textbooks are required for CCP courses delivered at the high school on a regular basis and taught by a high school teacher.

Each high school must include information on the terms of its textbook agreements in the counseling information provided to CCP participants. Additionally, the Chancellor, in consultation with the state Superintendent, must establish a process for collecting regular feedback on the provision of textbooks from public and private high schools and colleges, as well as other interested parties.

Textbooks for home-instructed participants

Beginning with the 2018-2019 school year, the bill prescribes a different structure for home-instructed participants to procure textbooks under CCP. Beginning with that school year, each home-instructed participant must choose one of the following arrangements:

--The participant must pay the college $10 per credit hour to rent the textbooks. Under this option, the college owns the textbooks and the participant must return the textbooks upon completion of the course.

--The participant must purchase the textbooks. Under this option, the participant owns the textbooks.

When registering for courses, the participant must inform the college of the option chosen for procuring textbooks.

Appeals

(R.C. 3365.03 and 3365.12)

Missed notification deadline

Under current law, a student enrolled in a public high school must notify the school's principal by April 1 of the intent to participate in the CCP Program during the following school year. If a student misses the deadline, that student must obtain the principal's written consent in order to participate. If the principal does not give consent, the student may then appeal the principal's decision.

The bill changes to whom the student may appeal the principal's decision, from the State Board of Education, to the district superintendent (for students enrolled in a school district) or the community school governing authority, STEM school governing body, or college-preparatory boarding school board of trustees. The bill also specifies that the district superintendent's or governing entity's decision on the appeal is final.

Course credit dispute

Under current law, if there is a dispute between a participant and the participant's high school with regard to high school credit granted for a CCP course, the participant may appeal the decision. The bill changes to whom the participant may appeal the decision, from the State Board, to the Department of Education.

Information and notifications

(R.C. 3365.04 and 3365.05)

Each school year, public and participating nonpublic high schools must provide information about the CCP Program to students in grades 6 through 11. The bill moves the annual deadline to provide this information from March 1 to February 1.

The bill also eliminates provisions requiring public and participating private colleges to notify the state Superintendent of a participant's admission to the college under CCP, as well as the participant's courses, hours of enrollment, and chosen participation option ('Option A' or 'Option B'). However, as under current law, colleges must still provide this information to the participant and the participant's high school within the statutorily prescribed timeframes.

College-Ready Program

(R.C. 3333.98)

The bill establishes and requires the Chancellor of Higher Education, in consultation with the Superintendent of Public Instruction, to administer the College-Ready Program. The Program will approve public and private ("chartered nonpublic") schools to provide courses for students who do not meet remediation-free thresholds and who need additional coursework to either qualify to take courses for college credit while still enrolled in high school or to be prepared for college upon graduation, or both. All Program requirements, deadlines, guidance, forms, documents, and procedures necessary to establish and administer the Program must be developed and published by February 1, 2018, and approved programs may offer college-ready courses beginning with the 2018-2019 school year.

To create the Program, the bill requires the Chancellor, in consultation with the state Superintendent, to convene a workgroup of faculty and administrators from both secondary schools and institutions of higher education to develop one or more models for a College-Ready Program in math. This must be done by December 31, 2017.

The bill further requires the workgroup to develop and make recommendations for a plan for the Program. Recommendations must include the development of one or more additional instructional models, criteria for approving schools and institutions to provide instruction under the Program, and a timeline to develop models for additional subject areas by the February 1 deadline. The workgroup also must recommend upper and lower score thresholds for student eligibility based on national standardized test scores and state-required assessments for high school students. The workgroup must use the remediation-free standards established by the presidents of state institutions of higher education under current law as a guide.[32] Further, the workgroup must recommend data collection and evaluation requirements for the programs. Finally, the workgroup must develop an application and approval process for schools and institutions to offer College-Ready courses using the models developed by the workgroup.

[32] R.C. 3345.061.

III. Educator licensure and preparation

Career-technical educator licenses

(R.C. 3319.229 (repeal and reenact))

New career-technical educator licenses

The bill replaces the professional career-technical teaching license with two new educator licenses, Career-Technical Educator Levels I and II, for individuals teaching in career-technical and workforce development subject areas in any of grades 7-12. Beginning July 1, 2018, new applicants for a career-technical educator license must obtain one of the new licenses, rather than the current professional career-technical teaching license. Provided that certain conditions are satisfied (described below), the State Board must issue a Career-Technical Educator Level I license to an applicant upon request from the superintendent of a school district that has agreed to employ the applicant. It appears that an applicant for a Career-Technical Educator Level II license is not required to be employed by a school district in order to receive that license provided the other conditions are satisfied.

The table below describes the bill's requirements for the new licenses.

License Type	Requirements to obtain license	Requirements to maintain license	Duration and renewability
Career-Technical Educator Level I	(1) High school diploma; (2) Five years of work experience in the subject area; and (3) An industry-recognized credential, (if applicable for the subject area).	Enroll in a program offered by an institution of higher education that is approved by the Chancellor and the Department that meets the following criteria: (1) provides classroom support to the license holder, (2) includes at least three semester hours of coursework in the teaching of reading in the subject area, (3) is aligned with career-technical education and workforce development competencies developed by the Department, (4) uses a summative performance-based assessment to evaluate the license holder's knowledge and skills.	Two years; renewable if the program supervisor and superintendent of the employing school district indicate that educator is making sufficient progress in both the program and teaching position.

License Type	Requirements to obtain license	Requirements to maintain license	Duration and renewability
Career-Technical Educator Level II	(1) Demonstrates mastery of the career-technical education and workforce development competencies of the teaching profession; and (2) Successful completion of the program the individual enrolled in as a condition to maintaining the Career-Technical Educator Level I license.	No provision regarding maintaining the license.	Five years; renewable in consultation with a local professional development committee.

Professional career-technical teaching license issuance and renewal

The State Board must continue issuing and renewing the current professional career-technical teaching licenses until June 30, 2018, in accordance with the rules adopted pursuant to the law repealed by the bill.

The bill authorizes both of the following individuals to continue to renew the professional career-technical teaching license, rather than obtain one of the new licenses, for the remainder of the individual's teaching career: (1) an individual who holds a professional career-technical teaching license as of July 1, 2018, and (2) an individual who holds an alternative resident educator license as of July 1, 2018, and upon expiration of that license, applies for a professional career-technical teaching license. However, the bill specifies that these individuals are not prohibited from applying for the new career-technical educator licenses.

Background

Under continuing law, the State Board is required to adopt rules establishing the standards and requirements for obtaining each educator license issued in this state. Those rules must have certain prescribed standards and qualifications for educator licenses, including, the following: (1) resident educator licenses, (2) professional educator licenses, (3) senior professional educator licenses, (4) lead professional educator licenses, and (5) alternative resident educator licenses.

Under current law, repealed by the bill, those rules also must include requirements for the issuance and renewal of professional career-technical teaching

licenses, including requirements relating to life experience, professional certification, and practical ability. Current law also prohibits requiring a qualified applicant for a career-technical teaching license to complete a degree applicable to the career field, classroom teaching, or area of licensure.[33]

Opioid abuse prevention instruction in teacher preparation programs

(R.C. 3333.0414)

The bill requires the Chancellor of Higher Education to adopt rules that require teacher preparation programs to include instruction in opioid and other substance abuse prevention. The instruction must be for all educator and other school personnel preparation programs for all content areas and grade levels. It must include information on the magnitude of opioid and substance abuse, the role of educators and other school personnel can play in educating students on the adverse effects of such abuse, and resources available to teach students about consequences of such abuse and to help fight and treat it.[34]

Work experience required for license renewal

(R.C. 3319.236)

Beginning September 1, 2018, the bill requires the State Board include as a condition for the renewal of educator licenses a requirement that each applicant complete an on-site work experience with a local business or chamber of commerce. Furthermore, each school's local professional development committee must assist teachers in identifying local work experience opportunities that meet this requirement.

The bill permits an educator who completes on-site work experience under this provision to use that experience to fulfill continuing education requirements.

Under current statutory law and administrative rule, each teacher who applies for renewal of a five-year professional or associate educator license must design an individual professional development plan, subject to the approval of the local professional development committee. In accordance with the approved plan, the teacher must complete, since the issuance or last renewal of the license, one of the following:[35]

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[33] R.C. 3319.22 and 3319.26, and repealed R.C. 3319.229, none in the bill.

[34] School districts are required to include instruction in prescription opioid abuse prevention in their health curricula (R.C. 3313.60(A)(5)(f), not in the bill).

[35] O.A.C. 3301-24-08 and R.C. 3319.22, not in the bill.

- Six semester hours of coursework related to classroom teaching and/or the area of licensure;
- 18 continuing education units; or
- Other equivalent activities related to classroom teaching or the area of licensure.

IV. Curriculum and graduation credentials

Credit for integrated course content

(R.C. 3313.603; Section 733.40)

The bill permits a school district or chartered nonpublic school to integrate academic content in subject areas for which the State Board has adopted standards into a course in a different subject area, including a career-technical education course, in accordance with guidance developed by the Department of Education. Current law requires the State Board to adopt standards in such areas as English language arts, math, science, social studies, health, technology, financial literacy and entrepreneurship, fine arts, foreign language, and physical education.[36]

If a student completes an integrated course in the manner authorized under the bill, the student may receive credit for both subject areas. Additionally, a school may administer a related end-of-course exam in a subject in an integrated course to a student upon completion of the integrated course.

Finally, the bill explicitly states that nothing in the provisions regarding integrated course excuse a district, chartered nonpublic school, or student from the statutory curriculum requirements, test requirements, or graduation requirements.

Development of guidance and planning

Under the bill, by July 1, 2018, the Department of Education, in consultation with the Department of Higher Education and the Governor's Office of Workforce Transformation, must develop both of the following:

(1) A plan that permits and encourages districts and chartered nonpublic schools to integrate academic content in subject areas for which the State Board of Education adopts standards into other coursework so that students may earn simultaneous credit; and

[36] R.C. 3301.079, not in the bill.

(2) Guidance to assist districts and schools that choose to implement integrated coursework, including appropriate licensure for teachers.

Credit through subject area competency

(R.C. 3313.603 and 3314.03)

The bill requires the Department of Education, by December 31, 2017, to develop a framework for school districts and community schools to use in granting units of high school credit to students who demonstrate subject area competency through work-based learning experiences, internships, or cooperative education. Continuing law requires the State Board (not the Department) to adopt and update a statewide plan to award high school credit based on demonstrated subject area competency. It appears the Department's framework under the bill is in addition to the State Board's framework under continuing law.

Districts and schools must comply with the Department's framework beginning with the 2018-2019 school year, and each district and school must review any policy it has adopted regarding the demonstration of subject area competency to identify ways to incorporate work-based learning experiences, internships, and cooperative education into the policy in order to increase student engagement and opportunities to earn units of high school credit.

Industry-recognized credentials and licenses for graduation

(R.C. 3302.03, 3313.618, and 3313.6113)

The bill eliminates the responsibility for the State Board to approve industry-recognized credentials and licenses. Instead the bill requires the Superintendent of Public Instruction, in collaboration with the Governor's Office of Workforce Transformation and representatives of business organizations, to establish a committee to develop a list of industry-recognized credentials and licenses that may be used to qualify for a high school diploma and for state report card purposes. The state Superintendent must appoint the committee by January 1, 2018. Under the bill, the committee must do the following:

(1) Establish criteria for acceptable industry-recognized credentials and licenses aligned with the in-demand jobs list published by the Department of Job and Family Services;[37]

[37] http://jfs.ohio.gov/owd/OMJResources/In-DemandOccupations.stm.

(2) Review the list of industry-recognized credentials and licenses in existence on January 1, 2018, and update the list as necessary; and

(3) Thereafter, review and update the list biannually.

OhioMeansJobs-Readiness Seal

(R.C. 3313.618, 3313.6110, and 3313.6112)

The bill requires the Superintendent of Public Instruction, in consultation with the Chancellor of Higher Education and the Governor's Office of Workforce Transformation, to establish the OhioMeansJobs-Readiness Seal. The seal must be attached or affixed to the high school diploma and transcript of a student enrolled in a public or chartered nonpublic school who does both of the following:

(1) Satisfies the requirements and criteria for earning the seal established by the state Superintendent, including demonstration of work-readiness and work ethic competencies such as teamwork, problem-solving, reliability, punctuality, and computer technology competency; and

(2) Completes a standardized form developed by the state Superintendent and has that form validated by at least three individuals, each of whom must be an employer, teacher, business mentor, community leader, faith-based leader, school leader, or coach of the student.

The state Superintendent must prepare and deliver to all school districts, community schools, STEM schools, college-preparatory boarding schools, and chartered nonpublic schools an appropriate mechanism for assigning a seal on a student's diploma and transcript indicating that the student has been assigned the seal, as well as any other information the state Superintendent considers necessary.

The bill also permits a parent, guardian, or other person having care or charge of a homeschooled student to assign the seal to the student's diploma in the same manner as prescribed for transcripts issued by school districts and chartered nonpublic schools.

Regional workforce collaboration model

(R.C. 6301.21)

The bill requires the Governor's Office of Workforce Transformation, the Department of Education, and the Chancellor of Higher Education to develop a regional workforce collaboration model by December 31, 2017. The model must be developed in consultation with business and economic stakeholder groups. It must provide guidance on how business and economic stakeholder groups must collaborate to form a

partnership to provide career services to students. Stakeholder groups include the JobsOhio Regional Network, local chambers of commerce, economic development organizations, business, business associations, secondary and post-secondary organizations, and Ohio College Tech Prep Regional Centers. Career services may include job shadowing, internships, co-ops, apprenticeships, career exploration activities, and problem-based curriculum developed in alignment with in-demand jobs.

The bill further requires the Office of Workforce Transformation to oversee the creation of regional workforce collaboration partnerships based on the model developed under the bill. The bill requires six partnerships located in different regions of the state as determined by JobsOhio.

Pre-apprenticeship training programs

(R.C. 3313.904)

The bill requires the Departments of Education and Job and Family Services, in consultation with the Governor's Office of Workforce Transformation, to establish an option for career-technical education students to participate in pre-apprenticeship training programs that impart the skills and knowledge needed for successful participation in a registered apprenticeship occupation course.

V. Other education provisions

Release of state achievement test questions

(R.C. 3301.0711; Section 733.10)

The bill changes the process by which questions and preferred answers on state achievement assessments for grades three through eight and high school end-of-course exams become public records. Beginning with those administered in the spring of the 2017-2018 school year, not less than 40% of questions from state-required assessments and exams must become public records. The bill specifies that the Department of Education must determine which questions will be needed for reuse on a future assessment or exam, and those questions will not be released and must be redacted before the assessment or exam is released as a public record. However, the bill requires the Department to inform each school district and school of the corresponding statewide academic standard and benchmark to which each redacted question relates.

Under current law, a percentage of the questions and answers are to be released each year as follows, so that the entire content of an assessment or exam becomes a public record within three years of its administration:

(1) 40% of the questions and preferred answers on July 31 following the administration of the assessment or exam;

(2) 20% of the questions and preferred answers on July 31 one year after the administration; and

(3) The remaining 40% of the questions and preferred answers on July 31 two years after the administration.

Under the bill, the Department must continue staggered release through the 2016-2017 school year but it prohibits the release in 2017 of any questions and corresponding preferred answers from the elementary English language arts and math assessments that were administered in the 2015-2016 school year.

Payments for the Adult Diploma Pilot Program

(R.C. 3313.902)

The bill requires an entity other than the Department of Education to make full or partial payments for a student participating in the Adult Diploma Pilot Program, if the Superintendent of Public Instruction and the Chancellor of Higher Education determine that it is appropriate for that entity to make those payments.

The Adult Diploma Pilot Program permits a community college, technical college, state community college, or Ohio Technical Center to obtain approval from the Superintendent and the Chancellor to develop and offer a program of study that allows eligible students (those who are at least 22 years old and have not received a high school diploma or certificate of high school equivalence) to obtain a high school diploma. Current law specifies the formula for calculating the amount of the payment for each student enrolled in the Program and prescribes that the amount be paid to the student's institution in three separate payments: 25% after the student successfully completes the first third of the Program, 25% after the student successfully completes the second third of the Program, and 50% after the student successfully completes the final third of the Program.

STEAM schools, equivalents, and programs of excellence

(R.C. 3326.01, 3326.03, 3326.032, 3326.04, and 3326.09)

The bill authorizes the creation of science, technology, engineering, arts, and mathematics (STEAM) schools, equivalents, and programs of excellence, which are types of STEM schools, STEM school equivalents, and STEM programs of excellence, respectively.

Requirements for STEAM schools and equivalents

Currently, in order to establish a STEM school or receive a designation of STEM school equivalent, a partnership of public and private entities (in the case of a STEM school) or a community school or chartered nonpublic school (in the case of a STEM school equivalent) must submit a proposal to the STEM Committee. The proposal must contain certain information, including evidence that the school will offer a rigorous, diverse, integrated, and project-based curriculum and, in the case of a STEM school, information regarding its governance.

Under the bill's provisions, a proposal for a STEAM school or STEAM school equivalent must contain all of the same information and all of the following:

(1) Evidence that the curriculum will integrate arts and design into the study of science, technology, engineering, and mathematics to foster creative thinking, problem-solving, and new approaches to scientific invention (under current law, a STEM school or equivalent must include the "arts and humanities" in its curriculum);

(2) In the case of a STEAM school, evidence that the school will operate in collaboration with a partnership that includes arts organizations (as well as institutions of higher education and businesses as under current law for STEM schools);

(3) In the case of a STEAM school equivalent, evidence that the school has a working partnership with public and private entities that includes arts organizations (as well as higher education entities and business organizations as under current law for STEM schools); and

(4) Assurances that the school has received in-kind commitments of sustained and verifiable fiscal and in-kind support from arts organizations.

The bill also requires that the curriculum team for each STEAM school and equivalent include an expert in the integration of arts and design into the STEM fields. Under current law, this team consists of at least the school's chief administrative officer, a teacher, a representative of the higher education institution that is a collaborating partner in the school or equivalent, and a member of the public with expertise in the application of science, technology, engineering, and mathematics.

If a STEM school or equivalent wishes to become a STEAM school or equivalent, it may change its existing proposal to include the information described above and submit the revised proposal to the STEM Committee for approval.

Requirements for STEAM programs of excellence

A school district, community school, or chartered nonpublic school may, under existing law, submit a proposal to the STEM Committee for a grant to support the operation of a STEM program of excellence. This proposal must contain specified information, including evidence that the program will offer a rigorous and diverse curriculum that is based on scientific inquiry and technological design, emphasizes personal learning and teamwork skills, and will expose students to advanced scientific concepts within and outside the classroom. Although current law requires the STEM Committee to award these grants, funds have not been appropriated for this purpose for several years.

Under the bill's provisions, a proposal for a grant for a STEAM program of excellence must contain all of the same information as a proposal for a STEM program of excellence, plus include both of the following:

(1) Evidence that the curriculum will integrate arts and design into the curriculum to foster creative thinking, problem-solving, and new approaches to scientific invention; and

(2) Evidence that the program will operate in collaboration with a partnership that includes arts organizations (as well as institutions of higher education and businesses as under current law for STEM schools).

As with STEM schools and equivalents, if a STEM program of excellence wishes to become a STEAM program of excellence, it may change its existing proposal to include the information described above and submit the revised proposal to the STEM Committee for approval.

Additional grade levels

The bill also permits STEM and STEAM programs of excellence to serve students in any of grades K-12, rather than any of grades K-8 as under current law.

All-day kindergarten offered by STEM and STEAM schools and equivalents

(R.C. 3326.11)

The bill permits STEM and STEAM schools and equivalents to offer all-day kindergarten in the same manner as school districts. This change conforms with provisions of current law enacted by S.B. 3 of the 131st General Assembly (effective March 16, 2017) that permit STEM schools and equivalents to offer any of grades K-12. These provisions also apply to STEAM schools and equivalents under the bill.

Application periods for Ed Choice income-based scholarships

(R.C. 3310.16)

The bill specifies that the Department of Education need not conduct a second application period for the income-based expansion of the Educational Choice (Ed Choice) Scholarship Program, if the income-based scholarships awarded in the first application period use the entirety of the amount appropriated for that school year. If there are funds remaining, the Department must conduct a second application period.

Background

The income-based expansion of the Ed Choice Scholarship Program qualifies for an Ed Choice scholarship students whose family income is at or below 200% of the federal poverty guidelines, regardless of the academic performance of the student's resident public schools. Unlike other Ed Choice scholarships, the income-based scholarships are funded directly from an amount appropriated by the General Assembly, instead of deductions from students' resident districts.[38] Application periods are divided into two windows. The first occurs between February 1 and July 1 of the school year prior to the school year in which a scholarship is sought. The second may not occur before July 1 of the school year for which the scholarship is sought and must run for more than 30 days.

The first year of the Ed Choice expansion was the 2013-2014 school year, for which only kindergarten students could receive scholarships. For each subsequent year, the law provides for adding one next higher grade level until all grades are eligible for scholarships. Accordingly, for the 2017-2018 school year, the Program will serve grades K-4, and for the 2018-2019 school year, it will serve grades K-5.

A scholarship may be used to enroll in participating chartered nonpublic schools.

State minor labor law exemption for STEM programs and CCP

(R.C. 4109.06)

The employers of minors are exempt from the state minor labor law if the minor is participating in certain occupations, activities, or programs that are specified in current law. The bill adds the following two programs to that list of occupations, activities, and programs:

(1) A STEM program approved by the Department of Education;

[38] R.C. 3310.032, not in the bill.

(2) Any eligible classes through the College Credit Plus Program that include a recognized pre-apprenticeship program that imparts the skills and knowledge needed for successful participation in a registered apprenticeship occupation course.

If an employer is exempt from the state minor labor law, the employer may employ a minor without being presented an age and schooling certificate for the minor. An age and schooling certificate is issued by the superintendent of the school district in which the minor resides or the chief administrative officer of the school the minor attends after the superintendent or chief administrative officer has examined and approved specified information regarding the minor's prospective employment, school record, age, and, in some cases, physical fitness in order to issue an age and schooling certificate.[39]

Additionally, an employer who is exempt from the state minor labor law is no longer subject to (1) the prohibition in Ohio law on employing a minor in an occupation which is considered hazardous or detrimental to the health and well-being of minors by the Director of Commerce and (2) the restrictions in Ohio law regarding a minor's hours of work. However, the employer is still subject to all federal requirements regarding the employment of minors.[40]

Business advisory members of school district boards of education

(R.C. 3301.07, 3311.19, and 3313.011; repealed R.C. 3313.82)

The bill repeals the requirement that each school district board of education and educational service center (ESC) governing board appoint a business advisory council. Instead, it requires the superintendent of each school district to appoint to the board of education three nonvoting, advisory members who represent local business. It does not establish a similar requirement for ESCs.

The bill also specifies that the advisory members of a district board serve at the pleasure of the appointing authority.

Additionally, the advisory members must advise and make recommendations to the board on matters specified by the board, including those related to employment skills and relevant curriculum, economic change and how it affects the job market, and suggestions on how to establish a working relationship with businesses, labor organizations, and educational personnel.

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[39] R.C. Chapter 3331., not in the bill.

[40] 29 U.S.C. 218.

Bright New Leaders for Ohio Schools – board of directors

(R.C. 3319.271)

The bill removes the Governor (or the Governor's designee), the Superintendent of Public Instruction (or the Superintendent's designee), and the Chancellor of Higher Education (or the Chancellor's designee) from the membership of the board of directors of the nonprofit corporation that implements the Bright New Leaders for Ohio Schools Program. The change results in a board that consists of an even number of directors (eight).

The Bright New Leaders for Ohio Schools Program provides an alternative path for individuals to receive training, earn degrees, and obtain licenses in public school administration.

Accumulated sick leave – Department of Education unclassified employees

(R.C. 124.384)

The bill limits the ability of an unclassified Department of Education employee to receive payment on separation of employment for sick leave accumulated while employed by a school district to an employee who began employment with the Department before October 1, 2017. Under current law, any unclassified Department employee initially employed on or after July 5, 1987, may receive such a payment.

ENVIRONMENTAL PROTECTION AGENCY

Local air pollution control authorities

- Modifies the list of agencies that qualify as a local air pollution control authority for purposes of the law governing air pollution control.

- Authorizes the Director of Environmental Protection (OEPA) to modify a contract between the Director and a local air pollution control authority to authorize the authority to perform air pollution control activities outside that authority's geographic boundaries.

Elimination of the Clean Diesel School Bus Fund

- Eliminates the Clean Diesel School Bus Fund, which, according to OEPA, is obsolete and is required to be used to update emissions equipment on existing diesel school buses.

Asbestos abatement certification transfer

- Transfers the authority to administer and enforce the laws governing asbestos abatement certification from the Department of Health to OEPA.

- Eliminates several administrative procedures that apply to hearings conducted regarding violations of the law governing asbestos abatement that are supplemental to the Administrative Procedure Act.

- Specifies that money collected from civil and criminal penalties, fees, and other money collected under the asbestos abatement certification laws be deposited in the Non-title V Clean Air Fund administered by OEPA, rather than the General Operations Fund administered by the Department of Health.

- Delays the effective date of all of the above changes to January 1, 2018.

Monitoring of explosive gases at solid waste disposal facilities

- Revises the law governing the monitoring of explosive gases (primarily methane) at solid waste disposal facilities, including:

  --Authorizing, rather than requiring as provided under current law, the OPEA Director to order the submittal of explosive gas monitoring plans when there is a threat to human health or safety or the environment;

--Requiring a plan to be submitted for active or closed solid waste disposal facilities, if ordered, rather than for active or closed sanitary landfills (a subset of solid waste disposal facilities) as provided under current law; and

--Requiring specified "responsible parties" associated with a facility, after the submittal of a plan, to monitor explosive gas levels at the facility and submit written reports of the results of the monitoring in accordance with the plan.

Antiquated law governing solid waste facilities

- Eliminates antiquated provisions of law that applied in the 1980s and early 1990s and that governed applications for a permit-to-install a solid waste facility.

Scrap Tire Grant Fund transfer

- Makes discretionary the requirement that the OEPA Director request the Director of Budget and Management (OBM) to transfer money each fiscal year from the Scrap Tire Management Fund to the Scrap Tire Grant Fund, which is used to support market development activities related to scrap tires.

- Also makes discretionary the requirement that OBM execute that transfer.

- Specifies that the amount transferred by OBM may be up to $1 million each fiscal year rather than equal to $1 million each fiscal year as in current law.

Clean-up and removal activities at tire sites

- Repeals an obsolete provision of law that required at least 65% of an existing 50¢ fee on the sale of tires to be expended for clean-up and removal activities at the Goss Tire Site in Muskingum County or other tire sites in Ohio.

Authority to waive fees and late payment penalties

- Authorizes the OEPA Director to waive or reduce late fees and fees incurred during a response to an emergency.

Cleanup and Response Fund

- Requires the Cleanup and Response Fund to be used for implementing the law governing hazardous waste.

Administration of programs division

- Requires the Director to establish within OEPA a division to administer the Agency's financial, technical, and compliance programs to assist communities, businesses, and other regulated entities.

Extension of various fees

- Extends all of the following for two years:

  --The sunset of the annual emissions fees for synthetic minor facilities;

  --The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for plan approvals for wastewater treatment works;

  --The sunset of the annual discharge fees for holders of national pollutant discharge elimination system permits under the Water Pollution Control Law;

  --The sunset of license fees for public water system licenses;

  --A higher cap on the total fee due for plan approval for a public water supply system and the decrease of that cap at the end of the two years;

  --The levying of higher fees, and the decrease of those fees at the end of the two years, for state certification of laboratories and laboratory personnel for purposes of the Safe Drinking Water Law;

  --The levying of higher fees, and the decrease of those fees at the end of the two years, for applications to take examinations for certification as operators of water supply systems or wastewater systems;

  --The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for permits, variances, and plan approvals under the Water Pollution Control and Safe Drinking Water Laws;

  --The sunset of the fees levied on the transfer or disposal of solid wastes; and

  --The sunset of the fees levied on the sale of tires.

Title V air emissions fees

- Makes discretionary the requirement that OEPA transfer up to 50¢ per ton of each type of Title V air pollution emissions fee assessed to the Small Business Assistance Fund.

- Permits the Director of Budget and Management, on July 1, 2017, or as soon as possible thereafter, to transfer up to $1,500,000 from the Small Business Assistance Fund (Fund 5A00) used by the Air Quality Development Authority to the Title V Clean Air Fund (Fund 4T30) used by OEPA.

Revision of NPDES permit fees

- Requires the fee for the issuance of an NPDES permit to be paid at the time of application along with the nonrefundable application fee.

- Changes the fee for municipal storm water discharge from $100 per square mile of area permitted under an NPDES permit to $10 per ⅒ of a square mile.

Toxic Release Inventory Program

- Allows owners and operators of specified facilities to fulfill state toxic release inventory reporting requirements under the Toxic Release Inventory Program by complying with federal reporting requirements established by the U.S. EPA.

- Specifies that submission of a toxic chemical release inventory report to U.S. EPA constitutes simultaneous submission of the report to OEPA, thereby satisfying state reporting requirements under state and federal law.

- Retains the authority of OEPA to investigate and enforce civil and criminal penalties for violations committed under the Toxic Release Inventory Program, including the failure to submit toxic release inventory reports to U.S. EPA.

- Eliminates fees required to be paid for filing a toxic release inventory report, including late fees.

Total maximum daily load (TMDL)

- Authorizes the Director of Environmental Protection to establish a total maximum daily load (TMDL) for impaired waters and to submit the TMDL to the U.S. EPA for approval.

- Requires the Director to adopt rules that do all of the following:

  --Allocate pollutant load between and among nonpoint sources and point sources in a TMDL report;

  --Establish procedures and requirements for developing and issuing a new TMDL;

--Establish procedures and requirements for revising and updating a TMDL; and

--Establish procedures and requirements for validation of existing TMDLs following implementation and additional assessment.

- Requires the Director to allow interested parties an opportunity to provide input during the development of a TMDL.

- Requires the Director to prepare an official draft TMDL and establishes procedures and requirements for a public comment period on the official draft TMDL.

- Requires the Director to prepare and make available a written responsiveness summary of comments from the public comment period.

- Specifies that the final TMDL is appealable to the Environmental Review Appeals Commission, but that the submission of the final TMDL to the U.S. EPA is not appealable.

- Authorizes the Director to revise an established TMDL to accommodate new information.

- Retains, in full force and effect, TMDLs issued prior to the date of the Ohio Supreme Court's ruling in *County Board of Commissioners v. Nally*, 143 Ohio St.3d 93 (2015) (March 24, 2015).

- Establishes appeal procedures for a national pollutant discharge elimination system (NPDES) permit holder to appeal water quality based effluent limitations if these limitations were based on a TMDL that was established prior to the Court's decision.

Industrial water pollution control certificate

- Eliminates obsolete authority of the Director to issue, deny, revoke, or modify industrial water pollution control certificates.

Construction Grant Fund and program

- Eliminates the Construction Grant Fund, which is required to consist of money arising from grants to the state from the U.S. EPA under the Federal Water Pollution Control Act (U.S. EPA has discontinued this grant program).

- In accordance with the termination of the Construction Grant Fund, eliminates the construction grant program, under which local governments can apply for money derived from the U.S. EPA grants for the design, acquisition, construction, alteration, and improvement of sewage and waste treatment works.

Water Pollution Control Loan Administrative Fund

- Allows OEPA to use money in the Water Pollution Control Loan Administrative Fund for water quality related programs administered by OEPA, rather than solely to defray OEPA's administrative costs associated with the Water Pollution Control Loan Program as under current law.

Local air pollution control authorities

(R.C. 3704.01 and 3704.111)

The bill modifies the list of local agencies that constitute a local air pollution control authority for purposes of the law governing air pollution control by doing all of the following:

(1) Changing the name of the agency representing Butler, Warren, Hamilton, and Clermont counties from the Hamilton County Department of Environmental Services to the Hamilton County Department of Environmental Services, Southwest Ohio Air Quality Agency;

(2) Expanding the jurisdiction of the City of Cleveland Division of the Environment to all of Cuyahoga County, rather than the city of Cleveland only; and

(3) Eliminating the North Ohio Valley Air Authority that represents Carroll, Jefferson, Columbiana, Harrison, Belmont, and Monroe counties.

Contracts with OEPA

The bill authorizes the Director of Environmental Protection (OEPA) to modify a contract between the Director and a local air pollution control authority to authorize that authority to perform air pollution control activities outside that authority's geographic boundaries.

Elimination of the Clean Diesel School Bus Fund

(Repealed R.C. 3704.144)

The bill eliminates the Clean Diesel School Bus Fund, which was originally created to provide grants to school districts and county boards of developmental disabilities to do all of the following:

--Add pollution control equipment to diesel-powered school buses;

--Convert diesel-powered school buses to alternative fuels by means of certified engine configurations and verified technologies;

--Maintain installed pollution control equipment; and

--Pay the OEPA's costs incurred in administering the Fund.

The purposes for which the Fund was originally established are now obsolete. According to the OEPA, there is no longer a market for installing pollution control equipment on school buses because the equipment is standard on all new buses manufactured after 2005. Instead, money in the Fund will be redirected to the existing Diesel Emission Reduction Grant Program, which provides partial funding for replacing aging diesel buses with new clean diesel or alternatively fueled buses.[41]

Asbestos abatement certification transfer

(R.C. 3701.83, 3704.035, 3710.01, 3710.02, 3710.04, 3710.05, 3710.051, 3710.06, 3710.07, 3710.08, 3710.09, 3710.10, 3710.11, 3710.12, 3710.13, 3710.14, 3710.15, 3710.17, 3710.19, 3710.99, and 3745.11; Sections 277.20 and 812.10)

The bill transfers the authority to administer and enforce the laws governing asbestos abatement from the Department of Health to OEPA beginning January 1, 2018. Under current law, the Department of Health licenses and certifies companies and persons directly involved with the asbestos abatement industry. Under the program, the Department of Health regulates contractors performing asbestos removal projects, project supervisors, project designers, workers removing asbestos, persons inspecting buildings for asbestos-containing materials, persons developing plans to manage asbestos found in a facility, persons conducting air sampling for asbestos, and the companies that provide required asbestos training.

For purposes of transferring the asbestos certification program from the Department of Health to OEPA, the bill makes technical and clarifying changes, such as:

(1) Revising definitions that apply to asbestos certification to comport with rules adopted by the Director of OEPA that address asbestos under current law;

(2) Specifying that rules adopted by the Director, hearing procedures, and emergency orders of the Director apply to environmental health and environmental health emergencies, rather than public health and public health emergencies;

[41] R.C. 122.861, not in the bill.

(3) Stipulating that all rules, orders, and determinations of the Department of Health related to the Asbestos Abatement Program continue in effect until the rules, orders, and determinations of OEPA become effective;

(4) Stipulating that all licenses, certificates, permits, registration approvals, or endorsements issued by the Department of Health before January 1, 2018, continue in effect as if issued by OEPA;

(5) Stipulating that business commenced but not completed by the Department of Health must be completed by OEPA, and providing for the transfer of the authority over contracts from the Department to OEPA;

(6) Transferring all employees of the Department of Health working full-time for the Asbestos Abatement Program to OEPA, subject to specified labor laws and the applicable collective bargaining agreement; and

(7) Authorizing the Department of Health and OEPA to enter into a memorandum of understanding to facilitate the transfer.

The bill also eliminates several administrative procedures that apply to Department of Health hearings regarding violations of the law governing asbestos abatement that are supplemental to the Administrative Procedure Act. The supplemental provisions of law include provisions governing the venue of a hearing, special notice procedures, the postponement or continuation of a hearing, hearing referees or examiners, and a special filing deadline for appeals.

The bill specifies that money collected from civil and criminal penalties, fees, and other money collected under the law governing asbestos abatement must be deposited in the Non-Title V Clean Air Fund, rather than the General Operations Fund currently administered by the Department of Health. Under current law, the Non-Title V Clean Air Fund is used by OEPA to pay the cost of administering and enforcing law pertaining to the prevention, control, and abatement of air pollution. The bill further specifies that the money in the Fund may be used by OEPA for the prevention, control, and abatement of asbestos, and asbestos abatement licensure and certification.

Monitoring of explosive gases at solid waste disposal facilities

(R.C. 3734.041)

The bill makes revisions to the law governing the monitoring of methane gas at solid waste disposal facilities as follows:

(1) Revises the submittal of explosive gas monitoring plans by doing both of the following:

--Authorizing, rather than requiring as provided under current law, the OEPA Director to order the submittal of such plans when there is a threat (rather than a danger as in current law) to human health or safety or the environment; and

--Requiring a plan to be submitted for active or closed solid waste disposal facilities (hereafter facility), if ordered, rather than for active or closed sanitary landfills (a subset of solid waste disposal facilities) as provided under current law.

(2) Adds to the individuals who may be required to create and submit an explosive gas monitoring plan to include a person appointed as a receiver under the law governing receiverships and a trustee in bankruptcy;

(3) Adds "information related to concentrations of explosive gas at or surrounding a facility" to the list of factors that may trigger an order to submit an explosive gas monitoring plan;

(4) Requires the plan to provide for adequate evaluation of explosive gas generation at and migration from the facility;

(5) Requires specified "responsible parties" associated with a facility to do both of the following after the submittal of the plan:

--Monitor explosive gas levels at the facility; and

--Submit written reports of the results of the monitoring in accordance with the plan.

(6) Authorizes, rather than requires as provided under current law, the Director to do both of the following:

--Conduct an evaluation of the levels of explosive gases on the premises of a facility to determine whether the formation or migration of the gases is a threat to human health or safety or the environment;

--Issue orders addressing explosive gas formation and migration issues at any facility (currently sanitary landfills only) when the Director determines that the formation and migration could threaten human health or safety or the environment.

(7) Authorizes the Director or the Director's authorized representative on their own initiative to enter on land where a facility is located in order to evaluate explosive gas generation and migration; and

(8) Limits evaluations of structures in proximity of a facility to occupied structures, rather than all structures as under current law.

Antiquated law governing solid waste facilities

(R.C. 3734.02, 3734.05, and 3734.06)

The bill eliminates antiquated provisions of law that applied in the 1980s and early 1990s and that governed applications for a permit-to-install a solid waste facility.

Scrap Tire Grant Fund transfer

(R.C. 3734.82)

The bill alters the procedure for the transfer of money from the Scrap Tire Management Fund to the Scrap Tire Grant Fund. Under current law, the Director of OEPA must request the Director of Budget and Management (OBM) to transfer $1,000,000 each fiscal year from the Scrap Tire Management Fund to the Scrap Tire Grant Fund. OBM must execute the transfer upon request.

With regard to the transfer, the bill makes the following three changes:

(1) Makes discretionary the requirement that OEPA request the transfer;

(2) Makes discretionary the requirement that OBM execute the transfer; and

(3) Specifies that the amount transferred by OBM may be up to $1 million each fiscal year rather than equal to $1 million each fiscal year as in current law.

Under current law, the Scrap Tire Grant Fund is used by OEPA to (1) support market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes, and (2) support scrap tire amnesty and cleanup events sponsored by solid waste management districts. The Scrap Tire Grant Fund consists solely of money transferred from the Scrap Tire Management Fund as discussed above.

The Scrap Tire Management Fund consists, in part, of money derived from fees on scrap tire disposal facilities. OEPA must use money in the Scrap Tire Management Fund for administering OEPA's Scrap Tire Management Program, providing grants to boards of health to support the control of vectors (pests) at scrap tire facilities, and making transfers to the Scrap Tire Grant Fund.

Clean-up and removal activities at tire sites

(R.C. 3734.821)

The bill repeals an obsolete provision of law that required, from September 2001 until June 2011, at least 65% of an existing 50¢ fee on the sale of tires to be expended for clean-up and removal activities at the Goss Tire Site in Muskingum County or other tire sites in Ohio.

Authority to waive fees and late payment penalties

(R.C. 3745.012)

The bill authorizes the Director to waive or reduce a fee incurred for either of the following:

(1) A late payment penalty if the original fee amount due has been paid; or

(2) A fee incurred during a response to an emergency, including fees for the disposal of material and debris, if the Governor declares a state of emergency.

Current law allows the Director to collect fees for environmental permits, licenses, plan approvals, variances, and certifications issued and administered by OEPA under Ohio law. With respect to late fees, current law establishes procedures for the collection of late fees in certain circumstances. In one such circumstance, if payment is not made within 30 days of issuance of the fee invoice, the person responsible for payment of the fee must pay an additional 10% of the amount due for each month that it is late. As indicated above, the bill allows the Director to waive or reduce the entire compounded late fee after the original invoiced amount has been paid.[42]

Cleanup and Response Fund

(R.C. 3745.016)

The bill requires OEPA to use money in the existing Cleanup and Response Fund for implementation of the law governing hazardous waste. The bill retains existing law that requires OEPA to also use money in the Fund to support the investigation and remediation of contaminated property.

[42] R.C. 3745.11(V).

Administration of programs division

(R.C. 3745.018)

The bill requires the Director to establish within OEPA a new division to administer OEPA's financial, technical, and compliance programs and assist communities, businesses, and other regulated entities. The division must administer all of the following:

(1) Existing state revolving wastewater and drinking water loan programs;

(2) OEPA grant programs, including the already established recycling and litter prevention grant programs;

(3) Existing programs for providing compliance and pollution prevention assistance to regulated entities; and

(4) Existing statewide source reduction, recycling, recycling market development and litter prevention programs.

Extension of various fees

(R.C. 3745.11, 3734.57, and 3745.901)

The bill extends the time period for charging various OEPA fees under the laws governing air pollution control, water pollution control, and safe drinking water. The following table sets forth each fee, its purposes, and the time period OEPA is authorized to charge the fee under current law and the bill:

Type of fee	Description	Sunset under current law	Sunset under the bill
Synthetic minor facility: emission fee	Each person who owns or operates a synthetic minor facility must pay an annual fee in accordance with a fee schedule that is based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead. A synthetic minor facility is a facility for which one or more permits to install or permits to operate have been issued for the air contaminant source at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major	The fee is required to be paid through June 30, 2018.	The bill extends the fee through June 30, 2020.

Type of fee	Description	Sunset under current law	Sunset under the bill
	source thresholds established in rules adopted under current law.		
Wastewater treatment works: plan approval application fee	A person applying for a plan approval for a wastewater treatment works is required to pay one of the following fees depending on the date: --A fee of $100 plus 0.65% of the estimated project cost, up to a maximum of $15,000, when submitting an application through June 30, 2018; --A fee of $100 plus 0.2% of the estimated project cost, up to a maximum of $5,000, on and after July 1, 2018.	As indicated in the cell immediately to the left, an applicant must pay the tier one fee through June 30, 2018, and the tier two fee on and after July 1, 2018.	The bill extends the tier one fee through June 30, 2020; the tier two fee begins on or after July 1, 2020.
Discharge fees for holders of national pollutant discharge elimination system (NPDES) permits	Each NPDES permit holder that is a public discharger or an industrial discharger with an average daily discharge flow of 5,000 or more gallons per day must pay an annual discharge fee based on the average daily discharge flow. There is a separate schedule for public and industrial dischargers.	The fees are due by January 30, 2016, and January 30, 2017.	The bill extends the fees and the fee schedules to January 30, 2018, and January 30, 2019.
Surcharge for major industrial dischargers	A holder of an NPDES permit that is a major industrial discharger must pay an annual surcharge of $7,500.	The surcharge is required to be paid by January 30, 2016, and January 30, 2017.	The bill extends the fee to January 30, 2018, and January 30, 2019.
Discharge fee for specified exempt dischargers	One category of public discharger and eight categories of industrial dischargers that are NPDES permit holders are exempt from the annual discharge fees that are based on average daily discharge flow. Instead, they are required to pay an annual discharge fee of $180.	The fee is due not later than January 30, 2016, and January 30, 2017.	The bill extends the fee to January 30, 2018, and January 30, 2019.
License fee for public water system license	A person is prohibited from operating or maintaining a public water system without an annual license from OEPA. Applications for initial licenses or license renewals must be accompanied by a fee,	The fee for an initial license or a license renewal applies through June 30, 2018, and must be paid	The bill extends the initial license and license renewal fee through June 30, 2020.

Type of fee	Description	Sunset under current law	Sunset under the bill
	which is calculated using schedules for the three basic categories of public water systems.	annually in January.	
Fee for plan approval to construct, install, or modify a public water system	Anyone who intends to construct, install, or modify a public water supply system must obtain approval of the plans from OEPA. The fee for such plan approval is $150 plus .35% of the estimated project cost. However, current law sets a cap on the amount of the fee.	The cap on the fee is $20,000 through June 30, 2018, and $15,000 on and after July 1, 2018.	The bill extends the cap of $20,000 through June 30, 2020; the cap of $15,000 applies on and after July 1, 2020.
Fee on state certification of laboratories and laboratory personnel	In accordance with two schedules, OEPA charges a fee for evaluating certain laboratories and laboratory personnel. An additional provision states that an individual laboratory cannot be assessed a fee more than once in a three-year period unless the person requests the addition of analytical methods or analysts, in which case the person must pay $1,800 for each additional survey requested.	The schedule with higher fees applies through June 30, 2018, and the schedule with lower fees applies on and after July 1, 2018. The $1,800 additional fee applies through June 30, 2018.	The bill extends the higher fee schedule through June 30, 2020; the lower fee schedule applies on and after July 1, 2020. The bill extends the additional fee through June 30, 2020.
Fee for examination for certification as an operator of a water supply system or wastewater system	A person applying to OEPA to take an examination for certification as an operator of a water supply system or a wastewater system must pay a fee, at the time an application is submitted, in accordance with a statutory schedule.	A higher schedule applies through November 30, 2018, and a lower schedule applies on and after December 1, 2018.	The bill extends the higher fee schedule through November 30, 2020; the lower fee schedule applies on and after December 1, 2020.
Application fee for a permit other than an NPDES permit, variance, or plan approval	A person applying for a permit other than an NPDES permit, a variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law must pay a nonrefundable fee.	If the application is submitted through June 30, 2018, the fee is $100. If the fee is submitted on or after July 1, 2018, the fee is $15.	The bill extends the $100 fee through June 30, 2020; the $15 fee applies on and after July 1, 2020.
Application fee for an NPDES permit	A person applying for an NPDES permit must pay a nonrefundable application fee.	If the application is submitted through June 30, 2018, the fee is $200. If the	The bill extends the $200 fee through June 30, 2020; the $15

Type of fee	Description	Sunset under current law	Sunset under the bill
		fee is submitted on or after July 1, 2018, the fee is $15.	fee applies on and after July 1, 2020.
Fees on the transfer or disposal of solid wastes	A total of $4.75 in fees is levied on each ton of solid waste disposed of or transferred in Ohio. The fees are used for administering the hazardous waste, solid waste, and other OEPA programs, and for soil and water conservation districts	The fees apply through June 30, 2018.	The bill extends the fees through June 30, 2020.
Fees on the sale of tires	A base fee of 50¢ per tire is levied on the sale of tires to assist in the cleanup of scrap tires. An additional fee of 50¢ per tire is levied to assist soil and water conservation districts.	Both fees sunset on June 30, 2018.	The bill extends the fees through June 30, 2020.

Title V air emissions fees

(R.C. 3745.11(K)(1))

The bill makes discretionary the requirement that the Director transfer up to 50¢ per ton of each type of Title V air pollution emission fee to the Small Business Assistance Fund. Title V emissions fees are assessed on the total actual emissions from a Title V air contaminant source of specified pollutants, including particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead.

Revision of NPDES permit fees

(R.C. 3745.11(L), (U), and (V), and 6111.14)

The bill makes various revisions throughout the law governing National Pollutant Discharge Elimination System (NPDES) permit fees. For example, the bill specifies that the application fee for an NPDES permit is not refundable. The bill also alters the fee for municipal storm water discharge from $100 per square mile of area permitted under an NPDES permit to $10 per ⅒ of a square mile. In so doing, the bill clarifies the mathematical calculation of the fee amount.

Toxic Release Inventory Program

(R.C. 3751.01, 3751.02, 3751.03, 3751.04, 3751.05, 3751.10, 3751.11; Section 737.10)

The bill allows owners and operators of specified facilities to fulfill state toxic release inventory reporting requirements under the Toxic Release Inventory Program by complying with federal reporting requirements established by the U.S. Environmental Protection Agency. Under current state and federal law, owners and operators of specified industrial facilities must submit toxic release inventory reports to both OEPA and U.S. EPA. The bill specifically states that the electronic submission of a report to U.S. EPA constitutes the simultaneous submission of the report to OEPA as required by federal law. According to OEPA, U.S. EPA shares the federally submitted reports with OEPA. Thus, according to OEPA, the elimination of the requirement to submit the report directly to OEPA removes the redundancy in federal and state reporting requirements.

The bill retains the authority of OEPA to undertake investigations and enforcement actions regarding violations of the Toxic Release Inventory Program and to impose civil and criminal penalties for such violations. OEPA's investigatory authority includes the power to enter upon property to conduct investigations. Violations of the Program include the failure to submit a toxic release inventory report to U.S. EPA.

The bill eliminates fees required to be paid for filing a toxic release inventory report with OEPA, including late fees. The bill further provides that any money collected by OEPA before or after the bill's effective date from fees must remain in the Toxic Chemical Release Reporting Fund to be used exclusively for implementing, administering, and enforcing the laws governing the Toxic Release Inventory Program.

Total maximum daily load (TMDL)

(R.C. 6111.03 and 6111.561; Section 761.10)

Introduction

According the U.S. EPA, a total maximum daily load (TMDL) is a planning tool and potential starting point for restoration or protection activities for bodies of water under the federal Water Pollution Control Act. A TMDL establishes a target for the total load of a pollutant that a water body can assimilate and allocates the load to sources of the pollutant. The TMDL can impact the parameters under which a water pollution discharge permit is issued.

The bill authorizes the Director of OEPA to establish a TMDL for each impaired body of water in Ohio and to submit the TMDL to the U.S. EPA. Under current law, the

Director is already authorized to undertake this task. However, the bill outlines the scope of this authority in order to supersede case law regarding TMDLs. In *County Board of Commissioners v. Nally*, 143 Ohio St.3d 93 (2015), the Ohio Supreme Court held that a TMDL prescribed a legal standard that did not previously exist, and therefore had to be formally promulgated as a rule pursuant to the Administrative Procedure Act before it could be enforced against the general public. The bill alters the Court's ruling by establishing specific procedures and standards under which a TMDL may be issued. The bill does so by declaring that the establishment, amendment, or modification of a TMDL after March 24, 2015, is not subject to the Administrative Procedure Act and additional laws governing the adoption of administrative rules.

Rules

Under the bill, the Director must adopt new rules governing TMDLs no later than December 31, 2018 that do all of the following:

(1) Allocate pollutant load between and among nonpoint sources and point sources in a TMDL report;

(2) Establish procedures and requirements for developing and issuing a new TMDL;

(3) Establish procedures and requirements for revising and updating a TMDL; and

(4) Establish procedures and requirements for validation of existing TMDLs following implementation and additional assessment.

Establishing a TMDL

The Director must establish a TMDL for pollutants for each impaired body of water or segment thereof that is identified and listed under the federal Water Pollution Control Act. The Director must establish each TMDL as follows:

(1) Pursuant to a priority ranking established by the Director;

(2) Only for pollutants that the Administrator of the U.S. EPA has identified under the federal Water Pollution Control Act as suitable; and

(3) At a level necessary to implement applicable water quality standards that accounts for seasonal variations, a margin of safety, and lack of knowledge concerning the relationship between effluent limitations and water quality.

The bill establishes new administrative procedures that apply to the development of TMDLs. For example, it requires the Director to provide opportunities for interested parties to provide input during the development of a TMDL. The opportunities to provide input may include comment on and meeting with interested parties on any of the following aspects of the TMDL process:

(1) The project assessment plan development process, including the process for determining the cause and source of water quality impairments or threats;

(2) The technical support document that identifies and analyzes water quality data and habitat assessments that will assist in determining TMDL target conditions;

(3) The preliminary draft TMDL, which must include development of modeling, management choices, restoration targets, load allocations, waste load allocations, and associated TMDL-derived permit limits necessary to establish and select a TMDL restoration scenario; and

(4) The proposed TMDL implementation plan, under which specific actions, schedules, and monitoring necessary to implement a TMDL are established.

The proposed TMDL implementation plan also may include considerations of the cost and cost effectiveness of pollutant controls supplied by interested parties, sources of funding necessary to address pollutant load reductions, and the environmental benefit of incremental reductions in pollutant levels.

Draft TMDL

Before establishing a final TMDL for an impaired body of water, the bill requires the Director to prepare an official draft TMDL. The official draft TMDL must include:

(1) An estimate of the total amount of each pollutant that causes the water quality impairment from all sources;

(2) An estimate of the total amount of pollutants that may be added to the impaired body of water or segment thereof while still achieving and maintaining applicable water quality standards; and

(3) Draft allocations among point and nonpoint sources contributing to the impairment sufficient to meet water quality standards.

The official draft TMDL implementation plan also may include interim water quality target values and principles of adaptive management necessary to achieve water quality standards, as the Director determines appropriate.

Notice and comment

The bill requires the Director to provide all of the following:

(1) Public notice of the official draft TMDL;

(2) An opportunity for comment on the official draft TMDL; and

(3) An opportunity for a public hearing regarding the official draft TMDL, if there is significant public interest, as determined by the Director.

Regarding the public notice, the bill requires the Director to specify in the notice the body of water or segment thereof to which the official draft TMDL relates and the time, date, and place of the hearing. The Director must send the public notice to all interested parties that participated in the public input process on the official draft TMDL. Further, the Director must prepare and make available a written responsiveness summary of the comments after the public comment period expires.

Final TMDL

After the public comment process is completed and the Director has completed and made available the written responsiveness summary, the Director may establish the final TMDL. The bill specifies that the final TMDL is appealable to the Environmental Review Appeals Commission (ERAC), however, the submission of that TMDL by the Director to the U.S. EPA is not appealable. The bill states that the Director may revise an established TMDL to accommodate new information.

Intent of the bill's TMDL provisions and existing TMDLs

The bill includes an intent statement, clarifying that it is the intent of the General Assembly to supersede the effect of the holding in *County Board of Commissioners v. Nally*, to exclude the TMDL process from rule-making procedures, and to make the establishment of a final TMDL appealable to ERAC.

The bill states that a TMDL submitted to and approved by the U.S. EPA prior to March 24, 2015 (the date of the decision in *County Board of Commissioners v. Nally*) is valid and remains in full force and effect as approved, but may be revised by the Director. The holder of an NPDES permit that contains water quality based effluent limitations based on a TMDL established prior to March 24, 2015 may appeal the lawfulness and reasonableness of those limitations by:

(1) Filing an appeal with ERAC no later than 30 days after the first eligible NPDES permit renewal date after the bill's effective date; or

(2) Seeking a modification of the water quality based effluent limitations contained in the NPDES permit from the Director. If the Director denies the request for modification, the permit holder can appeal that denial to ERAC no later than 30 days after the denial.

Industrial water pollution control certificate

(R.C. 6111.03, 6111.04, and 6111.30)

The bill eliminates obsolete authority of the Director to issue, deny, revoke, or modify industrial water pollution control certificates. Water pollution control certificates are issued for tax exemption purposes. The authority to issue the certificates was transferred from OEPA to the Department of Taxation in 2003.[43]

Construction Grant Fund and program

(Repealed R.C. 6111.033 and 6111.40)

The bill eliminates the Construction Grant Fund, which is required to consist of money arising from grants to the state from the U.S. EPA under the Federal Water Pollution Control Act. The Fund is currently empty, because U.S. EPA has ceased making such grants. In accordance with this change, the bill eliminates the construction grant program, under which a municipal corporation, board of county commissioners, conservancy district, sanitary district, or regional water and sewer district can apply for money for the design, acquisition, construction, alteration, and improvement of sewage and waste treatment works.

Water Pollution Control Loan Administrative Fund

(R.C. 6111.036)

The bill authorizes OEPA to use money in the Water Pollution Control Loan Administrative Fund for water quality related programs administered by OEPA. The bill retains current law that authorizes OEPA to also use money in the Fund to defray administrative costs associated with the Water Pollution Control Loan Program. Under current law, the Fund consists of fees collected through the administration of loans under that Program.

[43] See R.C. 5709.20 through 5709.27, not in the bill.

OHIO FACILITIES CONSTRUCTION COMMISSION

Agency administration of capital facilities projects

- Permits the Department of Administrative Services, the Ohio School for the Deaf, and the Ohio State School for the Blind to administer a capital facilities project whose estimated cost is less than $1.5 million.

Contractor debarment

- Allows the Executive Director of the Ohio Facilities Construction Commission (OFCC) to debar a subcontractor, supplier, or manufacturer, in addition to a contracting firm.

- Permits the Executive Director also to debar a partner, officer, or director of one of those entities.

Transfer of school facilities programs to OFCC

- Abolishes the Ohio School Facilities Commission (SFC) and transfers its responsibilities to OFCC.

OFCC membership

- Requires the Governor's appointment to the OFCC to be an administrative department head who is not the Director of Budget and Management or the Director of Administrative Services, and authorizes that member to designate an employee of the member's agency to serve on the OFCC.

- Specifies that the member of the OFCC appointed by the Governor prior to the bill's effective date serve the remainder of the member's term, and provides that, upon the expiration of the term or if the member is unable to fulfill the term, the Governor must appoint a member to the OFCC as provided by the bill.

Repeal of reporting requirements regarding capital facilities projects

- Repeals a provision requiring the submission of a report by a public entity to the OFCC regarding a capital facilities project funded wholly or in part using state funds.

- Repeals a provision requiring the annual submission of a report by the Attorney General to the OFCC Executive Director on any mediation and litigation costs associated with capital facilities projects for which a judgment has been rendered.

Agency administration of capital facilities projects

(R.C. 123.211 (formerly Section 529.10 of S.B. 310 of the 131st G.A.) with conforming changes in R.C. 123.21)

The bill allows the Executive Director of the Ohio Facilities Construction Commission (OFCC) to authorize the Department of Administrative Services, the Ohio School for the Deaf, and the Ohio School for the Blind to administer a capital facilities project whose estimated cost is less than $1.5 million, notwithstanding the law that generally requires OFCC to administer such projects.

Under continuing law, the Executive Director may authorize the following agencies to administer such a project, upon the agency's request through the Ohio Administrative Knowledge System Capital Improvements (OAKS-CI) application:

- The Department of Mental Health and Addiction Services;
- The Department of Developmental Disabilities;
- The Department of Agriculture;
- The Department of Job and Family Services;
- The Department of Rehabilitation and Correction;
- The Department of Youth Services;
- The Department of Public Safety;
- The Department of Transportation;
- The Department of Veterans Services; and
- The Bureau of Workers' Compensation.

An agency that administers its own project must comply with the state's procedures and guidelines for public improvements and must track all project information in OAKS-CI pursuant to OFCC guidelines.

Additionally, the bill codifies the section of continuing law that authorizes certain agencies to administer their own projects – that is, the bill places the section in the Revised Code.

Contractor debarment

(R.C. 153.02)

The bill expands the existing authority of the Executive Director to debar a contractor upon proof that the contractor has committed certain types of misconduct. Under continuing law, a debarred contractor is not eligible to bid for or participate in any contract for a state or school district capital facilities project during the period of the debarment.

First, the bill defines "contractor" as a construction contracting business, a subcontractor of such a business, or a supplier or manufacturer of materials. The existing statute does not define that term and might be read to include only a construction contracting business. Further, the bill specifies that when the Executive Director debars a contractor that is a partnership, association, or corporation, the Executive Director also may debar any partner of the partnership or any officer or director of the association or corporation. As a result, the Executive Director could prevent the owners of a debarred business entity from dissolving the entity and reforming as a new one in order to avoid the debarment.

Transfer of school facilities programs to OFCC

(R.C. 123.20; repealed R.C. 3318.19, 3318.30, and 3318.31; Section 515.10; conforming changes in numerous other R.C. sections)

The bill abolishes the Ohio School Facilities Commission (SFC) and transfers its responsibilities to the OFCC. Under current law, the SFC operates as an independent agency of the OFCC in administering several programs that provide state assistance to school districts and community schools in constructing classroom facilities. The OFCC Executive Director, by statute, is also the executive director of the SFC and supervises all SFC operations.

OFCC membership

(R.C. 123.20; Section 803.10)

The bill requires the Governor's appointment to the OFCC to be an administrative department head who is not the Director of Budget and Management or the Director of Administrative Services (both of whom are members of the OFCC under current law). The bill also specifies that the member appointed by the Governor may designate an employee of the member's agency to serve on the member's behalf. Existing law does not specify any requirements regarding the Governor's appointment

to the OFCC; however, that member is currently the Director of Rehabilitation and Correction.

To correspond with this change, the bill removes provisions specifying the length of the term of the member of the OFCC appointed by the Governor and the manner for filling a vacancy for that member's position.

The bill specifies that the member of the OFCC appointed by the Governor prior to the bill's effective date will serve the remainder of the member's term. When that term expires, or if the member is unable to fulfill the term, the Governor must then appoint a member to the OFCC as provided by the bill.

Repeal of reporting requirements regarding capital facilities projects

(Repealed R.C. 123.27)

The bill repeals a provision of law that requires both of the following:

(1) The submission of a report by a public entity to the OFCC regarding a capital facilities project funded wholly or in part using state funds; and

(2) The annual submission of a report by the Attorney General to the OFCC Executive Director on any mediation and litigation costs associated with capital facilities projects for which a judgment has been rendered.

- Creates the Ohio Institute of Technology within the Office of the Governor.
- Requires the Office to perform certain duties related to the state's use of technology, research, and development to positively affect Ohio citizens and businesses, including the issuance of an annual report to the Governor and the General Assembly detailing the Office's strategy.
- Requires the Office to advise the Governor on technology and other matters the Office handles.
- Requires the Governor to appoint an individual as Chief Innovation Officer for the Office.

Ohio Institute of Technology

(R.C. 107.71)

The bill creates the Ohio Institute of Technology within the Office of the Governor. The Office must formulate and implement a state strategy to identify methods for using technology, research, and development to create positive results for Ohio citizens and businesses and to improve the operations of state government. Annually, not later than December 31, the Office must submit a report to the Governor and the General Assembly detailing the Office's state strategy and the Office's progress toward initial and updated goals established under the state strategy. In addition, the Office must do the following:

--Prioritize, coordinate, and focus all state-funded research, specifically including research funded by the Departments of Higher Education, Administrative Services, Transportation, Medicaid, and Job and Family Services, and the Opportunities for Ohioans with Disabilities Agency;

--Identify emerging technologies and advocate for the research and application of technologies that may have a significant positive impact on Ohio's economy or workforce;

--Advocate for and coordinate research sponsored by state institutions of higher education regarding technologies that may have a significant positive impact on Ohio's economy or workforce;

--Identify methods to increase collaboration between state institutions of higher education; private, not-for-profit entities; and other private entities to accelerate product or patent incubation and commercialization of new and leading technologies in Ohio;

--Manage the continued implementation of the Ohio Innovation Exchange and the Ohio Federal Research Network;

--Advise the Governor on technology and issues relevant to the duties of the Office; and

--Perform any other duties the Governor prescribes.

The Governor must appoint an individual as Chief Innovation Officer for the Office and other staff as necessary. The Chief Innovation Officer must have significant expertise in as many of these fields as possible: biotechnology, information technology, medicine, logistics and supply chain management, advanced manufacturing, advanced materials, chemistry, robotics and sensors, aerospace, cyber security, and transportation technologies.

DEPARTMENT OF HEALTH

Vital statistics processes

- Modifies various provisions of the Vital Statistics Law to reflect new processes the Ohio Department of Health (ODH) has implemented for the filing of births and deaths as it transitions to exclusive use of electronic birth and death registration systems.

- Repeals provisions that require local registrars of vital statistics to transmit to the State Registrar of Vital Statistics Social Security numbers on birth and death certificates.

Program for Medically Handicapped Children (BCMH), Cystic Fibrosis Program (CFP), and Hemophilia Program (HP)

- Provides for the gradual phase-out of certain ODH special medical needs programs (Program for Medically Handicapped Children, Cystic Fibrosis Program, and Hemophilia Program) by ending new enrollment beginning January 1, 2018.

- Requires the Ohio Department of Medicaid (ODM) to establish a new program for non-Medicaid-eligible individuals with special medical needs who had not enrolled in, or applied for, an ODH special medical needs program before July 1, 2017.

- Requires ODM to establish eligibility requirements for the new program (which begins enrollment on January 1, 2018) in rules.

- Prohibits any Medicaid-eligible individual from being enrolled in an ODH special medical needs program on or after January 1, 2018.

- Limits the provision of BCMH diagnostic services to individuals enrolled in the "income-blind" diagnostic component of BCMH before January 1, 2018.

- Requires that an individual enrolled in BCMH's treatment or service coordination components submit to a financial eligibility redetermination.

- Eliminates a requirement that BCMH and CFP assist enrolled individuals who have cystic fibrosis in qualifying for Medicaid under the spenddown process.

- Requires the Ohio Cystic Fibrosis Legislative Task Force to make recommendations on drugs and therapies for persons enrolled in the new ODM medical assistance program.

Drug overdose fatality review committees

- Authorizes the establishment of county or regional drug overdose fatality review committees.

- Requires each committee to submit to ODH an annual report containing specified information related to the drug overdose or opioid-involved deaths reviewed by the committee.

Abuse of long-term care and residential care facility residents

- Includes psychological abuse, sexual abuse, and exploitation as additional types of misconduct in a long-term care facility that must be reported.

- Requires licensed health professionals to report abuse, neglect, exploitation, and misappropriation to the facility, rather than to the Director of Health.

- Requires a statement of findings of abuse, neglect, exploitation, or misappropriation of a resident by a licensed health professional to be included in the Nurse Aide Registry.

- Prohibits certain employers from employing a licensed health professional if there is a statement in the Registry of abuse, neglect, exploitation, or misappropriation by the professional.

- Authorizes the Director to take immediate action against a nursing home or residential care facility to protect the health or safety of one or more of its residents.

- Permits the Director to impose civil penalties and require residential care facilities to submit a plan of correction for violations of statutes and rules governing long-term care facilities.

- Requires the Director of Health to release to the Department of Aging the identity of a patient or resident who receives assisted living services in certain circumstances.

Confidentiality of HIV/AIDS and drug treatment information

- Clarifies that information regarding an HIV test that an individual has had, or an individual's AIDS or AIDS-related diagnosis, may be disclosed to any physician who treats the individual.

- Specifies that an individual's records and information maintained by a state-certified drug treatment program may be disclosed, without the individual's consent, to any

physician, advanced practice registered nurse, or physician assistant who treats the patient.

Moms Quit for Two Grant Program

- Retains the Moms Quit for Two Grant Program to provide grants to private, nonprofit entities or government entities that demonstrate the ability to deliver evidence-based tobacco cessation interventions to pregnant women and women living with children who reside in communities with high infant mortality.

WIC vendor contracts

- Requires the ODH to process an application for a Women, Infants, and Children (WIC) vendor contract within 45 days if the applicant already has a WIC vendor contract.

Third party payment for ODH goods and services

- Generally prohibits ODH from paying, on or after January 1, 2018, for goods and services an individual receives through ODH or an ODH grantee or contractor if the individual has coverage for those goods and services through another source.

- Specifies that the prohibition does not apply when the prohibition is expressly contrary to another Ohio statute or when, as determined by the Director, ODH funds are required to mitigate the spread of infectious disease or are needed for exceptional circumstances.

Lead-safe residential rental units

- Eliminates the legal presumption that residential units, child care facilities, or schools constructed before January 1, 1950, do not contain a lead hazard if the owner undertakes preventative treatments called essential maintenance practices.

- Eliminates all procedures and requirements related to essential maintenance practices that apply to those residential units, child care facilities, and schools.

- Establishes lead abatement procedures and requirements specific to residential rental units by doing all of the following:

    --Requiring the Director to establish and maintain a lead-safe residential rental unit registry;

--Specifying that the owner of a residential rental unit constructed before January 1, 1978, may register that unit as lead-safe on the registry if the owner has implemented specified lead-safe maintenance practices;

--Allowing residential rental units constructed after January 1, 1978, and units determined to be lead free to be included in the registry;

--Establishing procedures, requirements, and exemptions regarding the lead-safe registry;

--Requiring a person seeking to conduct residential rental unit lead-safe maintenance practices to participate in a training program approved by the Director; and

--Requiring the Director to establish a nonrefundable application fee for seeking approval of a training program.

Distribution of funds from the "Choose Life" Fund

- Authorizes the Director to distribute money in the "Choose Life" Fund that were paid into the Fund during years prior to the current distribution year and that were not distributed due to the lack of an eligible organization in the same manner as the Director may otherwise distribute funds.

Repeal of hospital data reporting requirements

- Repeals provisions requiring hospitals to submit to the Director information on meeting performance measures and inpatient and outpatient services.

OVI drug concentration technology requirements

- Eliminates "gas chromatography mass spectrometry" as the sole technology used to measure the concentration of marihuana metabolite for purposes of the OVI law, thus allowing the use of different technologies.

Vital statistics processes

(R.C. 3705.07, 3705.08, 3705.09, and 3705.10)

The bill modifies various provisions of the Vital Statistics Law to reflect new processes that the Ohio Department of Health (ODH) has implemented for the filing of

births, fetal deaths, and deaths as it transitions to exclusive use of electronic birth and death registration systems.

First, the bill requires local registrars of vital statistics to consecutively number each fetal death and death certificate printed on paper that the local registrar receives from the Electronic Death Registration System (EDRS) maintained by the Department. (The number assigned to each certificate must be the one provided by EDRS.) The local registrar is then required to make a copy only of each fetal death and death certificate *printed on paper* (the current requirement also extends to birth certificates and does not distinguish between paper and electronic copies). The paper copy must be filed and preserved as the local record only until the electronic information regarding the event has been completed and made available in EDRS and EDRS is capable of issuing a complete and accurate electronic copy of the certificate. Current law specifies that the copy made by the local registrar (presumably on paper) must be preserved as the local record permanently. Lastly, the local registrar must transmit to the State Office of Vital Statistics all original fetal death and death (but not birth) certificates received using the state transmittal schedule specified by ODH. The State Office must maintain a permanent index of all births, fetal deaths, and deaths that are registered, but the bill eliminates the requirement that the index must show the volume in which it is contained.

The bill requires the Director of Health to prescribe *electronic* methods, as well as forms, for obtaining registrations of birth, death, and other vital statistics. It eliminates a requirement that the Director furnish necessary postage, forms, and blanks for obtaining registrations in each vital statistics registration district.

The bill requires that all birth, fetal death, and death records be certified rather than signed. It also specifies that, in general, (1) a birth certificate requiring signature may, instead, be electronically certified by the person in charge of the institution or that person's designee and (2) a death certificate may be certified by the individual who attests to the facts of death. Accordingly, the bill specifies that when a birth occurs in or en route to an institution (1) the person in charge of the institution or that person's designee no longer must secure necessary signatures, but may instead complete and certify the facts of birth on the certificate within ten calendar days (rather than "ten days") and (2) the physician or certified nurse-midwife in attendance at the birth must be listed on the record (rather than provide the medical information and certify the facts of birth).

The bill repeals a requirement that all birth certificates include a line for the mother's and father's signature. It maintains the requirement that birth certificates include a statement setting forth the names of the child's parents. It also repeals a provision that applies when a new birth certificate has been issued to include the name

of a child's father after a man is presumed, found, or declared to be the father, or has acknowledged paternity. Currently, ODH must promptly forward a copy of the new birth record to the appropriate local registrar of vital statistics and the original birth record must be destroyed.

The bill repeals a provision that authorizes a person to file with the State Office a birth record when a woman who is an Ohio resident has given birth to a child in a foreign country that lacks a vital statistics registration system and evidence of such facts that are satisfactory to the Director have been shown. Finally, the bill repeals provisions that require local registrars of vital statistics to transmit to the State Registrar of Vital Statistics social security numbers on birth and death certificates.

Program for Medically Handicapped Children (BCMH), Cystic Fibrosis Program (CFP), and Hemophilia Program (HP)

Background

The Program for Medically Handicapped Children provides assistance to Ohio residents who are under the age of 21, have special health care needs, and meet medical and financial eligibility criteria. The Program is administered by the Bureau for Children with Medical Handicaps in ODH. That is why the Program is commonly referred to as "BCMH."[44]

BCMH has three core components:[45]

- Diagnostic – Children under age 21 can receive services from BCMH-approved providers for three months to diagnose or rule out a special health care need or to establish a plan of treatment. Currently, there are no financial eligibility requirements for this component.

- Treatment – Children under age 21 with eligible health conditions can receive services from BCMH-approved providers for treatment of a chronic, physically disabling condition that is amenable to treatment. Children and their families must meet medical and financial eligibility requirements to qualify for this component.

[44] Ohio Department of Health, *Children with Medical Handicaps Program – Information for Families*, available at https://www.odh.ohio.gov/odhprograms/cmh/cwmh/infofam/cmhfmin1.aspx.

[45] Joint Medicaid Oversight Committee, *Review of Ohio Department of Health Treatment Programs* (JMOC Staff Report – December 2015), available at https://www.jmoc.state.oh.us/Assets/documents/reports/ODH_Treatment_Program_Review.pdf.

- Service coordination – This component helps families locate and coordinate services for their child. It is currently available for a limited number of diagnoses; to be eligible, a child must be under the care of a multidisciplinary team at a BCMH-approved center. Financial eligibility is not required for this component.

In addition to the three core components of BCMH, ODH also administers the Cystic Fibrosis Program (CFP) and Hemophilia Program (HP). The former provides limited treatment services for persons over age 21 with cystic fibrosis who meet financial eligibility requirements. The benefit package currently consists of prescription medications, medical supplies, and public health nursing visits on request. The latter provides assistance with the payment of health insurance premiums for persons over 21 years of age who have hemophilia or a related bleeding disorder and who meet eligibility criteria specified in ODH-adopted rules.[46] For purposes of this analysis, BCMH, CFP, and HP are collectively referred to as the "ODH special medical needs programs."

Gradual phase-out of ODH special medical needs programs

(R.C. 3701.022, 3701.023, and 3701.029 (primary); R.C. 101.38, 3701.021, and 3701.026)

Overview

The bill provides for the gradual phase-out of the ODH special medical needs programs by ending new enrollment in them beginning January 1, 2018. Associated with the gradual phase-out, the bill requires the Ohio Department of Medicaid (ODM) to establish a new medical assistance program for individuals who are ineligible for Medicaid and the Children's Health Insurance Program and meet other eligibility requirements for the new program (discussed below). The new ODM program may begin to enroll individuals on January 1, 2018. Medicaid-eligible individuals who are enrolled in an ODH special medical needs program on December 31, 2017, and lose eligibility for that program on January 1, 2018, must be enrolled in Medicaid if they do not object to Medicaid enrollment (see "**New ODM medical assistance program – non-Medicaid-eligible individuals**," below).

Limitations on ODH program enrollment

The bill specifies that the following limitations on enrollment in an ODH special medical needs program apply beginning on January 1, 2018:

[46] Ohio Department of Health, *BCMH Programs*, available at https://www.odh.ohio.gov/odhprograms/cmh/cwmh/bcmhprogs/cmhprog1.aspx.

--No non-Medicaid-eligible individual may continue to be enrolled unless the individual was enrolled on June 30, 2017, or had an application for the program pending on that date;

--No non-Medicaid-eligible individual may be initially enrolled in an ODH special medical needs program;

--No Medicaid-eligible individual may continue to be enrolled regardless of when the individual enrolled or submitted an application; and

--No Medicaid-eligible individual may be initially enrolled.

Accordingly, under the bill, an individual's enrollment in an ODH special medical needs program is affected by two criteria: (1) whether the individual is or is not Medicaid-eligible and (2) when the individual enrolled in, or applied for, the ODH special medical needs program. An individual's enrollment status can be determined according to the following table.

Enrollment Status in ODH Special Medical Needs Programs under the bill

	Medicaid-eligible; enrolled in ODH program on 12/31/17 and lost enrollment in ODH program on 1/1/18 due to the bill	**Medicaid-eligible; not enrolled in an ODH program on 12/31/17**	**Non-Medicaid-eligible; enrolled in, or had application pending for, an ODH program on 6/30/17**	**Non-Medicaid-eligible; initially enrolled in an ODH program from 7/1/17 – 12/31/17 and lost eligibility on 1/1/18 due to the bill**	**Non-Medicaid-eligible; initially applied for assistance on or after 1/1/18**
7/1/17 – 12/31/17	May be concurrently enrolled in Medicaid and ODH program; ODH program is payer of last resort.	N/A	Enrolled in ODH program.	Enrolled in ODH program.	N/A
1/1/18 and after	Enrollment in the ODH program ends; enrolled in Medicaid if no objection to Medicaid enrollment.	Enrolled in Medicaid if no objection to Medicaid enrollment.	Enrolled in ODH program.	Enrollment in ODH program ends; enrolled in the new ODM program if new program's eligibility requirements are met.	Enrolled in the new ODM program if the new program's eligibility requirements are met.

BCMH diagnostic services

The bill limits enrollment in BCMH's diagnostic component to individuals under age 21 who were enrolled in the component before January 1, 2018.

BCMH treatment and service coordination – financial eligibility redeterminations

Under the bill, ODH must require an individual enrolled in the treatment and service coordination component of BCMH, or the individual's parent or guardian, to submit to a financial eligibility determination on request, at least once annually.

New ODM medical assistance program – non-Medicaid-eligible individuals

(R.C. 5160.51 (primary); R.C. 5160.01)

The bill requires ODM to establish a new medical assistance program for individuals who (1) are ineligible for Medicaid and the Children's Health Insurance Program, (2) did not enroll in or apply for BCMH, CFP, or HP, and (3) meet all other eligibility requirements for the new program established by ODM in rules. Individuals who meet the program's eligibility requirements may begin to enroll in, and receive health care services and items covered by, the program beginning January 1, 2018.

The new ODM program must cover only the health care services and items that Healthcheck covers.[47] The program's coverage of the health care services and items must be in the same amount, duration, and scope as Healthcheck's coverage of health care services and items. In addition, the new ODM program must have a payment rate for health care services and items it covers that does not exceed the Medicaid program's payment rate for the same health care services and items.

The bill specifies that to be an eligible provider under the new program, a person or government entity must be a Medicaid provider. Also, ODM may contract with other government entities and persons as it determines necessary for the administration of, and delivery of health care services and items covered by, the program.

The bill requires ODM to adopt rules under existing statutory authority as necessary to establish and implement the new program.

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[47] Healthcheck (sometimes spelled "Healthchek") is Ohio's Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. It is a service package for children and young adults under age 21 who are enrolled in Medicaid. The purpose of Healthcheck is to discover and treat health problems early. If a potential health problem is found, further diagnosis and treatment are covered by Medicaid. Ohio Department of Medicaid, *Healthchek Services for Children Younger than Age 21*, available at https://www.medicaid.ohio.gov/FOROHIOANS/Programs/Healthchek.aspx.

Transfer of enrollees to Medicaid and new ODM program

(R.C. 3701.023(G); Section 333.190)

The bill requires ODM to work in collaboration with ODH to do both of the following on January 1, 2018:

--Enroll in the Medicaid program all Medicaid-eligible individuals who (1) are enrolled in BCMH, CFP, or HP on December 31, 2017, and lose eligibility for the program on January 1, 2018, because of the bill's amendments and (2) do not object to enrolling in Medicaid; and

--Enroll in the new ODM program all non-Medicaid-eligible individuals who (1) are enrolled in BCMH, CFP, or HP on December 31, 2017, and lose eligibility for the program on January 1, 2018, because of the bill's amendments, (2) are eligible for the new ODM program, and (3) do not object to enrolling in the new program.

The bill specifies that an individual's objection to enrolling in Medicaid or the new program does not negate an individual's ineligibility for BCMH, CFP, or HP.

Associated with the transfer of Medicaid-eligible individuals to the new ODM program on January 1, 2018, the bill repeals an existing provision that specifies that Medicaid payments for treatment services and service coordination provided to Medicaid-eligible individuals must be considered payment in full for such services.

Assistance with Medicaid eligibility – persons with cystic fibrosis

(R.C. 3701.023(K))

The bill repeals a provision that requires BCMH and CFP to assist individuals enrolled in those programs who have cystic fibrosis in qualifying for Medicaid under the spenddown process. Under that provision, BCMH and CFP must provide the assistance in the same manner as provided on the effective date of H.B. 64 of the 131st General Assembly (September 29, 2015), regardless of whether ODM continued to implement the 209(b) option. (Under the federal 209(b) option, a state may establish Medicaid eligibility requirements for aged, blind, or disabled individuals that are more restrictive than the eligibility requirements for the Supplemental Security Income (SSI) program.) Ohio eliminated the 209(b) option effective August 1, 2016.[48]

[48] Ohio Department of Medicaid, *Medicaid Eligibility Transmittal Letter – Subject: 1634 Income*, available at http://bit.ly/2kj8zVD.

Ohio Cystic Fibrosis Legislative Task Force

(R.C. 101.38)

Under current law, the Ohio Cystic Fibrosis Legislative Task Force must study and make recommendations on issues pertaining to the care and treatment of individuals with cystic fibrosis. Among the recommendations must be recommendations for the use of prescription drug and innovative therapies for individuals in BCMH and CFP. The bill extends this requirement to include the use of such drugs and therapies for individuals in the new ODM program.

Drug overdose fatality review committees

(R.C. 121.22, 149.43, 307.631, 307.632, 307.633, 307.634, 307.635, 307.636, 307.637, 307.638, 307.639, and 4731.22)

The bill authorizes the board of county of commissioners of a single county or the boards of two or more counties jointly to establish a county or regional committee to review drug overdose and opioid-involved deaths occurring in that county or region. To formally establish a drug overdose fatality review committee, the board or boards must appoint a health commissioner of a board of health located in the county or counties to do so.

Purpose

The purpose of a drug overdose fatality review committee is to decrease the incidence of preventable overdose deaths by doing all of the following:

- Promoting cooperation, collaboration, and communication between all groups, professions, agencies, or entities engaged in drug abuse prevention, education, or treatment efforts;
- Maintaining a comprehensive database of all overdose deaths occurring in the county or region to develop an understanding of the causes and incidence of those deaths;
- Recommending and developing plans for implementing local service and program changes that might prevent overdose deaths; and
- Advising ODH of aggregate data, trends, and patterns concerning overdose deaths.

Membership, chairperson, and meetings

If established, a review committee must consist of the health commissioner and the following five members:

(1) A county coroner or designee;

(2) The chief of police or sheriff that serves the greatest population in the county or region or designee of the chief or sheriff;

(3) A public health official or designee;

(4) The executive director of an ADAMHS board or designee; and

(5) An Ohio-licensed physician.

The health commissioner convenes committee meetings and serves as the committee's chairperson. Committee meetings are not subject to Ohio's Open Meetings Law. Any vacancy on the committee must be filled in the same manner as original appointments. Members are neither compensated for serving on the committee nor reimbursed for expenses incurred, unless compensation or reimbursement is received as part of the member's regular employment. A majority of the members may invite additional members to serve on the committee. Each additional member serves for the period of time determined by the majority and has the same authority, duties, and responsibilities as an original member.

Information to be collected

For each drug overdose or opioid-involved death reviewed by a committee, the committee must collect all of the following:

(1) Demographic information of the deceased, including age, sex, race, and ethnicity;

(2) The year in which the death occurred;

(3) The geographic location of the death;

(4) The cause of death;

(5) Any factors contributing to the death; and

(6) Any other information the committee considers relevant.

On the request of a review committee, any individual, law enforcement agency, or other public or private entity that provided services to a person whose death is reviewed by the committee must submit to the committee a summary sheet of information. In the case of a request made to a health care entity, the summary sheet must contain only information available and reasonably drawn from a medical record created by the entity. With respect to a request made to any other individual or entity, the sheet must contain only information available and reasonably drawn from any record involving the person that the individual or entity develops in the normal course of business.

Confidentiality

Any information, document, or report presented to a review committee, all statements made by committee members during meetings, all work products of the committee, and data submitted to ODH, other than the annual report, are confidential and may be used by the review committee, its members, and ODH only in the exercise of proper committee or departmental functions.

Security of information collected

Each review committee must establish a system for collecting and maintaining information necessary for the review of drug overdose or opioid-involved deaths in the county or region. In an effort to ensure confidentiality, each committee must maintain all records in a secure location; develop security measures to prevent unauthorized access to records containing information that could reasonably identify any person; and develop a system for storing, processing, indexing, retrieving, and destroying information obtained in the course of reviewing a drug overdose or opioid-involved death.

Annual reports

By April 1 of each year, a committee must prepare and submit to ODH a report that includes the following information for the previous calendar year:

(1) The total number of drug overdose or opioid-involved deaths in the county or region;

(2) The total number of drug overdose or opioid-involved deaths reviewed by the committee along with the total number not reviewed by the committee;

(3) A summary of demographic information for the deaths reviewed, including age, sex, race, and ethnicity; and

(4) A summary of any trends or patterns identified by the committee.

The report also must include recommendations for actions that might prevent other deaths and may include any other information the review committee determines should be included. The report is a public record for the purposes of Ohio's Public Records Law.

Pending investigations or prosecutions

A review committee may not conduct a review of a death while an investigation of the death or prosecution of a person for causing the death is pending, unless the prosecuting attorney agrees to allow the review. On the conclusion of an investigation or prosecution, the law enforcement agency conducting the criminal investigation or prosecuting attorney prosecuting the case must notify the committee's chairperson of the conclusion.

In addition, an individual, law enforcement agency, prosecuting attorney, or entity cannot provide to a review committee any information regarding the death of a person while an investigation or prosecution is pending, unless the prosecuting attorney has agreed to allow the review.

Immunity

Any individual or entity providing information to a review committee is immune from civil liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of providing the information. Each member of a review committee is also immune from civil liability as a result of the member's participation on the committee.

Abuse of long-term care facility residents

(R.C. 3721.21, 3721.22, 3721.23, 3721.24, 3721.25, and 3721.32 with conforming changes in R.C. 173.27, 173.38, 173.381, 3701.881, and 5164.342)

Current law requires a licensed health professional who knows or suspects that a resident of a nursing home or residential care facility has been abused or neglected, or that a resident's property has been misappropriated, by any individual used by a long-term care facility to provide services to residents to report that knowledge or suspicion to the Director of Health. Any other individual may report known or suspected abuse, neglect, or misappropriation.

The Director is required to investigate the matters reported and make findings. On finding that a licensed health professional has abused or neglected a resident or misappropriated a resident's property, the Director is to notify the appropriate professional licensing board. The licensed health professionals subject to this

requirement include, among others, physicians, nurses, therapists, and nursing home administrators.

On finding that a nurse aide, or another person who provides services but is not a nurse aide or licensed health professional, has abused or neglected a resident or misappropriated a resident's property, the Director must include in the Nurse Aide Registry maintained by Director a statement of the finding pertaining to that person. Current law prohibits certain employers and government agencies from employing a person to provide services if there is a statement in the Nurse Aide Registry detailing findings that the person neglected or abused a long-term care facility resident or misappropriated property of such a resident.

Conduct that must be reported

The bill expands the misconduct that must be reported by requiring reporting of psychological abuse, sexual abuse, and exploitation. The bill specifies that psychological abuse and sexual abuse are components of "abuse" for purposes of the reporting law.

Under the bill, "psychological abuse" means knowingly or recklessly causing psychological harm to a resident, whether verbally or by action. "Sexual abuse" is sexual conduct or contact as defined under the Sex Offenses Law.[49] "Physical abuse" continues to be defined as knowingly causing physical harm or recklessly causing serious physical harm by physical contact or by physical or chemical restraint, medication, or isolation that is excessive; used for punishment, staff convenience, or as a substitute for treatment; or is in an amount that precludes habilitation and treatment.

The bill defines "exploitation" as taking advantage of a resident, regardless of whether the action was for personal gain, whether the resident knew of the action, or whether the resident was harmed.

Reporting of abuse, neglect, exploitation, or misappropriation

The bill modifies the process for reporting abuse, neglect, and misappropriation and adds to that process the reporting of exploitation. Under the bill, a licensed health professional who knows of or suspects abuse, neglect, exploitation, or misappropriation of property by any individual used by a long-term care facility to provide resident services is to notify the facility, rather than the Director. Facility administrators continue to be required to report to the Director.

Except for changes discussed below, existing provisions concerning the reporting of abuse, neglect, and misappropriation are applied to the reporting of exploitation,

[49] R.C. 2907.01, not in the bill.

psychological abuse, and sexual abuse, including permissive reporting, liability protections for persons who report, retaliation protections for persons who report and residents, investigation procedures, and nondisclosure requirements.

Regarding resident protection from retaliation, the bill extends the resident's protection to actions taken by a resident's family member, guardian, sponsor, or personal representative to report or cause to be reported suspected abuse, neglect, exploitation, or misappropriation, provide information during an investigation, or participate in a hearing or other proceeding pertaining to the suspected abuse, neglect, exploitation, or misappropriation. Under current law, the resident has protection from retaliation only if the resident reports the information. There is no specified penalty for retaliation, but current law specifies that a person has a cause of action (right to sue) against a person or government entity that violates the prohibition of retaliation.

Nurse Aide Registry

The bill causes findings of psychological or sexual abuse or of exploitation to be included in the Registry. This will affect nurse aides and individuals who are neither nurse aides nor licensed professionals.

The bill extends the Nurse Aide Registry provisions to licensed health professionals. This requires the Director to investigate reports of abuse, neglect, exploitation, or misappropriation of long-term care facility residents by licensed health professionals and to include statements of the Director's findings in the Registry.

Under the bill, the following agencies and employers are not permitted to employ a nurse aide, licensed health professional, or other person who provides services in a long-term care facility if the Nurse Aide Registry includes a statement that the person abused, neglected, exploited, or misappropriated the property of a resident of a facility:

--The Director of Aging, State Long-term Care Ombudsman, and regional long-term care ombudsman programs regarding employment with the state program or a regional ombudsman program;

--An Area Agency on Aging regarding employment in a direct-care position;

--The Department of Aging regarding community-based long-term care services certificates, contracts, or grants to self-employed providers;

--A home health agency regarding employment in a direct-care position;

--A waiver agency that provides home and community-based services under a Medicaid waiver component regarding employment providing home and community-based services.

Immediate action to protect residents of long-term care facilities

(R.C. 3721.081)

Enforcement actions

The bill expands the Director's authority to take enforcement actions against nursing homes and residential care facilities to protect the health and safety of residents. Under the bill, if the Director determines that immediate action is necessary to protect the health or safety of one or more of a long-term care facility's residents and the facility has failed to act with sufficient promptness or efficiency, the Director may issue an order requiring it to immediately address the issue. The order may specify the measures that must be taken to protect health or safety.

On determining that a long-term care facility has failed to comply with an order, the Director may do either of the following: (1) take any action and incur necessary expenses to protect the health and safety of the residents or (2) transfer one or more residents to another appropriate setting until the issues are corrected. All costs incurred by the Director in the course of taking these actions are the responsibility of the facility, and the Director must issue an order requiring the facility to reimburse ODH.

The bill also requires the Director to impose a civil penalty of up to $250,000. Interest accrues on the penalty beginning the day it is imposed at a rate determined under existing law for debts due the state.[50]

The bill specifies that these enforcement actions are in addition to any other actions that the Director is authorized to take against a long-term care facility. The money collected by ODH from the civil penalties and reimbursement must be deposited in the existing General Operations Fund, which may be used by ODH for a variety of purposes, including inspecting long-term care facilities.

Procedure

The bill requires the Director's orders and the civil penalties to be issued pursuant to adjudication conducted in accordance with Ohio's Administrative Procedure Act (R.C. Chapter 119.); however, the bill permits the Director to issue an order before affording the long-term care facility an opportunity for a hearing. If the

[50] R.C. 5703.47, not in the bill.

Director does so, the order must be delivered to the facility in writing, and the facility may request a hearing within 30 days after receiving the order. The hearing must take place within 30 days but not earlier than 15 days after the hearing request, unless another date is agreed upon by both parties. The Director must issue a final adjudication within 90 days after the hearing is completed. The original order remains in effect until the final adjudication becomes effective, unless earlier reversed by the Director.

The bill also specifies that a final adjudication is not subject to court suspension while any appeal is pending.

Penalties for residential care facility violations

(R.C. 3721.033)

The bill permits the Director to take enforcement action against a residential care facility for violating the statutes and rules governing the regulation of nursing homes and residential care facilities. The enforcement action must be taken pursuant to an adjudication conducted in accordance with Ohio's Administrative Procedure Act (R.C. Chapter 119.).

If the Director determines a residential care facility has committed a violation, the Director may require the facility to submit a plan of correction for the ODH's approval. The plan of correction may include a detailed description of the actions the facility will take to correct the violation, the date by which the violations will be corrected, and a detailed description of an ongoing monitoring process to be used at the facility to prevent recurrence of the violation.

In addition to the plan of correction, the bill permits the Director to impose a civil penalty. The amount of the civil penalty depends on the severity of the violation and may be imposed as follows:

(1) Between $1,000 and $2,000 for a violation that has not resulted in actual harm and has the potential to cause more than minimal harm that does not constitute a real and present danger, if the facility has had a previous violation within the preceding 15 months;

(2) Between $2,000 and $6,000 for a violation that has resulted in actual harm that does not constitute a real and present danger;

(3) Between $6,000 and $10,000 for a violation that constitutes a real and present danger.

"Real and present danger" is defined as imminent danger of serious physical or life-threatening harm to one or more occupants of a residential care facility. The bill requires the amounts collected from the civil penalties to be deposited to the credit of the General Operations Fund for use in the administration of the laws governing the regulation of long-term care facilities.

The bill specifies that the enforcement actions authorized by the bill are in addition to any actions the Director may take under current law.

Information sharing

(R.C. 3721.031)

In general, current law prohibits the Director of Health and any ODH employee from releasing information that would identify a resident or patient of a nursing home or long-term care facility unless the patient or resident or that individual's representative permits the release. The bill authorizes the Director of Health, on the request of the Director of Aging or the Director's designee, to release the identity of a patient or resident of a home or facility who receives assisted living services from programs administered by the Department of Aging. The information may not be used for any purpose other than monitoring the well-being of patients or residents who receive assisted living services.

Confidentiality of HIV/AIDS and drug treatment information

(R.C. 3701.243 and 5119.27)

The bill clarifies that information regarding an HIV test that an individual has had, or an individual's AIDS or AIDS-related diagnosis, may be disclosed to *any* physician who treats the individual, not just "the individual's physician" as specified in current law.

In addition, the bill specifies that an individual's records and information maintained by a state-certified drug treatment program may be disclosed, without the individual's consent, to any physician, advanced practice registered nurse, or physician assistant who treats the patient. In general, under current law, an individual's records maintained by a drug treatment program certified or licensed by the Director of Mental Health and Addiction Services must be kept confidential and not be disclosed in any civil, criminal, administrative, or legislative proceeding unless the individual gives written consent to the disclosure. Absent a court order, the only exception to this general rule in current law is that there may be limited disclosure of such records and information without written consent to qualified personnel for purposes of research, management, financial audits, or program evaluation.

Moms Quit for Two Grant Program

(Section 291.30)

The bill retains provisions enacted in the last biennial budget bill (H.B. 64) that require ODH to create the Moms Quit for Two Grant Program. Under the Program, ODH – recognizing the significant health risks posed to women and their children by tobacco use during and after pregnancy – must award grants to private, nonprofit entities or government entities that demonstrate the ability to deliver evidence-based tobacco cessation interventions to women who (1) reside in communities that have the highest incidence of infant mortality, as determined by the Director, and (2) are pregnant or live with children. The bill authorizes ODH to adopt rules it considers necessary to administer the Program.

ODH must create a grant application and develop a process for receiving and evaluating completed grant applications on a competitive basis. In selecting grant recipients, ODH must give first preference to the private and government entities that are able to target the interventions to pregnant women and second preference to those entities that are able to target the interventions to women living with children. The bill specifies that ODH's decision regarding a submitted grant application is final. ODH must establish performance objectives to be met by grant recipients and monitor the performance of each grant recipient in meeting the objectives.

After the Program's conclusion, ODH must evaluate the Program. Not later than December 31, 2017, ODH must prepare a report describing its findings and make a recommendation on whether the Program should be continued. A copy of the report must be provided to the Governor and the General Assembly. In addition, ODH must make the report available to the public on its website.

WIC vendor contracts

(Section 291.40)

In Ohio, ODH administers the federal Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The bill extends to FYs 2018 and 2019 a requirement that ODH review and process a WIC vendor contract application not later than 45 days after it is received if on that date the applicant is a WIC-contracted vendor and meets all of the following requirements:

(1) Submits a complete WIC vendor application with all required documents and information;

(2) Passes the required unannounced preauthorization visit within 45 days of submitting a complete application; and

(3) Completes the required in-person training within 45 days of submitting the complete application.

ODH must deny the application if the applicant fails to meet all of the requirements. After an application has been denied, the applicant may reapply for a contract to act as a WIC vendor during the contracting cycle of the applicant's WIC region.

Third party payment for ODH goods and services

(R.C. 3701.12)

The bill generally prohibits ODH from paying, on or after January 1, 2018, for goods and services that are payable through third party benefits. "Third party benefits" are defined as any and all benefits paid by a third party to or on behalf of an individual or the individual's parent or guardian for goods or services the individual has received from ODH or an ODH grantee or contractor. A "third party" is defined as any person or government entity other than ODH or an ODH-administered program.

The bill specifies two exemptions from the prohibition: (1) when the prohibition is expressly contrary to another Ohio statute or (2) when (as determined by the Director of Health) ODH funds are required to mitigate the spread of infectious disease or are needed for exceptional circumstances.

Lead-safe residential rental units

(R.C. 3742.41, 3742.42, and 3742.43 (repeal and reenact); conforming changes in numerous other R.C. sections)

Introduction

Generally, under current law, if a child under six is determined to have lead poisoning, ODH or an approved board of health must conduct an investigation. If the child is six or older, ODH or the board may, but is not required to, conduct the investigation. If it is determined that the possible source of the lead is a residential unit, child care facility, or school, ODH or the board must conduct a risk assessment. If the risk assessment determines that the residential unit, child care facility, or school is the source of the lead, ODH or the board must issue a lead hazard control order regarding the property. The residential unit, child care facility, or school remains subject to the order until it passes a clearance examination. If the owner of the residential unit, child care facility, or school fails or refuses to comply with the order, ODH or the board must

issue an order prohibiting the owner from permitting the unit, facility, or school from being used as a residential unit, child care facility, or school until the unit, facility, or school passes a clearance examination.

With regard to any residential unit, child care facility, or school constructed before January 1, 1950, there is a legal presumption that the unit, facility, or school is not the source of lead and does not contain a lead hazard if the owner of the property does both of the following:

(1) Undertakes preventative treatments called essential maintenance practices; and

(2) Covers all rough, pitted, or porous horizontal surfaces of the inhabited or occupied areas within the unit, facility, or school with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, carpet, or linoleum.

The bill repeals this legal presumption and all of the law associated with the presumption and essential maintenance practices. The bill replaces the presumption with a new program that applies only to residential rental units.

Residential rental unit lead-safe registry

Under the bill, the Director must establish and maintain a lead-safe residential rental unit registry. An owner of a residential rental unit may register the unit on the registry as follows:

(1) If the unit was constructed before January 1, 1978, and the owner has implemented specified residential rental unit lead-safe maintenance practices established by the bill;

(2) If the unit was or is constructed after January 1, 1978; or

(3) If the unit is determined to be lead free by a licensed lead inspector or lead risk assessor after an inspection of the unit.

The bill requires an owner to register a residential rental unit if the unit is subject to a lead hazard control order from ODH or a board of health and the unit passes a clearance examination that indicates that all lead hazards in the order are controlled. The owner of a residential rental unit that is designated as senior housing is exempt from this requirement.

Under the bill, a residential rental unit is a rental property containing a dwelling or any part of a building being used as an individual's private residence.

Residential rental unit lead-safe maintenance practices

As indicated above, in order for a property constructed prior to January 1, 1978, to qualify for inclusion on the residential rental unit lead-safe registry, the owner or an agent of the owner must implement certain residential rental unit lead-safe maintenance practices. Specifically the owner or agent must do all of the following:

(1) Successfully complete a training program in residential rental unit lead-safe maintenance practices approved by the Director, unless the person is a licensed lead abatement contractor or lead abatement worker;

(2) Annually perform a visual examination for deteriorated paint, underlying damage, and other conditions that may cause exposure to lead;

(3) After the visual examination, repair deteriorated paint or other building components that may cause exposure to lead and eliminate the cause of the deterioration in accordance with the work practice standards established by the U.S. EPA;

(4) Conduct post-maintenance dust sampling in accordance with rules (see below); and

(5) Maintain a record of residential rental unit lead-safe maintenance practices for at least three years that documents those practices, including the post-maintenance dust sampling.

The bill then specifies that all of the following areas of the residential rental unit are subject to the residential rental unit lead-safe maintenance practices:

(1) Interior surfaces and all common areas;

(2) Every attached or unattached structure located within the same lot line as the residential rental unit that the owner or manager considers to be associated with the operation of the residential rental unit, including garages, play equipment, and fences; and

(3) The lot or land that the residential rental unit occupies.

Training programs

In order to seek approval of a training program in residential rental unit lead-safe maintenance practices, a person must apply to the Director and include with the application a nonrefundable application fee that is established by the Director. The Director cannot establish a fee that exceeds the expense incurred in conducting an

evaluation and approval of a training program. The Director must approve a training program if the applicant can show that the training program will provide written proof of completion to each person who completes the program and passes an examination; and that the program complies with any other requirements that the Director has established by rule (see below).

Rules

The bill requires the Director to adopt rules that establish all of the following:

(1) Standards and procedures to be followed when registering a residential rental unit on the lead-safe residential rental unit registry (the rules must be based on U.S. EPA standards);

(2) Procedures and criteria for approving training programs in residential rental unit lead-safe maintenance practices; and

(3) Procedures for post-maintenance dust sampling.

Funding

The bill specifies that money in the Lead Poisoning Prevention Fund may be used to provide financial assistance to individuals who are unable to pay for costs associated with residential rental unit lead-safe maintenance practices. Under current law, that Fund is used to provide financial assistance to individuals who are unable to pay for either of the following:

(1) Costs associated with obtaining lead tests and lead poisoning treatment for children under six who are not covered by private medical insurance or are underinsured, are not eligible for the Medicaid program or any other government health program, and do not have access to another source of funds to cover the cost of lead tests and any indicated treatment; or

(2) Costs associated with having lead abatement performed or having preventative treatments performed.

The bill eliminates the requirement that money in the Fund be used for matters related to preventative treatments.

Distribution of funds from the "Choose Life" Fund

(R.C. 3701.65)

The bill establishes procedures for the distribution of money in the "Choose Life" Fund that were paid into the Fund during a year prior to the current distribution year,

but that were not distributed to an eligible organization. Under current law, the "Choose Life" Fund consists of contributions that are paid to the Registrar of Motor Vehicles by applicants who elect to obtain "Choose Life" license plates. The Director must allocate money in the Fund to each county in proportion to the number of "Choose Life" license plates issued during the preceding year for vehicles registered in the county. The money is then paid out to eligible organizations that are generally located within a county and that provides services to pregnant women residing in that county. In certain situations, the Director does not pay the entire annual allocation for a county because there is a lack of eligible organizations to receive the money. With regard to money that has not been distributed in a given calendar year, the bill authorizes the Director to distribute the money to eligible organizations in a subsequent year.

Repeal of hospital data reporting requirements

(Repealed R.C. 3727.33, 3727.331, 3727.34, 3727.35, 3727.36, 3727.37, 3727.38, 3727.39, 3727.391, 3727.40, and 3727.41 with conforming changes in R.C. 3727.45)

The bill repeals statutory provisions establishing hospital performance measure reporting requirements and also certain reporting requirements for information related to inpatient and outpatient services. Current law repealed by the bill requires each hospital to annually demonstrate performance in meeting inpatient and outpatient service measures specified in rules. The Director is authorized to audit submitted information.

Current law repealed by the bill generally requires each hospital to submit the following information to the Director on an annual basis:

--For patients in certain diagnosis groups that are most frequently treated on an inpatient basis in the hospital, the following: (1) the total number of patients discharged, (2) the mean, median, and range of total hospital charges, (3) the mean, median, and range of length of stay, (4) the number of emergency room admissions, hospital transfer admissions, and admissions from other sources, (5) the number of patients falling into certain diagnosis group codes specified under federal law.

--For patients in certain categories of outpatient services most frequently provided by the hospital, the following: (1) the mean and median of total hospital charges for the services and (2) for each category of services, the number of patients who received services.

Hospitals are required to make submitted information available for public inspection and copying for a reasonable fee. The Director is required to make the information public, and to the extent appropriations are available, make the information available on the Internet. The online information must be presented in a manner that

enables the public to compare the performance of hospitals in meeting inpatient and outpatient service measures.

The bill also repeals related provisions concerning verification of submitted information, privacy of names and Social Security numbers, hospital liability protections, inadmissibility of submitted information, sale of submitted information, compliance enforcement, and rulemaking.

OVI drug concentration technology requirements

(R.C. 4511.19)

The bill eliminates "gas chromatography mass spectrometry" as the sole technology used to measure the concentration of marihuana metabolite for purposes of the OVI law. In current law, gas chromatography mass spectrometry is listed as the technology that must be used to measure the concentration of marihuana metabolite in a person's urine, whole blood, blood serum, or plasma.

Although the OVI law lists the maximum concentrations of alcohol, various drugs of abuse, and combinations of them that result in a per se violation of the OVI law, the reference to a specific technology used to measure the concentration only appears in the context of marihuana metabolite. Eliminating the specific reference allows the use of different technologies particularly as new technologies are developed and approved by ODH.

DEPARTMENT OF HIGHER EDUCATION

Restriction of instructional fee increases; textbook fee

- Prohibits state institutions of higher education from increasing in-state undergraduate tuition and fees, except for a textbook fee in the 2018-2019 academic year and room and board.

- Requires state institutions of higher education to provide textbooks as a mandatory service to undergraduate students for the 2018-2019 academic year, for which each institution may charge a textbook fee of up to $300, for a full year for each full-time student.

State funding for remedial and developmental courses

- Applies the current statutory limits on state operating subsidies for academic remedial or developmental courses only to remedial or developmental courses "completed at the main campus" of most state universities.

- Maintains the current exemption allowing for Central State University, Shawnee State University, Youngstown State University, any university branch campus, any community college, any state community college, and any technical college to receive these subsidies beyond the statutory limits.

Applied bachelor's degree programs at two-year institutions

- Permits the Chancellor of Higher Education, in consultation with interested groups, to approve community colleges, technical colleges, and state community colleges to offer applied bachelor's degrees if specified conditions are satisfied.

"3+1" baccalaureate degree model

- Requires the Chancellor, by June 30, 2018, to develop a "3+1" baccalaureate degree program model where a student may earn a bachelor's degree by attending a two-year state institution of higher education for three years and a state university for one year.

Noncredit certificate programs – inventory and funding

- Requires the Chancellor, by January 1, 2018, to create an inventory of noncredit certificate programs and industry-recognized credentials offered at state institutions of higher education and Ohio Technical Centers that align with in-demand jobs in Ohio.

- Requires the Chancellor, when awarding funds from the OhioMeansJobs Workforce Development Revolving Loan Fund, to give preference to noncredit certificate programs that support adult learners.

- Increases the maximum award amount, from $100,000 to $250,000 (per workforce program per year), to an institution under the OhioMeansJobs Workforce Development Revolving Loan Program.

Workforce education and efficiency compacts

- Requires all state institutions of higher education located in the same region of the state to enter into a workforce education and efficiency compact by June 30, 2018.

- Requires state institutions designated as "land grant colleges" under federal law (Ohio State University and Central State University) to also enter into a compact with one another to enhance collaboration.

Partnership to provide competency-based education programs

- Permits the Chancellor to enter into a partnership with an eligible institution of higher education, created by the governors of several states, for the purpose of providing competency-based education programs.

Student assistance programs

- Requires that an Ohio College Opportunity Grant (OCOG) be applied toward the total state cost of attendance and the student's housing and living expenses, if the student is also receiving federal veterans' education benefits under the G.I. Bill.

- Authorizes the Adjutant General and Chancellor, for purposes of the Ohio National Guard Scholarship Program, to require that federal educational financial assistance, for which eligibility is based on military service, be used and applied to a recipient's eligible expenses prior to the recipient's scholarship funds.

- Creates the Finish for Your Future Scholarship Program to provide scholarships, which must be matched by both the institution and individual, for eligible individuals who have withdrawn from an institution of higher education to re-enroll and complete their first postsecondary or certification programs.

- Creates the Ohio CARES Program to provide financial support to in-state undergraduate students at institutions of higher education who are in jeopardy of withdrawing due to short-term lack of financial resources.

- Renames the State Need-Based Financial Aid Reconciliation Fund as the "State Financial Aid Reconciliation Fund" and makes miscellaneous changes regarding the use of the Fund.

Terms of office for state university trustees

- Reduces the length of terms of office for nonstudent members of state university boards of trustees from nine to six years for members appointed after the bill's effective date.

Tenure policies at state institutions of higher education

- Requires the board of trustees of each state institution of higher education to review the institution's policy on faculty tenure and update that policy to promote excellence in instruction, research, service, and commercialization.

- Requires a state institution of higher education to include a commercialization pathway in its faculty tenure policy in order to receive specified research funds from the Department of Higher Education.

Financial interests in intellectual property

- Requires state institutions of higher education to adopt rules under which an employee may receive a financial interest in intellectual property.

Lease-rental payment duties

- Repeals the Chancellor's duties regarding lease-rental payments to the Public Facilities Commission to pay for facilities for state supported or assisted institutions of higher education.

Reports, studies, and initiatives

- Codifies an uncodified provision that requires the Chancellor to maintain an efficiency advisory committee and provide a report by December 31 each year compiling efficiency reports from all state institutions of higher education.

- Requires co-located state institutions of higher education to annually review and report its best practices and shared services to the Efficiency Advisory Committee and requires the Committee to include co-location information in its annual report.

- Requires the Chancellor, in consultation with institutions of higher education and other parties as determined appropriate by the Chancellor, to conduct an analysis of

income share agreements and to submit the findings to the Governor and the General Assembly by June 30, 2018.

- Revises the content and timing of the course and program reviews required of state institutions of higher education.

- Requires each state university president to issue an annual report, by December 31, on the number of students that require remedial education, the costs of remediation, and other related information.

- Requires the Chancellor, in conjunction with the Department of Education, to submit an annual report on the progress the state is making in "Attainment Goal 2025," to increase the percentage of adults with a postsecondary degree, certification, or credential to 65% by 2025.

- Requires the Chancellor to work with state institutions of higher education, Ohio Technical Centers, and industry partners to develop program models leading to credentials in in-demand occupations.

- Requires the Chancellor to support the continued development of the "Ohio Innovation Exchange" to showcase the research expertise of Ohio's university and college faculty in a variety of fields and to identify institutional research equipment available in the state.

- Requires the Chancellor, Director of the Governor's Office of Workforce Transformation, and Superintendent of Public Instruction to develop a program targeted at increasing the number of students who pursue degrees in advanced technology and cyber security.

As used in this chapter of the analysis, a "state institution of higher education" means any of the 13 state universities, the Northeast Ohio Medical University, and each community college, state community college, technical college, and university branch campus. The state universities are the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University. Ohio Technical Centers are career-technical centers and schools that provide adult education and are recognized as such by the Chancellor of Higher Education.

Restriction on instructional fee increases; textbook fee

(Section 381.150)

For fiscal years 2018 and 2019 (the 2017-2018 and 2018-2019 academic years), the bill prohibits each state institution of higher education from increasing its in-state undergraduate instructional and general fees over what the institution charged for the 2016-2017 academic year. This limit explicitly excludes room and board and a textbook fee authorized by the bill.

For the 2018-2019 academic year, the bill requires state institutions of higher education to provide textbooks to all undergraduate students as a mandatory service. However, the bill permits them to charge a textbook fee for that year that may not exceed an annualized amount of $300 for a full-time student. An institution must pro-rate that fee for a part-time student based on the number of credit hours in which the student is enrolled. For this purpose, a "textbook" includes any required instructional tools, including bound and electronic textbooks and software, used specifically for course curricular content instruction.

As in previous biennia when the General Assembly capped tuition increases, the bill's prohibition does not apply to increases required to comply with institutional covenants related to the institution's obligations or to meet unfunded legal mandates or legally binding prior obligations or commitments. Further, the Chancellor of Higher Education, with Controlling Board approval, may approve an increase to respond to exceptional circumstances as the Chancellor identifies.

Though the bill does not specify that the prohibition on increases does not apply to institutions that participate in an undergraduate tuition guarantee program, separate law, unchanged by the bill, states that such programs are exempt from any fee increase limitation.[51]

State funding for remedial and developmental courses

(R.C. 3345.061)

The bill specifies that the current statutory limits on state operating subsidies that the University of Akron, Bowling Green State University, the University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, the University of Toledo, and Wright State University may receive for academic remedial or developmental courses apply only to those

[51] R.C. 3345.48(F), not in the bill.

academic remedial or developmental courses "completed at the main campus" of those universities. These limits are as follows:

(1) In the 2014-2015 and 2015-2016 academic years, 3% of the total undergraduate credit hours provided by the university at its main campus;

(2) In the 2016-2017 academic year, 15% of the first-year full-time equivalent students enrolled at the university's main campus;

(3) In the 2017-2018 academic year, 10% of the first-year full-time equivalent students enrolled at the university's main campus;

(4) In the 2018-2019 academic year, 5% of the first-year full-time equivalent students enrolled at the university's main campus.

Under continuing law, the limits do not apply to state operating subsidies for academic remedial or developmental courses paid to (1) Central State University, (2) Shawnee State University, (3) Youngstown State University, (4) any university branch, (5) any community college, (6) any state community college, or (7) any technical college.

Applied bachelor's degree programs at two-year institutions

(R.C. 3333.051 with conforming changes in R.C. 3354.01, 3354.09, 3357.01, 3357.09, 3357.19, 3358.01, and 3358.08)

The bill permits the Chancellor of Higher Education to authorize community colleges, technical colleges, and state community colleges to offer applied bachelor's degree programs. Under the bill, the Chancellor may approve a program if it demonstrates all of the following:

(1) Evidence of an agreement between the college and a regional business or industry to train students in an in-demand field and to employ students upon successful completion of the program;

(2) That the workforce needs of the regional business or industry is in an in-demand field with long-term sustainability based upon data provided by the Governor's Office of Workforce Transformation;

(3) Supporting data that identifies the specific workforce need the program will address;

(4) The absence of a bachelor's degree program that meets the workforce needs addressed by the proposed program offered by a state university or private nonprofit college located within a 30-mile radius of the proposed program;

(5) Willingness of an industry partner to offer workplace-based learning and employment opportunities to students enrolled in the proposed program.

Before approving a program, the Chancellor must consult with the Governor's Office of Workforce Transformation, the Inter-University Council of Ohio, the Ohio Association of Community Colleges, and the Association of Independent Colleges and Universities of Ohio, or any successor to those organizations.

"3+1" baccalaureate degree program model

(Section 381.570)

The bill requires the Chancellor, not later than June 30, 2018, in consultation with the Inter-University Council of Ohio and the Ohio Association of Community Colleges, to develop a "3+1" baccalaureate degree program model where a student may earn a bachelor's degree by attending a state community college, community college, or technical college for three years and a state university for one year. The model must outline how a student may complete the equivalent of three academic years, or 90 semester credit hours, at a state community college, community college, or technical college and then transfer to a state university to complete the final academic year, or 30 semester credit hours, or the remainder of the student's baccalaureate degree program.

The bill requires the Chancellor to seek input from administrators of state institutions of higher education that are currently participating in a 3+1 baccalaureate degree program, as well as faculty leaders in the academic fields or disciplines under consideration for the program. Further, the Chancellor must evaluate existing programs for their cost effectiveness for students.

Noncredit certificate programs – inventory and funding

(R.C. 3333.94; Section 1 of S.B. 1 of the 130th General Assembly, amended in Sections 610.50 and 610.51)

The bill requires the Chancellor, by January 1, 2018, to create an inventory of noncredit certificate programs and industry-recognized credentials offered at state institutions of higher education and Ohio Technical Centers that align with in-demand jobs in the state. The bill also specifies that, when awarding funds from the existing OhioMeansJobs Workforce Development Revolving Loan Fund, the Chancellor must give preference to noncredit certificate programs that support adult learners and are included in the inventory created by the Chancellor. The OhioMeansJobs Workforce Development Revolving Loan Fund provides loans to eligible individuals to participate in approved workforce development programs at public and private educational institutions.

The bill also adds noncredit certificate programs that align with in-demand jobs to the eligible workforce training programs under the OhioMeansJobs Revolving Loan Program.

Loan award amount

The bill increases the maximum award amount, from $100,000 to $250,000 (per workforce program per year), to an institution under the OhioMeansJobs Revolving Loan Program.

Workforce education and efficiency compacts

(R.C. 3345.59)

The bill requires that, by June 30, 2018, all state institutions of higher education that are located in the same region of the state (as defined by the Chancellor) enter into a compact to (1) examine unnecessary duplication of programs, (2) develop strategies to meet the workforce education needs of the region, (3) reduce operational and administrative costs, (4) enhance collaboration and the sharing of resources and curriculum, and (5) improve various methods for efficiency.

In addition to entering into regional compacts, the bill requires state institutions designated as "land grant colleges" under federal law to enter into a compact with one another to enhance collaboration. Only Ohio State University and Central State University are designated as "land grant colleges."

State institutions are permitted to join multiple compacts beyond those that they are required to join under the bill. Additionally, the bill specifies that there is no maximum on the number of state institutions that may join each compact.

Each state institution must include, as part of its annual efficiency report to the Chancellor (see below), the efficiencies produced as a result of each of the institution's compacts.

Partnership to provide competency-based education programs

(R.C. 3333.45)

The bill permits the Chancellor to enter into a partnership with an eligible institution for the purpose of providing competency-based education programs, where students may receive credit through demonstrating skills and knowledge in required subject areas. The bill defines an "eligible institution of higher education" as one that is created by governors of several states, where at least one governor from a participating state is a member of the institution's board of trustees.

The terms of the partnership between the Chancellor and the eligible institution may specify all of the following:

(1) The approval process for programs offered by the institution;

(2) The eligibility of students enrolled in the institution for state student financial aid programs;

(3) Any articulation and transfer policies of the Chancellor that apply to the institution;

(4) The reporting requirements for the institution;

(5) Any other requirements that the Chancellor determines to be in the best interest of the state.

Finally, the bill designates any eligible institution that enters into the partnership as a "state institution of higher education" for the purpose of providing competency-based education programs. However, the bill prohibits such an institution from receiving any of the state share of instruction (SSI) funds appropriated to the Department of Higher Education by the General Assembly for payment to state institutions of higher education.

Student assistance programs

OCOG for G.I. Bill recipients

(R.C. 3333.122)

The bill requires that, if the recipient of an Ohio College Opportunity Grant (OCOG) is also receiving federal veterans' education benefits under the "All-Volunteer Force Educational Assistance Program" (also called the Montgomery G.I. Bill) or the "Post 9/11 Veterans Educational Assistance Program" (also called the Post 9/11 G.I. Bill), the student's OCOG award must be applied to both (1) the total state cost of attendance, *and* (2) the student's housing costs and living expenses. The bill further specifies that living expenses include "reasonable costs for room and board."

Under current law, an OCOG award generally cannot exceed the total state cost of attendance, unless the student is an eligible foster youth attending a two-year institution of higher education. The state cost of attendance is defined as "the average

cost to a student when attending an Ohio institution of higher education" as calculated by the Chancellor.[52]

Ohio National Guard Scholarship Program

(R.C. 5919.34)

The Ohio National Guard Scholarship Program provides eligible National Guard members with tuition scholarships for public and private colleges and universities in the state.

For purposes of the Program, the bill authorizes the Adjutant General and the Chancellor to jointly adopt rules requiring that an applicant use federal educational financial assistance programs, including programs offered by the U.S. Department of Defense, that are available based on the applicant's military service. Further, if such rules are adopted, the bill requires that any financial assistance received under those federal programs be applied first to the recipient's eligible expenses, and then any funds received under the National Guard Scholarship be applied to the remaining expenses. Essentially, the recipient's federal financial assistance is the "first payer" for the recipient's expenses, while the National Guard Scholarship is the "second payer."

A provision of current law, unchanged by the bill, prohibits a recipient's scholarship from being reduced by the amount of federal veterans' education benefits received under the Montgomery G.I. Bill. It is unclear how this provision is affected by the bill's provisions.

Finish for Your Future Scholarship Program

(Section 381.480)

The bill appropriates $2 million in FY 2018 and $4 million in FY 2019 for the Finish for Your Future Scholarship Program to provide scholarships to eligible individuals who have withdrawn from institutions of higher education to re-enroll and complete their degrees or certificate programs. The Chancellor must administer the Program and adopt rules regarding its implementation and operation.

Under the bill, an eligible institution is a state institution of higher education, a private nonprofit college or university, or an Ohio Technical Center.

In order to be eligible for a scholarship, an individual must:

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[52] O.A.C. 3333-1-09.1(B)(4).

(1) Have student debt that was incurred in pursuit of the individual's first degree or technical certificate;

(2) Have withdrawn from an eligible institution of higher education before completing the degree or certificate program at least 12 months prior to receiving scholarship benefits under the bill; and

(3) Have completed 30 semester hours or less, if pursuing a bachelor's or associate degree, or 50% or less of the minimum requirements for a technical certificate.

The maximum scholarship amount an individual may receive is $3,500 per academic year to be used to pay for instructional and general fees or tuition. The bill directs the Chancellor to disburse funds directly to eligible institutions to be credited to an individual.

Under the bill, the eligible institution and the individual each must match the amount of the scholarship awarded.

Finally, the bill requires each eligible institution to monitor students who receive the scholarship and provide a report, upon the Chancellor's request, that compares the following metrics for students who receive a scholarship to those who do not:

(1) Course completion rates;

(2) Retention rate in subsequent semesters;

(3) Number of credit hours attempted;

(4) Number of credit hours completed;

(5) Postsecondary credentials received; and

(6) Other metrics determined appropriate by the Chancellor.

Ohio CARES

(Section 381.470)

The bill appropriates $425,000 in FY 2018 and $875,000 in FY 2019 to fund the Completion and Retention for Educational Success (Ohio CARES) Program. The Program provides financial support to in-state undergraduate students admitted to a state institution of higher education or a nonprofit private college or university who are in jeopardy of withdrawing, as determined by the enrolling institution, due to a short-term lack of financial resources. The Chancellor must administer this Program. Awards

are limited to $15,000 to each institution in each fiscal year and $250 per student per academic term (presumably per semester or quarter). Students are limited to two awards in an academic year.

Interested institutions must apply to the Chancellor to participate in the Program. In making awards under this section, the Chancellor may give priority to institutions that will focus awards on students who:

(1) Are pursuing their first degrees;

(2) Are within 30 semester credit hours of completing the minimum requirements for a degree;

(3) Have a grade point average that is higher than 2.0;

(4) Are taking more than ten credit hours per semester; and

(5) Are pursuing a degree in an in-demand field, according to data from sources such as the Governor's Office of Workforce Transformation, OhioMeansJobs, Department of Job and Family Services, and lists of in-demand occupations.

Institutions that participate in Ohio CARES must do all of the following:

(1) Use the funds to augment existing aid programs administered by the institution;

(2) Provide a matching contribution at a ratio of one to one;

(3) Limit awards of funds to allowable student costs, as the institution determines, within existing aid programs;

(4) Monitor students who receive Ohio CARES awards; and

(5) Provide a report, upon the Chancellor's request, that compares metrics for students who receive Ohio CARES to those who do not, in a manner similar to that required for the Finish for Your Future Scholarship Program as described above. However, the Ohio CARES report must include a comparison of cumulative grade point averages and, a comparison of postsecondary credentials received is not specifically required unless determined appropriate by the Chancellor.

State Financial Aid Reconciliation Fund

(R.C. 3333.121)

The bill revises the State Need-Based Financial Aid Reconciliation Fund as follows:

(1) Specifies that the fund consists of refunds of state financial aid payments disbursed by the Department of Higher Education for programs that the Department is responsible for administering, instead of refunds of payments under the Ohio College Opportunity Grant (OCOG) Program and the former Ohio Instructional Grant (OIG) Program as under current law;

(2) Requires the Chancellor to use any revenues credited to the Fund to pay obligations for "state financial aid programs," instead of prior-year obligations from the OIG and OCOG programs; and

(3) Renames the Fund as the "State Financial Aid Reconciliation Fund."

Background

The State Need-Based Financial Aid Reconciliation Fund receives refunds of OIG and OCOG payments made by institutions when they receive moneys under those programs for students who are not eligible to receive them. Money in the Fund is to be used to pay institutions of higher education any outstanding obligations owed from the prior year for the grant programs. Any amount in the Fund that exceeds the amount necessary to reconcile prior year payments must be transferred to the General Revenue Fund.

Terms of office for state university trustees

(R.C. 3335.02, 3337.01, 3339.01, 3341.02, 3343.02, 3344.01, 3350.10, 3352.01, 3356.01, 3359.01, 3361.01, 3362.01, and 3364.01)

The bill reduces the length of terms of office for nonstudent members of the 13 state university boards of trustees from nine to six years for members appointed after the bill's effective date. The bill also makes the same change regarding the term of office for the trustees of the Northeast Ohio Medical University (NEOMED).

However, trustees who are appointed to fill a vacancy of a nine-year term that existed prior to the bill's effective date must serve for the remainder of the unexpired nine-year term.

The term of office for student trustees remains unchanged at two years.

Each state university and NEOMED, except Ohio State University, has a board of trustees of nine members appointed by the Governor. Ohio State has a board of trustees of 17 members appointed by the Governor. In addition, each university board has two student trustees also appointed by the Governor.[53]

Tenure policies at state institutions of higher education

(R.C. 3345.45)

The bill requires the board of trustees of each state institution of higher education to review the institution's policy on faculty tenure and update that policy to promote excellence in instruction, research, service, and commercialization.

Beginning January 1, 2018, as a condition to receive higher education Third Frontier research funds, the bill requires each state institution to include a commercialization pathway in its faculty tenure policy.

While current law does not require a state institution of higher education to adopt a policy specific to tenure, the Chancellor, jointly with all state universities, is required to develop standards for instructional workloads for full-time and part-time faculty in keeping with the universities' missions and with special emphasis on the undergraduate learning experience. Those standards must contain clear guidelines for institutions to determine a range of acceptable undergraduate teaching by faculty. Each state institution must adopt a faculty workload policy (but not necessarily a tenure policy) consistent with those standards.

Financial interests in intellectual property

(R.C. 3345.14)

The bill *requires* the board of trustees of any state institution of higher education to adopt rules that prescribe when an employee may solicit or accept, and when someone may give to that employee, a financial interest in any association to which the board has transferred its interests in intellectual property. Under current law, adoption of these rules is permissive.

Under continuing law each institution owns all of the rights and legal interests in discoveries, inventions, or patents that result from research conducted at the institution. Additionally, an institution owns the rights to discoveries, inventions, or patents by its

[53] The student trustees of each university, except Ohio State, are nonvoting members of their respective boards. The Ohio State University board of trustees, on the other hand, is authorized to grant voting status to its student trustees.

employees acting within the scope of their employment or with funding, equipment, or infrastructure provided by or through the institution. However, an institution may assign its interests in discoveries to others, specifically including its own faculty and students or to firms in which faculty members or students have ownership interests.

Chancellor's duties regarding lease-rental payments

(Repealed R.C. 3333.13)

The bill repeals the Chancellor's duties regarding lease-rental payments to the Public Facilities Commission to pay for facilities for state supported or assisted institutions of higher education. Those duties are no longer necessary because the bonds issued to pay for those facilities, and for which the lease-rental payments were made, have been retired.

Reports, studies, and initiatives

Efficiency advisory committee and reports

(R.C. 3333.95, as codified in Sections 610.10 and 610.11)

The bill codifies an uncodified provision of H.B. 64 of the 131st General Assembly that requires the Chancellor to maintain an efficiency advisory committee and provide an annual report by December 31 compiling efficiency reports from all public institutions of higher education. In doing so, it specifies that the purpose of the efficiency advisory committee is generating institutional efficiency reports (rather than optimal efficiency plans) and eliminates the requirement that the Chancellor's report benchmark efficiency gains realized over the previous year.

It also makes a technical change regarding the submission of the report, by requiring it to be submitted to the President of the Senate and the Speaker of the House of Representatives (rather than the General Assembly), in addition to the Office of Budget and Management and the Governor (as already required under current law).

Regarding the content of the efficiency reports from each state institution of higher education that must be submitted to the Chancellor and compiled in the Chancellor's report, the bill eliminates the requirement that each do the following:

(1) Identify efficiencies at the respective institution;

(2) Quantify revenue enhancements, reallocation of resources, expense reductions, and cost avoidance where possible in the areas of general operational functions, academic program delivery, energy usage, and information technology and procurement reforms; and

(3) Particularly emphasize areas where these reforms are demonstrating savings or cost avoidance to students.

Co-located campus report

(R.C. 3333.951)

The bill requires co-located state institutions of higher education to annually review and report, to the Efficiency Advisory Committee (see above), its best practices and shared services in order to improve academic and other services and reduce costs for students. The Committee, then, must include the information from co-located state institutions in its annual report.

Co-located institutions are two-year institutions (such as a community college and a university branch) that share a campus.

Income share agreement study

(Section 381.560)

The bill requires the Chancellor, in consultation with institutions of higher education and other parties as determined appropriate by the Chancellor, to conduct an analysis of income share agreements used to pay for student tuition and higher education-related expenses. The findings of the analysis must be submitted to the Governor and the General Assembly by June 30, 2018.

An "income share agreement" is a financing arrangement under which an investor provides funds to cover all or part of a student's higher education costs, and, in return, the student agrees to pay back a percentage of the student's income for a set period of time after graduation.

Course and program reviews

(R.C. 3345.35)

Under current law, each state institution of higher education, every five years, must evaluate all courses and programs the institution offers based on enrollment and student performance in each course or program. The bill eliminates the portion of the review that is based on student performance and, instead, requires each institution to evaluate all offered courses and programs based on enrollment and duplication with other state institutions of higher education within a geographic region, as determined by the Chancellor. The bill also requires each state institution to evaluate the benefits of collaboration with other institutions of higher education to deliver a duplicative program (rather than a low-enrollment course as under current law). The bill requires

each state institution to provide a summary of recommended actions, including consideration of collaboration with other state institutions of higher education, for courses and programs with low enrollment.

The first evaluation after the bill's effective date must be completed by December 31, 2017, and the findings required by this evaluation may be submitted an addendum to the findings that were submitted prior to January 1, 2016. Additionally, each institution, in order to fulfill its reporting requirement, may submit its program and course review as part of its annual report to the Efficiency Advisory Committee (see above).

Finally, the bill changes the date by which the board of trustees of each state institution must evaluate all courses and programs from every fifth January 1 to every fifth September 1.

College remediation report

(R.C. 3345.062)

The bill requires each state university president, annually by December 31, to issue a report regarding the remediation of students. The report must include the number of students that require remedial education, the cost and specific areas of remediation the university provides, and causes for remediation. Each president must present the findings to the state university's board of trustees and submit a copy of the report to the Chancellor and the Superintendent of Public Instruction.

Current law already requires all state institutions of higher education to report to the Governor, General Assembly, Chancellor, and state Superintendent the following information from the prior academic year: (1) the institution's aggregate costs for providing remedial and developmental courses, (2) the amount of those costs disaggregated by school districts from which the students taking those courses received their high school diplomas, and (3) any other information with respect to academic remedial and developmental courses the Chancellor considers appropriate. The Chancellor must determine when the reports must be submitted.[54] This law is unchanged by the bill.

[54] R.C. 3333.061(G), not in the bill.

Annual report of "Attainment Goal 2025"

(R.C. 3333.0415)

Beginning in 2018, the bill requires the Chancellor, in collaboration with the Department of Education, to prepare an annual report regarding the progress the state is making in increasing the percentage of adults in the state with a college degree, industry certificate, or other postsecondary credential to 65% by the year 2025. The Chancellor must submit an electronic copy of the report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives.

Program models leading to credentials in in-demand occupations

(Section 381.590)

The bill requires the Chancellor to work with state institutions of higher education, Ohio Technical Centers, and industry partners to develop program models to increase continuing education and noncredit program offerings that lead to credentials in the state's in-demand occupations. The models must include project-based learning.

Ohio Innovation Exchange

(Section 381.580)

The bill requires the Chancellor to support the continued development of the Ohio Innovation Exchange for the purpose of (1) showcasing the research expertise of Ohio's university and college faculty in engineering, biomedicine, and information technology, and other fields of study, and (2) identifying institutional research equipment available in the state.

The "Ohio Innovation Exchange" is a current initiative of the Department of Higher Education developed jointly by Case Western Reserve University, Ohio University, the Ohio State University, and the University of Cincinnati, in consultation with the Ohio Manufacturing Institute, that provides access to faculty profiles and resources.[55]

[55] More information about the "Ohio Innovation Exchange" is available at https://www.ohioinnovationexchange.org/.

Program to increase degrees in technology and cyber security

(Section 733.50)

Under the bill, the Chancellor, in consultation with the Director of the Governor's Office of Workforce Transformation and the Superintendent of Public Instruction must work with the business community and institutions of higher education to develop a program targeted at increasing the number of high school students who pursue certificates or degrees in the field of advanced technology and cyber security.

DEPARTMENT OF JOB AND FAMILY SERVICES

Ohio's workforce development system

- Changes the membership of the Governor's Executive Workforce Board and modifies that Board's duties with respect to Ohio's workforce development system.

- Modifies the requirements for written grant agreements for the allocation of funds under the federal Workforce Innovation and Opportunity Act (WIOA).

- Requires the Governor's Office of Workforce Transformation to undertake various tasks regarding the creation, collection, and display of data concerning Ohio's workforce development system and develop a uniform electronic application for adult training programs funded under WIOA.

- Requires every local area (a specified region for workforce development purposes) to ensure the availability of a physical one-stop location called an "OhioMeansJobs center" in the local area for the provision of workforce development activities under WIOA.

- Changes the requirements for continuing law local workforce development plans and specifies that those plans must be four-year plans (as required under WIOA).

- Eliminates current state law requirements for the membership and responsibilities of local boards for workforce development and instead requires that the board carry out the functions described in and meet the membership requirements of WIOA.

- Requires the Governor, upon determining that there has been a substantial violation of a provision of WIOA, to take action to revoke approval of all or part of a local workforce development plan or to impose a reorganization plan for local workforce development activities.

- Requires the chief elected official or officials of a local area to monitor all private and government entities that receive funds allocated under a grant agreement to ensure that the funds are used in accordance with state laws, policies, and guidance.

- Requires an OhioMeansJobs center operator to enter into a memorandum of understanding with one or more public libraries to facilitate collaboration and coordination of workforce programs and education and job training resources.

- Permits the Office, in conjunction with the Ohio Library Council, to develop a brand for public libraries as "continuous learning centers."

- Replaces references to the Workforce Investment Act of 1998 with references to WIOA.

Comprehensive Case Management and Employment Program

- Makes the Comprehensive Case Management and Employment Program an ongoing program rather than one that expires July 1, 2017.
- Reduces the minimum age of participation in the Program from 16 to 14 years.
- Provides for other revisions to the Program, including a revision that permits the JFS Director to specify in rules additional mandatory and voluntary participation groups.

Disability Financial Assistance Program

- Beginning December 31, 2017, eliminates the Disability Financial Assistance Program within JFS.
- Requires the Executive Director of the Office of Health Transformation to ensure the establishment of a program to refer certain Medicaid recipients to services and assist certain Medicaid recipients to expedite applications for federal benefits.

Ohio Works First

- Requires the JFS Director to specify in rules an initial amount of gross earned income that is to be disregarded in determining an assistance group's continued eligibility for Ohio Works First.

Kinship Permanence Incentive Program

- Repeals the 48-month time limit under which a kinship caregiver may receive additional payments under the Kinship Permanency Incentive Program.
- Provides that an eligible caregiver may receive a maximum of eight payments per minor child.

Family and Children First Flexible Funding Pool

- Permits a county family and children first council to create a flexible funding pool to assure access to services by families, children, and seniors in need of protective services.

Ohio's workforce development system

(R.C. 6301.01, 6301.02, 6301.03, 6301.04, 6301.05, 6301.06, 6301.061, 6301.07, 6301.08, 6301.09, 6301.11, 6301.12, 6301.18, 5101.20, 5101.201, 5101.214, 5101.23, and 5101.241; Section 763.10; conforming changes in numerous other R.C. sections)

The federal Workforce Innovation and Opportunity Act

(R.C. 107.35, 763.01, 3309.23, 3333.91, 4141.43, 4141.51, 5101.20, 5101.201, 5101.241, 5123.60, 5903.11, 6301.01, 6301.02, 6301.03, 6301.04, 6301.05, 6301.08, 6301.09, and 6301.12)

Ohio's workforce development system is based, in part, on federal law. In 2014, Congress passed the "Workforce Innovation and Opportunity Act"[56] (WIOA). WIOA supersedes the federal "Workforce Investment Act of 1998,"[57] upon which much of Ohio's current workforce development system is based. The bill replaces references to the Workforce Investment Act of 1998 with references to WIOA throughout the Revised Code.

The Governor's Executive Workforce Board

(R.C. 6301.04)

WIOA, like its predecessor, requires each state to have a state board.[58] The state board, along with Ohio's Department of Job and Family Services (JFS), largely oversees the implementation of WIOA and its predecessors in Ohio. Under continuing law, the Governor must establish the Governor's Executive Workforce Board and must appoint members to the Board who serve at the Governor's pleasure to perform duties under WIOA. The bill requires that the following individuals be members of the Board:

- The Governor (required under WIOA);
- Two members of the House of Representatives, appointed by the Speaker of the House;
- Two members of the Senate, appointed by the President of the Senate (WIOA requires one member from each chamber);

[56] 29 United States Code (U.S.C.) 3101 *et seq.*

[57] Former 29 U.S.C. 2801 *et seq.*

[58] 29 U.S.C. 3111.

- Other members required under WIOA (representing business, the Ohio workforce, and government);

- Any additional members appointed by the Governor.[59]

The bill eliminates the Board's current law duties and requires the Board instead to do all of the following:

- Develop (as under current law), implement, and modify the state workforce development plan;

- Review statewide workforce policies and programs and recommendations on actions to be taken by the state to align workforce development programs to support a comprehensive and streamlined workforce development system;

- Recommend measures for the development and continuous improvement of the workforce development system in Ohio, including updating comprehensive state performance accountability measures;

- Continue to identify and disseminate information on promising practices in workforce development;

- Perform other work required under WIOA or requested by the Governor.

The Board's current law duties are more involved in the administration, rather than oversight as under the bill, of Ohio's workforce development system. Current law duties include designating local areas (the Governor designates these), adopting rules for administering workforce development activities and monitoring fund recipients, developing statewide performance measures, and similar duties.

Governor's Office of Workforce Transformation

Ohio employers in-demand job survey

(R.C. 6301.111)

Under continuing law, the Governor's Executive Workforce Board, in conjunction with JFS and various public and private educational institutions, must develop a methodology for identifying jobs that are in demand by Ohio employers. JFS and the public and private educational institutions, in consultation with the Board,

[59] 29 U.S.C. 3111 and Governor's Executive Workforce Board, Board Roster, http://workforce.ohio.gov/Portals/0/Public%20Board%20Roster%2012.9.16.pdf.

must use the methodology to create and publish a list of in-demand jobs in Ohio and in each Ohio region. JFS and the public and private educational institutions must periodically update the list.

Under the bill, the Governor's Office of Workforce Transformation (OWT), in conjunction with JFS, must conduct an electronic survey of Ohio employers that identifies jobs that are in demand by those employers. OWT, in conjunction with JFS, must use the survey results to update the in-demand jobs list.

OWT must perform the initial survey and complete the first update not later than December 31, 2018, and must complete subsequent surveys and updates not later than December 31 every two years thereafter. The bill does not affect the continuing law requirement that the list be periodically updated.

OhioMeansJobs workforce supply tool

(R.C. 6301.112)

The bill requires OWT, in collaboration with the Departments of Higher Education and Job and Family Services, to create and publish on the OhioMeansJobs website (see "**Electronic job placement system**," below) a workforce supply tool that uses real-time demand and supply data. OWT must provide all of the following through the tool:

- Businesses with historical information on graduates from high demand fields;
- Businesses with projections on future graduates;
- The number of skilled workers available for work in occupations included on the list of in-demand jobs created under continuing law.

The workforce supply tool created under the bill must include the entire in-demand jobs list maintained under continuing law not later than January 1, 2018.

The bill requires, not later than December 31, 2018, OWT, in collaboration with the Departments of Higher Education and Education, to establish design teams to do both of the following:

- Identify emerging skill needs based on predictive analytics and analysis of the data from the workforce supply tool;
- Periodically recommend innovations for responding to emerging in-demand jobs and skills.

Evaluation of workforce programs

(R.C. 107.35)

Current law requires JFS and the Departments of Education and Higher Education to provide staff support and assistance to OWT to establish criteria used for evaluating the performance of state and local workforce programs. The bill adds that the Opportunities for Ohioans with Disabilities Agency (OODA) must also provide staff support and assistance to OWT.

Additionally, OWT must display metrics regarding the state's administration of the state vocational rehabilitation program administered under Title I of the federal Rehabilitation Act of 1973[60] on OWT's public dashboard available on the Internet. Under continuing law, OWT must display metrics on the public dashboard regarding the state's administration of primary workforce programs, including the Adult Basic and Literacy Education Program (ABLE), programs administered under the federal Carl D. Perkins Career and Technical Education Act of 2006,[61] state aid and scholarships administered by the Department of Higher Education, and programs administered under Title I of WIOA.

Applications for WIOA programs

(R.C. 6301.20)

The bill requires OWT, in consultation with JFS, the Departments of Higher Education and Aging, and OODA, to develop and maintain a uniform electronic application for adult training programs funded under WIOA. The application must be developed by September 30, 2017, and be available for use by July 1, 2018.

Electronic job placement system

(R.C. 6301.01 and 6301.03, with conforming changes in R.C. 3121.03, 3304.171, 3313.89, 3333.92, 4141.29, and 6301.18)

The bill changes references to Ohio's electronic system for labor exchange and job placement activity, referring to the system as the "OhioMeansJobs website," rather than "OhioMeansJobs," as under current law. Continuing law requires local areas to use OhioMeansJobs as the labor exchange and job placement system for the area. Under the bill, no additional state or federal workforce funds may be used to build or maintain any labor exchange and job placement system that is duplicative to the OhioMeansJobs

[60] 29 U.S.C. 701 *et seq.*

[61] 20 U.S.C. 2301 *et seq.*

website. Current law prohibits only additional workforce funds being used for that purpose.

Pilot programs

(R.C. 6301.02)

The bill allows the JFS Director to establish pilot programs to provide workforce development activities or services under federal law. Currently, the Director may establish pilot programs to provide workforce development activities or family services to individuals who do not meet eligibility criteria for those activities or services under federal law. The bill also requires the Director to notify the Governor's Executive Workforce Board of any program, rather than requiring the Governor's Board to approve the program, as under current law.

Local administration

Local areas

(R.C. 6301.01; conforming changes in numerous other R.C. sections)

WIOA requires states to designate local areas through which workforce development activities under WIOA are administered.[62]

The bill expands the definition of "local area" for purposes of Ohio's Workforce Development Law to remove references to specific local government types and instead to define "local area" broadly as a local workforce development area designated under WIOA, pursuant to Ohio's Workforce Development Law. The bill makes conforming changes to several sections outside of that Law that reference the definition.

Because of the elimination of the reference to specific types of local areas, certain provisions of the workforce development system appear to be expanded. For example, continuing law allows boards of county commissioners to enter into regional plans of cooperation to enhance the administration, delivery, and effectiveness of workforce development activities. The bill allows the board to enter these plans with any local area, not just one that is a municipal corporation (see "**Written grant agreements with local areas**," below).

Local boards

(R.C. 6301.06, 5101.214, 6301.01; repealed R.C. 330.04 and 763.05; conforming changes in numerous other R.C. sections)

[62] 29 U.S.C. 3121.

Under continuing law, the chief elected official or officials (CEO) of a local area must create a local board for workforce development activities. The bill eliminates state law requirements for the membership (which are similar to WIOA, though the number of certain types of members varies) and responsibilities of that board and instead requires that the board carry out the functions described in and meet the membership requirements of WIOA (the local board must include representatives from the following areas: business, the workforce, entities administering training and educational activities, and government). The CEOs of a local area, under the bill, must adopt a process for appointing members to the local board for the local area. A "CEO" under the bill generally refers to the chief elected executive officer of a local government unit, rather than a specific individual based on the type of local area as under current law. A local area may have more than one CEO; if so, those CEOs must be named in an agreement under WIOA.

The bill also eliminates current law authority for the CEOs of a local area to consolidate all boards and committees, including the county family services planning committee, into one board for purposes of workforce development activities.

The bill also allows the CEOs of a local area to contract with the local board. The parties must specify in the contract the workforce development activities that the local board must administer and must establish in the contract standards, including performance standards, for the local board's operation. The bill eliminates the current law definition of "workforce development activity" and instead defines a "workforce development activity" as an activity carried out through a workforce development system.

Similarly, the bill allows the CEOs of a local area to contract with a government or private entity to enhance the administration of local workforce development activities that the local board is responsible for. The entity with which the CEOs contract need not be located in the local area in which the CEOs serve. Current law allows a county that is a local area to designate certain entities to be its workforce development agency, or a local area that is a municipal corporation to contract with a private or government entity described above to act as the local area's workforce development agency. The bill removes references to workforce development agencies as providers of workforce development activities throughout the Revised Code, and clarifies that the local board of a local area is the entity responsible for carrying out the workforce development activities in the local area.

The bill allows JFS to enter into a written agreement with one or more state agencies, state universities, and colleges to assist in the coordination, provision, or enhancement of the workforce development activities of a local board, rather than

allowing JFS to enter into those written agreements to assist workforce development agencies, as under current law.

Written grant agreements with local areas

(R.C. 5101.20, 6301.01, and 6301.05)

Under continuing law, the JFS Director must enter into written grant agreements with each local area under which allocated funds (changed from "financial assistance" under current law) are awarded for workforce development activities included in the agreements. These agreements must comply with applicable federal and state laws governing the administration of workforce development activities and, as added by the bill, funding. The bill requires the Director to award grants to local areas only through one of these grant agreements.

The bill also modifies the required contents of these grant agreements. A written grant agreement under the bill must identify as parties to the agreement the representatives for the local area, including the CEOs, the local board, and the fiscal agent rather than only the CEOs for the local area under current law. Additionally, the grant agreement must provide for the incorporation of the planning region and the local plan instead of only providing for incorporation of the local workforce development plan. A "planning region" is defined in the bill as an area consisting of two or more local areas that are collectively aligned to engage in the regional planning process as outlined in WIOA. As mentioned under "**Local areas**," above, continuing law permits these regional plans.

Under continuing law, the agreement must contain certain assurances from the CEOs of the local area. Those required assurances are slightly modified under the bill. Under continuing law, the CEOs must ensure that the CEOs, subgrantees, or contractors of a local area utilize a financial management system and other accountability mechanisms that meet federal and state law requirements, as well as, under the bill, the policies and procedures adopted by JFS (rather than JFS requirements under current law).

Additionally, the bill requires that the CEOs of the local area monitor all private and government entities that receive funds allocated under the grant agreement to ensure that the funds are utilized in accordance with all applicable federal and state laws and with policies and guidance issued by JFS and under continuing law, to ensure compliance with the requirements of the grant agreement. Likewise, the bill requires CEOs to take action to recover funds for expenditures that are unallowable under federal or state law. Under current law, the CEOs need only take action to recover funds that are not used in accordance with the grant agreement.

The bill also modifies slightly the assurance that the CEOs must provide with respect to amounts that the local area is responsible to reimburse because of an adverse audit or quality control finding, final disallowance of federal financial participation, or other sanction or penalty. Under the bill, the CEOs must provide assurances that the local area or the CEOs, subgrantees, or contractors for the local area promptly remit funds to JFS that are payable to the state or federal government because of such an adverse finding or penalty. Under current law, the CEO is required to provide assurances that the local area or the CEOs, subgrantees, or contractors of the local area will require the CEOs of the local area to promptly reimburse any funds for which the local area was responsible.

And with respect to corrective action, the bill requires the CEOs to provide assurances that the local area and any subgrantee or contractor of the local area will take prompt corrective action if JFS, the Auditor of State, or other state or federal agency determines noncompliance with state or federal law. Under current law, the parties must require the CEOs to take such corrective actions and only if an authorized entity determines compliance with requirements for a workforce development duty contained in the agreement are not achieved.

Establishing a workforce development system

(R.C. 6301.08, 6301.06, 5101.201, and 6301.01, with conforming changes in R.C. 4141.29 and 6301.061)

Under the bill, every local area must establish and administer a local workforce development system and must ensure that at least one comprehensive OhioMeansJobs center is available in the local area. Currently, each local area is instead required to participate in a one-stop system for workforce development activities delivered through either a physical location or by electronic means approved by the Governor's Executive Workforce Board. "OhioMeansJobs center," under the bill, means a physical one-stop center under WIOA. Under WIOA, the following programs, services, and activities must be provided at a one-stop:

- Employment and training provided under WIOA;
- Programs and activities carried out by partners of the local workforce development system;
- Job search, placement, recruitment, and other labor exchange services for individuals and employers.

A center may be supported by electronic means approved by the JFS Director. The bill permits the JFS Director to enter into agreements with local boards and other

OhioMeansJobs center partners to establish a workforce development system, rather than with one-stop operators and one-stop center partners as under current law.

The bill eliminates the current list of entities permitted to operate a one-stop center and instead requires that an OhioMeansJobs center be operated by an OhioMeansJobs center operator. An OhioMeansJobs center operator, under the bill, is an entity or consortium of entities designated or certified through a competitive process to operate an OhioMeansJobs center under WIOA. The bill also eliminates a requirement that the local one-stop system (workforce development system under the bill) include a representative from a county department of job and family services.

An OhioMeansJobs center operator is required to enter into a memorandum of understanding with one or more public libraries by September 1, 2018, and every two years thereafter, to facilitate collaboration and coordination of workforce programs and education and job training resources. WIOA requires local boards to be the contracting entity. The bill defines "public library" as a library that is open to the public, including (1) a library established before September 4, 1947, and maintained and regulated under the Municipal Corporation Law, (2) a county, township, municipal, or school district free public library, or county or regional library district that is created, maintained, and regulated under the Library Law, (3) a library that is created and maintained by an educational institution, or (4) a library created and maintained by a historical or charitable organization, institution, association, or society.

Under continuing law requirements for one-stop systems, OhioMeansJobs centers must be named "OhioMeansJobs (name of county) County."

Local plans

(R.C. 6301.07)

Under continuing law, every local board must develop a plan for workforce development activities in the local area. The bill eliminates the current process for plan development and approval. Instead, each local board, in partnership with the local area's CEOs, must develop a four-year local plan (as required under WIOA), and submit that plan to the Governor.

The local plan must support the strategy described in the state plan and must contain descriptions of the activities of the local board as outlined in WIOA. The bill requires that the local plan include the following information, in accordance with WIOA:

- Identification of the strategic planning elements, including the local board's strategic vision, goals for preparing a skilled and educated

workforce, and the knowledge and skills, including performance character, needed to meet the employment needs of employers in the region;

- A description of the workforce development system in the local area and how the local board, working with education programs and the entities that carry out core programs, will coordinate activities to expand access to employment, training, education and supportive services to eligible individuals with barriers to employment to improve service delivery and avoid duplication;

- A determination of the local area's workforce development needs for adult and dislocated worker employment training activities, including the type and availability of activities needed (similar to current law);

- An assessment of the type and availability of youth workforce development activities carried out in the local area, including activities for youth with disabilities and youth receiving independent living services under continuing law;

- A description of any other information the CEOs of the local area require;

- A description of any other information the Governor requires.

Additionally, the bill requires the local boards within a planning region and the CEOs of those local areas to prepare, submit to, and obtain approval from the state for a single regional plan that includes a description of the activities described in WIOA and that incorporates local plans for each local area in the region. The state must identify the regions, and designate each region as one of the following types:

- A region consisting of one local area;

- A planning region;

- An interstate planning region that is contained within two or more states and consists of labor market areas, economic development areas, or other appropriate contiguous subareas of those states.

Copies of these local plans must be made available to the public through electronic and other means and, similar to current law, members of the public must be allowed to submit comments on the proposed plan to the local board. Presentations to local news media and public hearings are examples of other means by which a local board may make a proposed plan available.

Gubernatorial action related to a WIOA violation

(R.C. 5101.241)

The bill requires the Governor to take action if the Governor determines that there has been a substantial violation of a specific provision of WIOA and that corrective action has not been taken. In that case, the Governor must issue a notice of intent to revoke approval of all or part of the local plan affected by the violation or must impose a reorganization plan. A reorganization plan imposed may include any of the following:

- Decertifying the local board involved in the violation;
- Prohibiting the use of eligible providers;
- Selecting an alternative entity to administer the program for the local area involved;
- Merging the local area with one or more other local areas;
- Making other changes that the Governor determines to be necessary to secure compliance with the specific provision.

This new corrective action is in lieu of the current law authority that allows the Governor, upon finding that access to basic WIOA services is not being provided in a local area, to declare an emergency and, in consultation with the chief elected officials of the local area, to arrange for provision of those services through an alternative entity while the problem is pending. The current law authority was not subject to appeal, while the bill's authority may be appealed and does not become effective until the time for appeal has expired or a final decision has been issued on the appeal.

"Continuous learning center" brand for public libraries

(Section 763.10)

The bill permits OWT, in conjunction with the Ohio Library Council or its successor organization to, not later than June 30, 2019, develop a brand for public libraries as "continuous learning centers" that serve as hubs for information about local in-demand jobs and relevant education and job training resources. Additionally, the bill requires the State Library of Ohio to strengthen the Ohio Digital Library's online education resources to provide more accessible job training materials to adult learners. The State Library must make these changes not later than June 30, 2019.

Incentive awards

(R.C. 5101.23)

The bill allows JFS to provide annual incentive awards to local areas, rather than allowing JFS to provide those awards to workforce development agencies, as under current law. Under continuing law, JFS may provide these awards also to county family services agencies and the awards must be used for the purposes for which the funds are appropriated.

Payment of funds for the administration of local workforce development

(R.C. 6301.03)

The bill requires the JFS Director, in making allocations and payments of funds for the local administration of workforce development activities, to consult with the Governor's Executive Workforce Board, rather than allowing the Governor's Board authority to direct the Director in these allocations and payments as under current law. Similarly, the JFS Director, rather than the Board, must adopt rules for fund administration.

Comprehensive Case Management and Employment Program

(R.C. 5116.02, 5107.10, 5116.01, 5116.03, 5116.06, 5116.10, 5116.11, 5116.12, 5116.20, 5116.21, 5116.22, 5116.23, 5116.24, and 5116.25; Section 307.210)

Program made ongoing

The bill makes the Comprehensive Case Management and Employment Program (CCMEP) an ongoing program and requires JFS to coordinate and supervise the Program's administration to the extent funds are available for this purpose under the Temporary Assistance for Needy Families (TANF) block grant and the WIOA. The purpose of the Program is to make certain employment and training services available to its participants in accordance with an assessment of their needs.

Under current law, CCMEP is to be operated only for a two-year period ending July 1, 2017. To make the Program ongoing, the bill codifies it (i.e., places the Program in the Revised Code). The bill also makes several revisions to the program. The codification and revisions take effect the 91st day after the bill is filed with the Secretary of State. Until then, the bill requires that the Program continue to operate beyond July 1, 2017, in its original form but with one immediate revision; the minimum age for participation is lowered from 16 to 14.

Local decision to authorize use of youth workforce investment activity funds

Once the codification of CCMEP goes into effect, each local workforce development board must decide whether to authorize the use of its federal youth workforce investment activity funds for the Program. The decision is to be made for each state fiscal biennial period (i.e., the period that begins on July 1 of an odd-numbered year and ends two years later) and in accordance with procedures, including procedures regarding timing, established in rules the JFS Director is to adopt. A board's decision applies to all of the counties the board serves.

State to run Program in a county if use of the funds is not authorized

If a local workforce development board decides against authorizing the use of its youth workforce investment activity funds for CCMEP for a fiscal biennial period, the board must use those funds in accordance with federal law governing the funds, and no TANF block grant funds are to be made available to the board or any county the board serves for the Program. JFS must use available TANF block grant funds to administer, or contract with a government or private entity to administer, the Program in the counties the board serves.

Local responsibilities if the use of the funds is authorized

If a local workforce development board decides to authorize the use of its youth workforce investment activity funds for CCMEP for a fiscal biennial period, the board, before the beginning of that period, must enter into a written agreement with JFS that, to the extent permitted by federal law, requires the board and the counties the board serves to operate the Program in accordance with the Program's requirements. Additionally, the board of county commissioners of each county the local workforce development board serves must designate either the county department of job and family services or workforce development agency to serve as the county's lead agency for the Program. The designation must be made before the beginning of the fiscal biennial period but the board of county commissioners may, after making the designation, designate the other of those two entities to take over as the county's lead agency for the remainder of the fiscal biennial period. The board of county commissioners must inform JFS of its designation before the beginning of the fiscal biennial period and of any redesignation not later than 60 days after the redesignation takes effect.

A lead agency is given several responsibilities regarding its administration of CCMEP in the county it serves. The responsibilities are to be performed in consultation with the local workforce development board and in accordance with rules the JFS Director is to adopt. The lead agency must prepare and submit to the Department a plan containing standing procedures for determining and maintaining individuals'

eligibility to participate in the Program. If the lead agency is redesignated, the new lead agency must prepare and submit to the Department a new plan not later than 60 days after the redesignation takes effect. The original and new plans must be included in the workforce development plan the local workforce development board must prepare under continuing law. Additionally, the lead agency is required to partner with the other entity that may serve as the lead agency and subcontractors to (1) actively coordinate activities regarding the Program with the other entity and subcontractors and (2) help the lead agency, the other entity, and subcontractors use their expertise in administering the Program. A subcontractor is an entity with which the county department or workforce development agency contracts to perform, on behalf of the county department or agency, one or more of the county department's or agency's duties regarding the Program.

A lead agency is made responsible for all of the funds received for CCMEP by the county it serves. It must use the funds in a manner consistent with federal and state law. The lead agency is to coordinate this responsibility with any entity that has been designated to serve as a local grant subrecipient or a local fiscal agent under WIOA.

Participants

The bill specifies that certain groups must participate in CCMEP and certain other groups may volunteer to participate.

The following are the mandatory groups:

(1) Individuals who are considered to be work eligible for the purpose of Ohio Works First are required to participate as a condition of participating in Ohio Works First if they are at least 14 and not more than 24 years of age. Ohio Works First is the state's cash assistance program for low-income families. It is funded with federal TANF block grant funds as well as state and county funds. A work-eligible individual is subject to work and other requirements under continuing law governing Ohio Works First.

(2) In-school youth and out-of-school youth are required to participate in the Program as a condition of enrollment in workforce development activities funded by WIOA. An individual is an in-school youth if the individual (a) attends school, (b) is between 14 and 21 years of age (unless the individual has a disability), (c) has low income, and (d) meets one or more other requirements such as being basic skills deficient, an English language learner, homeless, or in foster care. An individual is an out-of-school youth if the individual (a) does not attend school, (b) is between 16 and 24 years of age, and (c) meets one or more certain other requirements such as being a school dropout, homeless, or in foster care.

The following are the voluntary groups:

(1) Ohio Works First participants who are not considered to be work eligible for the purpose of Ohio Works First may volunteer if they are between 14 and 24 years of age.

(2) Individuals receiving benefits and services under the Prevention, Retention, and Contingency Program may volunteer if they are 14 and 24 years of age. That Program provides short-term benefits and services (such as clothing, shelter, transportation, employment, and training) during a crisis or time of need. The benefits and services vary by county.

The bill permits the JFS Director to adopt rules specifying one or more additional mandatory participation groups and one or more additional voluntary participation groups. The participation of the additional groups is subject to the availability of funds under the TANF block grant and WIOA.

If a lead agency fails to enroll in CCMEP an individual who is in a mandatory participation group and to take corrective action that JFS requires the lead agency to take as a consequence of that failure, the Department may perform, or contract with a government or private entity for the entity to perform, the lead agency's duties under the Program until the Department is satisfied that the lead agency ensures that the duties will be performed satisfactorily. If the Department does this, it may spend funds in the county treasury appropriated by the board of county commissioners for the Program and withhold funds allocated, or reimbursements due, to the lead agency for the Program.

Assessments and services

A lead agency must provide for an individual participating in CCMEP to undergo an assessment of the individual's employment and training needs. An individual opportunity plan is to be created for each participant as part of the assessment. The plan must be reviewed, revised, and terminated as appropriate. The lead agency is to provide for all of these actions to occur in accordance with rules the JFS Director is to adopt.

A participant's individual opportunity plan must specify which of the following services, if any, the participant needs: (1) support for the individual to obtain a high school diploma or certificate of high school equivalence, (2) job placement, (3) job retention support, and (4) other services that aid the participant in achieving the plan's goals. The services a participant receives in accordance with the plan are inalienable by way of assignment, charge, or otherwise and exempt from execution, attachment, garnishment, and other similar processes.

Application of state laws

The bill provides that CCMEP is a TANF program and therefore subject to all statutes that apply to TANF programs, including statutes concerning (1) the county share of public assistance expenditures, (2) appeals by applicants and participants of decisions regarding TANF programs, and (3) general administrative matters regarding TANF programs.

The bill provides that the Program is a workforce development activity and therefore subject to all statutes that apply to workforce development activities, including statutes concerning (1) grant agreements between JFS and local entities regarding workforce development activities, (2) contracts for the coordination, provision, enhancement, or innovation of workforce development activities, (3) the Department taking corrective action against a local entity regarding a workforce development activity, (4) reporting requirements for workforce development activities, and (5) the state's workforce development system.

The bill also provides that the Program is a family services duty (a duty state law requires or allows a county department of job and family services to assume) and therefore is subject to all statutes that apply to family services duties. This subjects the program to statutes that address such issues as the following: (1) the recovery of money spent for family services duties, (2) grant agreements between the Department and county entities regarding family services duties, (3) contracts for the coordination, provision, enhancement, or innovation of family services duties, (4) operational agreements between the Department and boards of county commissioners regarding changes to family services duties, (5) the Department establishing and enforcing performance and other administrative standards for family services duties, (6) using funds appropriated for family services duties for incentive awards to counties, (7) the Department taking corrective action against a county entity regarding a family services duty, and (8) reporting requirements for family services duties.

Rules

In addition to the other rules discussed above, the JFS Director is required by the bill to adopt rules that are necessary to implement CCMEP. This includes rules that do both of the following:

(1) Provide for the Program to help Ohio Works First participants considered to be work eligible satisfy federal work requirements;

(2) Provide for the Program to help Ohio Works First participants satisfy other Ohio Works First requirements (including requirements in self-sufficiency contracts)

and obtain other assistance or services that participants need according to assessments conducted under the Ohio Works First Law.

The rules adopted for the Program must be consistent with the plan the state files with the U.S. Secretary of Health and Human Services to receive TANF block grant funds, amendments to the plan, and any waivers regarding the plan granted by the U.S. Secretary. The rules also must be consistent with the combined workforce development plan filed with the U.S. Secretary of Labor, amendments to the plan, and any waivers regarding the plan granted by the U.S. Secretary. The rules that provide for the Program to help Ohio Works First participants satisfy federal work requirements may deviate from the state's Ohio Works First Law.

Disability Financial Assistance Program

(Section 812.40 with conforming changes in numerous Revised Code sections; repealed Chapter 5115.)

The bill eliminates the Disability Financial Assistance Program, a JFS program providing monthly cash benefits to low-income individuals with disabilities who do not satisfy eligibility requirements for other state or federal assistance programs, including Ohio Works First and Supplemental Security Income. The program will expire beginning December 31, 2017. The bill preserves, until July 1, 2019, the authority of the Department, or a county department at the Department's request, to take any action to recover erroneous payments, including filing a lawsuit. Erroneous payments are defined to include disability financial assistance payments made to a person who is not entitled to receive them, including payments made as a result of misrepresentation or fraud and payments made due to an error by the recipient or the county department.

Conforming changes

As the bill eliminates the program, it makes several conforming changes to the laws governing the provision of public assistance in Ohio.

Winding down the program

The bill contains several provisions related to the winding down of the program, including all of the following:

(1) Beginning July 1, 2017, the Department will no longer accept any new application for disability financial assistance;

(2) Before July 31, 2017, the Department must notify recipients who have received, on or before July 1, 2017, a denial of reconsideration from the Social Security

Administration for Supplemental Security Income or Social Security Disability Insurance benefits that disability financial assistance benefits will end on July 31, 2017;

(3) Beginning on July 1, 2017 and ending on October 1, 2017, the Department will provide disability financial assistance benefits only to recipients who have not received from the Administration a denial of reconsideration;

(4) After October 1, 2017, the Department will provide disability financial assistance benefits only to recipients who have applications for Supplemental Security Income or Social Security Disability Insurance benefits pending before the Administration and have not received a denial of reconsideration.

New Office of Health Transformation program

Beginning December 31, 2017, the bill requires the Executive Director of the Governor's Office of Health Transformation, in cooperation with Directors of the Departments of Job and Family Services and Mental Health and Addiction Services, the Medicaid Director, and the Executive Director of the Opportunities for Ohioans with Disabilities Agency, to ensure the establishment of a program to do both of the following:

(1) Refer adult Medicaid recipients who have been assessed to have health conditions to employment readiness or vocational rehabilitation services;

(2) Assist adult Medicaid recipients who have been assessed to have disabling health conditions to expedite applications for Supplemental Security Income or Social Security Disability Insurance benefits.

Ohio Works First income disregard

(R.C. 5107.05 and 5107.10)

The bill requires the JFS Director to specify in rules an initial amount of gross earned income that is to be disregarded in determining an assistance group's continued eligibility for Ohio Works First. Current law, in contrast, specifies that the first $250 is to be disregarded. The bill maintains a requirement that 50% of the remainder of the assistance group's gross earned income also be disregarded.

Ohio Works First is the state's cash assistance program for low-income families with children. It is funded with federal funds provided under the TANF block grant as well as state and county funds. An assistance group is a group of individuals, such as one or more parents and their minor children, treated as a unit for purposes of

determining eligibility for and the amount of cash assistance provided under Ohio Works First.

Kinship Permanency Incentive Program

(R.C. 5101.802)

The bill makes changes to the Kinship Permanency Incentive Program. Under current law, the Program provides incentive payments to a family member caring for a child whose parents are unable to provide care. Upon meeting certain requirements, the eligible caregiver may receive payments at six month intervals for a period of no more than 48 months to support the child's placement in the home.

The bill repeals the 48-month time limit under which an eligible caregiver may receive payments and specifies that a caregiver may receive no more than eight total incentive payments per child.

Family and Children First Flexible Funding Pool

(Section 337.160)

The bill permits a county family and children first council (FCFC) to establish and operate a flexible funding pool to assure access to needed services by families, children, and older adults who need protective services. A county FCFC that desires such a pool must abide by all of the following:

- The Pool must be created and operate according to formal guidance issued by the Family and Children First Cabinet Council.
- The FCFC must produce an annual report on its use of the pooled funds. The report must conform to guidance issued by the Family and Children First Cabinet Council.
- Unless otherwise restricted, the Pool may receive transfers of state general revenues allocated to local entities to support services to families and children.
- The Pool may receive only transfers of amounts that can be redirected without hindering the objective for which the initial allocation is designated.
- The director of the local agency that originally received the allocation must approve the transfer to the Pool.

- Eliminates the Lake Erie Resources Fund, the purposes of which are duplicative of the purposes of the Lake Erie Protection Fund.
- Transfers all money in the Lake Erie Resources Fund to the Lake Erie Protection Fund.

Lake Erie Resources Fund and the Lake Erie Protection Fund

(R.C. 1506.23; repealed R.C. 1506.24)

The bill eliminates the Lake Erie Resources Fund (Resources Fund), which consists of money transferred from the Great Lakes Protection Fund (a multistate organization whose purpose is to improve the health of the Great Lakes and to provide resources for states to support their individual Great Lakes priorities), and any donations, gifts, and bequests. Under current law, the purposes for which money can be expended from the Lake Erie Resources Fund are duplicative of the purposes for which money can be expended from the Lake Erie Protection Fund. Thus, the bill requires all money in the Lake Erie Resources Fund to be transferred to the Lake Erie Protection Fund. The bill further specifies that the money deposited in the Lake Erie Protection Fund may consist of money awarded to Ohio from the Great Lakes Protection Fund.

- Eliminates the requirement that the Director of the State Lottery Commission appoint deputy directors in specific areas and instead permits the Director to appoint deputy directors as needed.
- Requires the Assistant Director of the Commission, or a designated deputy director if there is no Assistant Director, to act as Director in the absence or disability of the Director.
- Authorizes the Commission to adopt rules governing a voluntary exclusion program for video lottery terminal participants.
- Requires the identity and personal information of voluntary exclusion program participants to be kept confidential.
- Specifies that final state lottery internal audit reports, preliminary reports, and work papers are not public records until a final audit report is submitted to the Director and the Commission chairperson.

Deputy directors; absence of Director

(R.C. 3770.02)

The bill eliminates the requirement in current law that the Director of the State Lottery Commission appoint deputy directors in specific areas such as directors of marketing, operations, sales, and finance, and instead permits the Director to appoint deputy directors as needed. The bill also requires the Assistant Director of the Commission, or a designated deputy director if there is no Assistant Director, to act as Director in the absence or disability of the Director. Current law does not provide for a clear chain of departmental succession in the event of the Director's absence or disability.

Confidentiality of video lottery terminal voluntary exclusion program

(R.C. 3770.03 and 3770.22)

The bill allows the Commission to adopt rules under the Administrative Procedure Act to establish and govern a voluntary exclusion program for video lottery terminal participants. Under the bill, the identity and personal information of persons participating in the voluntary exclusion program must be kept confidential, and may

only be shared between the Commission, video lottery terminal sales agents, and their employees for enforcement purposes. The identity and personal information of program participants may only be shared with other entities upon request of the person and agreement of the Commission. No unified voluntary exclusion program for video lottery terminals exists under current law, and the identity and personal information of program participants is also not confidential under current law.

Internal audit report as public record

(R.C. 3770.06)

The bill clarifies that all preliminary and final reports of an internal audit's findings and recommendations, produced by the Office of Internal Audit of the Commission, and all work papers of the internal audit, are not public records until the final report of the internal audit's findings is submitted to the Director and the Commission chairperson or the chairperson's designee. Under existing law, all internal audit materials of the Commission, including preliminary internal audit materials, may be public records.

DEPARTMENT OF MEDICAID

State agency collaboration for health transformation initiatives

- Extends to fiscal years 2018 and 2019 provisions that authorize the Office of Health Transformation Executive Director to facilitate collaboration between certain state agencies for health transformation purposes, authorize the exchange of personally identifiable information regarding a health transformation initiative, and require the use and disclosure of such information in accordance with operating protocols.

- Requires the Department of Medicaid (ODM) to revise, by December 31, 2018, the system by which government and private entities become and remain Medicaid providers.

Helping Ohioans Move, Expanding (HOME) Choice Program

- Permits the Medicaid Director, in operating the Helping Ohioans Move, Expanding (HOME) Choice Program, to use state funds appropriated for it if no funds are available under a Money Follows the Person demonstration project and integrate it into a Medicaid waiver program.

- Provides for federal funds awarded to the state for a Money Follows the Person demonstration project to continue to be deposited into the Money Follows the Person Enhanced Reimbursement Fund.

- Abolishes the Ohio Access Success Project on January 1, 2019.

- Requires ODM, not later than that date, to transfer Medicaid recipients enrolled in the project to the HOME Choice program or a Medicaid waiver program.

State plan home and community-based services

- Permits the Medicaid program to continue to cover state plan home and community-based services beyond July 1, 2017.

Pharmacy and Therapeutics Committee

- Requires ODM's Pharmacy and Therapeutics Committee to include cost-effectiveness as a factor it considers when developing its recommendations for the Medicaid program's preferred drug list.

- Removes the pharmacologist from the Committee's membership.

Medicaid payment rates

- Modifies a nursing facility's per Medicaid day payment rate for direct care costs by reducing each peer group's cost per case-mix unit by 7% during fiscal years 2018 and 2019.

- Modifies the Medicaid payment rate for nursing facility services provided to low resource utilization residents.

- Repeals a provision excluding low resource utilization residents from a nursing facility's quarterly case-mix score determination.

- Provides for the determination of the total per Medicaid day payment rate for nursing facility services provided to residents with specialized health care needs under the alternative purchasing model to be made pursuant to rules ODM adopts.

- Modifies a provision governing Medicaid managed care payment rates for hospitals that are not under contract with a Medicaid managed care organization.

- Eliminates a provision under which Medicaid payments for services generally cannot exceed the payment limits for the same services under Medicare.

Managed care premium payment withholdings

- Increases to 5% (from 2%) the maximum amount of Medicaid managed care organization premium payments that may be withheld by ODM for purposes of the Managed Care Performance Payment Program.

Retention or collection of federal financial participation

- Permits, rather than requires, ODM to retain or collect a portion of the federal financial participation obtained by a state agency or political subdivision for administering a component of the Medicaid program that was federally approved on or after January 1, 2002.

Third party liability

- Requires a liable third party to respond to an ODM request for payment of a claim within 90 business days of receiving written proof of the claim.

- Clarifies that the amount owed for care rendered to a Medicaid recipient enrolled in a Medicaid managed care organization with a provider capitation agreement is the amount the organization would have paid in the absence of an agreement.

- Authorizes ODM, when it has assigned its right of recovery to a Medicaid managed care organization, to recoup from a liable third party (beginning one year from the date the organization paid the claim) the amount the organization has not collected.

Health services cost estimates

- Repeals the law requiring a medical services provider to provide a health services cost estimate before performing any nonemergency service or procedure.

- Eliminates the Health Services Price Disclosure Study Committee in the Governor's Office of Health Transformation.

Health insuring corporation franchise fee

- Imposes, for the purpose of raising revenues to pay Medicaid providers and Medicaid managed care organizations, a franchise fee on health insuring corporations that make basic health care services available.

Hospital Care Assurance Program and hospital franchise permit fee

- Continues, for two additional years, the Hospital Care Assurance Program and the franchise permit fee imposed on hospitals under the Medicaid program.

Medicaid drug dispensing fee

- Authorizes ODM to reduce dispensing fees for a terminal distributor of dangerous drugs if the distributor fails to participate in the Department's biennial survey of the cost of dispensing drugs.

- Permits the Medicaid Director to establish dispensing fees that vary by terminal distributor.

Fraud, waste, and abuse in the Medicaid program

- Requires a contract between ODM and a Medicaid managed care organization to address issues of fraud, waste, and abuse in the Medicaid program.

- Provides civil immunity for a Medicaid managed care organization that furnished information to ODM regarding potential fraud, waste, and abuse in the Medicaid program.

- Requires ODM to collect information from other government agencies regarding fraud, waste, and abuse in the Medicaid program.

Retained Applicant Fingerprint Database

- Permits ODM to participate in the Bureau of Criminal Identification and Investigation's Retained Applicant Fingerprint Database system to receive notices about the arrests, convictions, and guilty pleas of independent Medicaid providers of home and community-based services.

- Eliminates a requirement that such an independent provider annually undergo a Bureau-conducted criminal records check if ODM participates in the system.

Resident Protection Fund

- Requires that fines imposed by the federal government against home health agencies for failure to comply with Medicaid participation requirements be deposited into the Residents Protection Fund when dispersed to ODM on or after July 1, 2017.

Refunds and Reconciliation Fund

- Provides for the continued deposit into the Refunds and Reconciliation Fund refunds and reconciliations for which ODM does not initially know the appropriate fund or that are to go to another government entity.

Health Care Services Administration Fund abolished

- Abolishes the Health Care Services Administration Fund and provides for money that would otherwise be deposited into that fund to be deposited instead into the Health Care/Medicaid Support and Recoveries Fund.

Temporary authority regarding employees

- Extends through July 1, 2019, the authority of the Medicaid Director to establish, change, and abolish positions for ODM and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote employees who are not subject to collective bargaining.

Integrated Care Delivery System performance payments

- For FYs 2018 and 2019, requires ODM to provide performance payments to Medicaid managed care organizations that provide care to participants of the Integrated Care Delivery System, and requires ODM to withhold a percentage of the premium payments made to the organizations for the purpose of providing the performance payments.

State agency collaboration for health transformation initiatives

(R.C. 191.04 and 191.06; Section 803.20)

In 2012, H.B. 487 of the 129th General Assembly authorized the Office of Health Transformation Executive Director or the Executive Director's designee to facilitate the coordination of operations and exchange of information between certain state agencies ("participating agencies") during fiscal year 2013. That act specified that the purpose of this authority was to support agency collaboration for health transformation purposes, including modernization of Medicaid, streamlining health and human services programs, and improving the quality, continuity, and efficiency of health care and health care support systems. In furtherance of this authority, H.B. 487 required the Executive Director or the designee to identify each health transformation initiative in Ohio that involved the participation of two or more participating agencies and that permitted or required an interagency agreement. For each health transformation initiative identified, the Executive Director or the Executive Director's designee had to, in consultation with each participating agency, adopt one or more operating protocols.

H.B. 487 also authorized a participating agency to exchange, during fiscal year 2013 only, personally identifiable information with another participating agency for purposes related to or in support of a health transformation initiative that had not been identified as described above. If a participating agency used or disclosed personally identifiable information during fiscal year 2013, it was required to do so in accordance with all operating protocols adopted as described above that applied to the use or disclosure.

The main appropriations acts of the 130th (H.B. 59) and 131st (H.B. 64) General Assemblies, extended the authorizations and requirements described above to fiscal years 2014 through 2017. The bill extends those authorizations and requirements to fiscal years 2018 and 2019.

Revised Medicaid provider enrollment system

(R.C. 5164.29)

The bill requires the Department of Medicaid (ODM) to develop and implement revisions to the system by which government and private entities become and remain Medicaid providers. The revisions must be developed and implemented not later than December 31, 2018. They are to create a single system of records for the Medicaid provider system and enable government and private entities to become and remain Medicaid providers for any part of the Medicaid program, including parts administered by other state or local agencies, without having to submit duplicate data to the state. The departments of Aging, Developmental Disabilities, and Mental Health and

Addiction Services must participate in the development of the revisions and use the revised system.

Helping Ohioans Move, Expanding (HOME) Choice Program

(R.C. 5164.90 and 5162.65)

The bill permits the Medicaid Director to use the following for the Helping Ohioans Move, Expanded (HOME) Choice program: (1) funds awarded to ODM for a Money Follows the Person demonstration project and appropriated to the Department for this purpose, if such funds are available to the Department or (2) state funds appropriated to ODM for this purpose, if no funds are available to the Department under a Money Follows the Person demonstration project. Current law, in contrast, permits the Director to operate the HOME Choice program to the extent funds are available under a Money Follows the Person demonstration project. The Director is also permitted by the bill to integrate the HOME Choice program, or one or more aspects of the program, into a waiver program that makes home and community-based services available under the Medicaid program. The HOME Choice program helps qualifying Medicaid recipients transition to community settings.

The bill provides for federal funds awarded to the state for a Money Follows the Person demonstration project to continue to be deposited into the Money Follows the Person Enhanced Reimbursement Fund. This is accomplished by placing the fund into the Revised Code (i.e., codifying the fund). The fund was originally created for the 2014-2015 fiscal biennium and later extended for the 2016-2017 fiscal biennium.[63] The Department is required by the bill to use money in the fund for reform activities related to a Money Follows the Person demonstration project, including the HOME Choice program.

The U.S. Secretary of Health and Human Services first awarded Ohio funds for a Money Follows the Person demonstration project in 2008. The U.S. Secretary's authority to award such funds ended September 30, 2016 (the last day of federal fiscal year 2016). However, Ohio may use (carry over) unspent funds awarded for a federal fiscal year for up to the four following federal fiscal years.[64] The projects are to be designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under a state's Medicaid program:

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[63] Section 323.140 of Am. Sub. H.B. 59 of the 130th General Assembly and Section 327.110 of Am. Sub. H.B. 64 of the 131st General Assembly.

[64] Section 6071 of the Deficit Reduction Act of 2005, Public Law No. 109-171, as amended by Section 2403 of the Patient Protection and Affordable Care Act, Public Law No. 111-148.

(1) Increase the use of home and community-based, rather than institutional, long-term care services;

(2) Eliminate barriers or mechanisms that prevent or restrict the flexible use of Medicaid funds to enable Medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice;

(3) Increase the ability of a state's Medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institution to a community setting;

(4) Ensure that procedures are in place to provide quality assurance for eligible individuals receiving Medicaid home and community-based services and to provide for continuous quality improvement in such services.

Ohio Access Success Project

(R.C. 5166.35; Section 333.200)

The bill abolishes the Ohio Access Success Project on January 1, 2019. The project helps Medicaid recipients transition from residing in nursing facilities to residing in community settings. ODM is required to transfer all Medicaid recipients enrolled in the project to the HOME Choice program or, if that program is integrated into a Medicaid waiver program covering home and community-based services, to the same or another Medicaid waiver program. The transfers must be made before January 1, 2019.

State plan home and community-based services

(R.C. 5164.10 with conforming changes in R.C. 5164.01; Section 333.160)

The bill permits the Medicaid program to continue to cover one or more state plan home and community-based services. This authority currently expires July 1, 2017.[65] These state plan services are optional under federal law and, unlike the other home and community-based services the Medicaid program covers, do not require a federal waiver.[66] To make this authority ongoing, the bill codifies it (i.e., places the authority in the Revised Code). The bill also makes revisions. The codification and revisions take effect the 91st day after the bill is filed with the Secretary of State. Until then, the bill permits the Medicaid program to continue to cover the state plan services in the same manner that it covered the services during fiscal years 2016 and 2017.

[65] Section 327.190 of Am. Sub. H.B. 64 of the 131st General Assembly.

[66] 42 U.S.C. 1396n(i).

Under the bill's revisions, ODM is to select which state plan home and community-based services the Medicaid program is to cover. A Medicaid recipient is permitted to receive a state plan service if the recipient has countable income not exceeding 225% of the federal poverty line, has a medical need for the service, and meets all other eligibility requirements to be specified in rules. In contrast, the Medicaid program's current authority to cover the state plan services limits eligibility to Medicaid recipients who have behavioral health issues and countable incomes not exceeding 150% of the federal poverty line. As under current law, a Medicaid recipient is not required to undergo a level of care determination to be eligible for the state plan services.

Medicaid Pharmacy and Therapeutics Committee

(R.C. 5164.7510)

The Pharmacy and Therapeutics Committee of ODM is required to review and recommend to the Medicaid Director the drugs that should be included on the program's preferred drug list. The bill adds drug cost-effectiveness to the list of factors on which the committee must base its recommendations. Under current law, the recommendations must be based on the evaluation of competent evidence regarding the relative safety, efficacy, and effectiveness of prescribed drugs within a class or classes of prescribed drugs.

The bill also removes the Committee's pharmacologist member, reducing its total membership to nine members.

Nursing facility Medicaid payment rates for direct care costs

(Section 333.170)

During fiscal years 2018 and 2019, the bill modifies a nursing facility's per Medicaid day payment rate by changing the calculation of a facility's payment rate for direct care costs for services provided between October 1, 2017 and July 1, 2019. Under current law, a nursing facility's payment rate for direct care costs is the product of its semiannual case-mix score and the cost per case-mix unit for the facility's peer group. For fiscal years 2018 and 2019, the bill reduces each peer group's cost per case-mix unit by 7%. This modification applies even to nursing facilities that undergo a change of operator before October 1, 2017, but does not apply to those facilities whose Medicaid payment rate calculations do not take the cost per case-mix unit into account.

Medicaid rates for services to low resource utilization residents

(R.C. 5165.152 and 5165.192)

The bill modifies the Medicaid payment rate for nursing facility services provided to low resource utilization residents. Residents are categorized into payment groups (resource utilization groups) depending upon each resident's care and resource needs. A low resource utilization resident is one who is placed in either of the two lowest groups. Under current law, the rate is $115 per Medicaid day if the nursing facility's provider cooperates with the Long-term Care Ombudsman Program's efforts to help the nursing facility's low resource utilization residents receive the most appropriate services; otherwise, the payment rate is $91.70 per Medicaid day. Under the bill, the payment rate for nursing facility services provided to low resource utilization residents is $115 per Medicaid day, regardless of whether the nursing facility's provider cooperates with the Long-term Care Ombudsman Program.

The bill also modifies how low resource utilization residents are accounted for in a nursing facility's quarterly case-mix score calculation, which is used in determining the facility's payment rate for direct care costs. Under current law, for each nursing facility, the Department must calculate a quarterly case-mix score that includes each resident who is a Medicaid recipient, excluding low resource utilization residents. Under the bill, low resource utilization residents are not excluded from the calculation.

Alternative purchasing model for nursing facility services

(R.C. 5165.157)

The bill modifies the determination of the Medicaid payment rate to be paid under the alternative purchasing model for nursing facility services provided by designated discrete units of nursing facilities to Medicaid recipients with specialized health care needs. Under current law, ODM must set the payment rate at either 60% of the statewide average of the Medicaid payment rate for long-term acute care hospital services or another amount determined in accordance with a methodology that includes improved health outcomes as a factor. Under the bill, ODM must determine the payment rate in accordance with a methodology it establishes by rule for each such service, with the result that payment rates would vary depending on the services provided.

Medicaid managed care payment rates for noncontracting hospitals

(R.C. 5167.20)

The bill modifies a provision requiring a hospital that participates in the Medicaid program and is not under contract with a Medicaid managed care organization to provide nonemergency services to a Medicaid recipient enrolled in the organization and accept from the organization, as payment in full, the amount that would have been paid under the Medicaid fee-for-services reimbursement system. Under current law, this requirement applies when a managed care enrollee has been *referred* by the managed care organization to receive services from the hospital. Under the bill, the requirement applies when an enrollee has been *authorized* by the managed care organization to receive services from the hospital as long as the services are medically necessary and covered by Medicaid.

The bill repeals an exemption from this requirement that applies to a hospital that was under contract with at least one Medicaid managed care organization before January 1, 2006, and has retained at least one such contract. The bill also repeals a provision requiring the Medicaid Director to adopt rules specifying circumstances under which a Medicaid managed care organization may refer an enrollee to a noncontracting hospital. Instead, the bill permits the Director to adopt rules as necessary.

Medicaid payment limits for noninstitutional providers

(R.C. 5164.70)

The bill eliminates a provision prohibiting Medicaid payments for services provided by a noninstitutional provider from exceeding the payment limits for the same services under Medicare. For purposes of this provision, a noninstitutional provider is a Medicaid provider other than a hospital, nursing facility, or ICF/IID.

Managed care premium payment withholdings

(R.C. 5167.30)

Current law permits ODM to establish an amount that may be withheld from a Medicaid managed care organization's premium payments for purposes of the Managed Care Performance Payment Program, under which Medicaid managed care organizations receive payments for meeting performance standards. The bill increases to 5% (from 2%) the maximum amount of premium payments that may be withheld for this purpose.

Retention or collection of federal financial participation

(R.C. 5162.40)

The bill modifies ODM's authority to retain or collect a portion of the federal financial participation obtained by a state agency or political subdivision that administers one or more components of the Medicaid program that was federally approved on or after January 1, 2002. Current law requires the Department to retain or collect between 3% and 10% of the federal financial participation. Under the bill, the Department is permitted, instead of required, to retain or collect up to 10% of the federal financial participation, which matches current law with respect to Medicaid components that were federally approved before January 1, 2002.

Third party liability

Federal law[67] generally provides that Medicaid is the payer of last resort for a Medicaid recipient's medical costs; accordingly, if a Medicaid recipient has one or more additional sources of coverage for health care services (insurance, recovery from a tortfeasor, or coverage from another program), that other source must be billed before Medicaid. This concept is known as "third party liability."[68] Ohio law reflects this policy.

Deadline for third party payments

(R.C. 5160.40)

The bill requires a liable third party to respond to an ODM request for payment of a claim that was submitted in accordance with current law not later than 90 business days after receipt of written proof of the claim, either by paying the claim or issuing a written denial to ODM. A "business day" is any day of the week excluding Saturday, Sunday, or a legal holiday.[69]

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[67] 42 U.S.C. 1396a(a)(25).

[68] U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, *Medicaid Third Party Liability and Coordination of Benefits*, available at http://medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/tpl-cob-page.html.

[69] R.C. 1.14.

Medicaid managed care

Amount of recovery

(R.C. 5160.37, with a conforming change in R.C. 5160.401)

Under existing law not modified by the bill, an individual who receives medical assistance (from Medicaid, the Children's Health Insurance Program, or the Refugee Medical Assistance Program) gives an automatic right of recovery to ODM or a county department of job and family services against the liability of a third party for the cost of medical assistance paid on the recipient's behalf. In the case of a recipient who receives medical assistance through a Medicaid managed care organization, existing law specifies that the amount of ODM's or the county department's claim is the amount the Medicaid managed care organization pays for medical assistance rendered to the recipient (even if that amount is more than the amount that ODM or the county department pays to the organization for the recipient's medical assistance). The bill clarifies that the existing law applies only to a Medicaid managed care organization that does not have a capitation agreement with a provider. In the case of a Medicaid managed care organization with a capitation agreement, the bill specifies that the amount of ODM's or the county department's claim is the amount the Medicaid managed care organization would have paid in the absence of a capitation agreement.

Right of recoupment

(R.C. 5160.40)

Existing law not modified by the bill requires a liable third party to treat a Medicaid managed care organization as ODM for a claim if the Medicaid recipient who is the claim's subject received a medical item or service through the organization and ODM assigned its right of recovery for the claim to the organization. The bill authorizes ODM, even if it assigned its right of recovery to the Medicaid managed care organization, to recoup from the third party the amount that was assigned to the organization but not collected. ODM may initiate recoupment beginning one year from the date the Medicaid managed care organization paid the claim.

Health services cost estimates

(Repealed R.C. 5162.80; Section 620.10, repealing Section 7 of H.B. 52 of the 131st General Assembly)

The bill repeals law enacted in the 2015 Workers' Compensation budget during the 131st General Assembly requiring a medical services provider to provide in writing (before any nonemergency product, service, or procedure is provided) a reasonable, good-faith estimate of each of the following:

(1) The amount the provider will charge;

(2) The amount the health plan issuer intends to pay;

(3) The difference, if any, that the consumer or responsible party would be required to pay to the provider.

It also repeals corresponding provisions of law requiring the following:

(1) Any health plan issuer contacted by a provider to furnish to the provider, within a reasonable period of time, certain information necessary for the cost estimate;

(2) The Medicaid Director to adopt rules related to health services cost estimates.

In addition, the bill eliminates the Health Services Price Disclosure Study Committee in the Governor's Office of Health Transformation.

Although law described above was scheduled to take effect January 1, 2017, a lawsuit was filed against the state seeking to prevent the law's enforcement, alleging that it violates the Ohio Constitution's single-subject and three-readings rules and is void for vagueness.[70] On December 22, 2016, the court issued a temporary restraining order, preventing the law from becoming effective on January 1. A preliminary injunction hearing is scheduled for March 17, 2017.

Health insuring corporation franchise fee

(R.C. 5168.75, 5168.76, 5168.77, 5168.78, 5168.79, 5168.80, 5168.81, 5168.82, 5168.83, 5168.84, 5168.85, and 5168.86)

Imposition of franchise fee

The bill imposes a monthly franchise fee on health insuring corporations that make basic health care services available pursuant to a policy, contract, certificate, or agreement.[71] The franchise fee is to be first imposed for the month of July 2017. Its

[70] *Community Hospitals and Wellness Centers et. al. v. State*, Case No. 16 CIOOO128, Williams County Court of Common Pleas.

[71] Continuing law unchanged by the bill defines "basic health care services" as the following when medically necessary: physician's services (except when such services are supplemental), inpatient hospital services, outpatient medical services, emergency health services, urgent care services, diagnostic laboratory services, diagnostic and therapeutic radiologic services, diagnostic and treatment services (other than prescription drug services) for biologically based mental illnesses, preventive health care services (including voluntary family planning services, infertility services, periodic physical examinations, prenatal obstetrical care, and well-child care), and routine patient care for patients enrolled

purpose is to raise revenues for Medicaid payments to Medicaid providers and Medicaid managed care organizations.

The franchise fee is not to be imposed, however, unless there is a federal waiver authorizing the franchise fee issued by the U.S. Secretary of Health and Human Services. The waiver is needed because of federal law that places restrictions on states' use of health care-related taxes to raise revenues for the nonfederal share of Medicaid costs.[72] If the federal government determines that the franchise fee is an impermissible health care-related tax, ODM is required by the bill to do either of the following as appropriate:

(1) Modify the imposition of the franchise fee, including, if necessary, the amount of the fee, in a manner needed for the federal government to reverse its decision;

(2) Take all necessary actions to cease imposition of the franchise fee until the determination is reversed.

Amount of the franchise fee

A health insuring corporation's franchise fee for a month is based in part on how many Medicaid recipients and other individuals are enrolled in the health insuring corporation that month. Separate counts are made for Medicaid recipient enrollees and other enrollees. A Medicaid recipient or other individual enrolled in a health insuring corporation for a month is excluded from that month's count if the recipient or individual is (1) enrolled in a health benefits plan for federal government employees and counting the person would violate federal law or (2) enrolled in a Medicare Advantage Plan.

The separate counts are multiplied by the applicable rate or rates of the franchise fee. The rate used for the number of Medicaid recipient enrollees differs from the rate used for the number of other enrollees. The rate further differs based on the cumulative monthly total number of each group of enrollees as of a fiscal year's months that ended before the month in which the franchise fee is due. The franchise fee for a month is due not later than the fifth business day of the immediately following month.

The following table shows the rates to be used for a health insuring corporation's Medicaid recipient enrollees:

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in an eligible cancer clinical trial. Experimental procedures are not basic health care services. (R.C. 1751.01, not in the bill.)

[72] 42 U.S.C. 1396b(w).

Cumulative Monthly Total Number of Medicaid Recipient Enrollees as of the Portion of a Fiscal Year That Has Ended	Applicable Rate
For the first 250,000	$56
For 250,001 to 500,000	$45
For 500,001 and above	$26

The following table shows the rates for a health insuring corporation's other enrollees:

Cumulative Monthly Total Number of Other Enrollees as of the Portion of a Fiscal Year That Has Ended	Applicable Rate
For the first 150,000	$2
For 150,001 and above	$1

In summary, the formula to determine the amount of a health insuring corporation's franchise fee for a month is the following:

(number of Medicaid recipients enrolled that month x applicable franchise fee rate or rates) + (number of other individuals enrolled that month x applicable franchise fee rate or rates)

However, the total amount of revenue raised by the franchise fee during a fiscal year is subject to a cap that may result in the Department refunding a portion of the fee. If the total amount of the franchise fees imposed on all health insuring corporations during a fiscal year exceeds a certain amount of the net patient revenue for all health insuring corporations for that fiscal year and 75% or more of all health insuring corporations receive enhanced Medicaid payments or other state payments equal to 75% or more of their total franchise fees, the Department must refund the excess amount of the fees to the health insuring corporations. The percentage used for this calculation is set by federal law. Currently, it is 6%.[73] If the percentage changes during a fiscal year, the percentage in effect before the change is to be used for the part of the fiscal year before the change takes effect and the new percentage is to be used for the remainder of the fiscal year.

Submission of information and access to documentation

Beginning in August 2017, each health insuring corporation is required by the bill to inform the Department of the following in a manner the Department prescribes: (1) the cumulative total number of Medicaid recipients enrolled for all of a fiscal year's

[73] 42 U.S.C. 1396b(w)(4)(C)(ii).

months that ended before the beginning of the month in which the information is due and (2) the cumulative total number of other enrollees enrolled for all of a fiscal year's months that ended before the beginning of the month in which the information is being provided.

ODM is permitted to request that a health insuring corporation provide it documentation it needs to verify the health insuring corporation's cumulative monthly total of Medicaid recipient enrollees and of other enrollees. On receipt of the request, the health insuring corporation must provide ODM the documentation. The Department also is permitted to review relevant documentation possessed by other entities for the purpose of making such verifications.

Recovering underpayments

ODM is required to notify a health insuring corporation if it determines that the amount of the franchise fee the health insuring corporation pays for a month is less than the amount it should have paid. The health insuring corporation must pay the amount due. However, the health insuring corporation may request a reconsideration of the ODM's determination. A reconsideration may be requested solely on the grounds that the Department made a material error in making the determination. The request must be received by ODM not later than 15 days after the date it notifies the health insuring corporation of the determination and must include written materials setting forth the basis for the reconsideration. If the request is made within the required time, the Department must reconsider the determination and issue a final decision not later than 30 days after the date it receives the request.

Penalty for late payment

ODM is permitted to impose a penalty on a health insuring corporation that fails to pay the full amount of a franchise fee when due. The amount of the penalty is to equal 10% of the amount due for each month or fraction thereof that the franchise fee is overdue.

Health Insuring Corporation Franchise Fee Fund

The bill creates in the state treasury the Health Insuring Corporation Franchise Fee Fund. All franchise fees and associated penalties paid by health insuring corporations are to be deposited into the Fund. Money in the Fund must be used to make Medicaid payments to Medicaid providers and Medicaid managed care organizations. Any money remaining in the Fund after those payments are made must be retained in the Fund. Any interest or other investment proceeds earned on money in the Fund is to be credited to the Fund and used to make those payments.

Rules

The Medicaid Director is permitted to adopt rules as necessary to implement the health insuring corporation franchise fee. The rules are to be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

Hospital Care Assurance Program and hospital franchise permit fee

(Sections 610.40 and 610.41 (amending Sections 125.10 and 125.11 of H.B. 59 of the 130th General Assembly))

The bill continues the Hospital Care Assurance Program for two additional years. The program was scheduled to end October 16, 2017, but under the bill is to continue until October 16, 2019. Under the program, hospitals are annually assessed an amount based on their total facility costs, and government hospitals make annual intergovernmental transfers. ODM distributes to hospitals money generated by the assessments and intergovernmental transfers along with federal matching funds generated by the assessments and transfers. A hospital compensated under the program must provide (without charge) basic, medically necessary, hospital-level services to Ohio residents who are not recipients of Medicare or Medicaid and whose income does not exceed the federal poverty line.

The bill also continues for two additional years another assessment imposed on hospitals; the assessment is to end October 1, 2019, rather than October 1, 2017. The assessment is in addition to the Hospital Care Assurance Program, but like that program, the assessment raises money to help pay for the Medicaid program. To distinguish the assessment from the Hospital Care Assurance Program, the assessment is sometimes called a hospital franchise permit fee.

Medicaid drug dispensing fees

(R.C. 5164.752 and 5164.753)

In July of every even-numbered year, ODM is required by existing law to initiate a confidential survey of the cost of dispensing drugs incurred by terminal distributors of dangerous drugs in Ohio. Each terminal distributor that is a provider of drugs under the Medicaid program must participate in the survey. Under the bill, if a terminal distributor fails to participate, the Department may reduce the dispensing fees paid to the terminal distributor.

In addition to authorizing a reduction in fees, the bill requires the survey to be completed and its results published not later than November 30 of the year in which it

is conducted. Current law requires the survey's completion and publication not later than October 31.

The bill also permits the Medicaid Director to establish dispensing fees that vary by terminal distributor, taking into consideration the volume of drugs a terminal distributor dispenses under the Medicaid program or any other criteria the Director considers relevant. At present, the Director must establish a single dispensing fee for all terminal distributors, taking into consideration the results of the confidential survey. The bill maintains the requirement that the Director consider survey results, but instead requires the Director to establish more than one fee.

Fraud, waste, and abuse in the Medicaid program

Managed care organizations

(R.C. 5167.18 and 5167.34)

The bill requires each contract ODM enters into with a managed care organization to address issues of fraud, waste, and abuse in the Medicaid program. Each contract must require the managed care organization to designate a committee located in Ohio dedicated solely to conducting internal investigations of fraud, waste, abuse, and overpayments within the program. Each contract also must require the managed care organization to comply with federal and state efforts to identify fraud, waste, and abuse in the Medicaid program.

The bill provides civil immunity to a Medicaid managed care organization, its officers, employees, or other associated persons in a civil action for damages for furnishing information to ODM regarding potential fraud, waste, or abuse in the Medicaid program.

Collection of information on fraud, waste, and abuse

(R.C. 5162.16)

The bill requires each government entity that administers a component of the Medicaid program to inform ODM if the entity has reasonable cause to believe that an instance of fraud, waste, or abuse has occurred in the Medicaid program. The Department must collect the information in the Medicaid data warehouse system.

Retained Applicant Fingerprint Database

(R.C. 109.5721, 4749.031, 5101.32, 5160.052, 5164.34, 5164.341, and 5164.37)

The bill permits ODM to participate in a system under which the Bureau of Criminal Identification and Investigation notifies participating public offices and private parties when an individual the office or party employs, licenses, or approves for adoption is arrested for, is convicted of, or pleads guilty to any offense. The Bureau operates the Retained Applicant Fingerprint Database for this system. ODM is permitted to participate in the system with regard to individuals who have a Medicaid provider agreement that authorizes the individual to provide as an independent provider home and community-based services available under a Medicaid waiver program the Department administers.

If ODM participates in the Retained Applicant Fingerprint Database system, independent providers will no longer be required to undergo annual criminal records checks conducted by the Bureau. A Bureau-conducted criminal records check involves the completion of a form prescribed by the Bureau, provision of fingerprint impressions, and payment of a fee. Despite not undergoing the annual criminal records check, an independent provider may still lose the provider's Medicaid provider agreement if a notice from the Bureau under the Retained Applicant Fingerprint Database system indicates that the provider has been convicted of, or pleaded guilty to, an offense that disqualifies individuals from holding Medicaid provider agreements as independent providers. An individual seeking an initial Medicaid provider agreement as an independent provider continues to be required to undergo a Bureau-conducted criminal records check.

Residents Protection Fund

(R.C. 5162.66)

The bill requires that the following be deposited into the existing Residents Protection Fund: the portions of fines and corresponding interest that are imposed by the federal government against home health agencies for failure to comply with Medicaid participation requirements and dispersed on or after July 1, 2017, to ODM. Under a federal regulation,[74] the portion of the federal fine that corresponds to Medicaid payments to be returned to the Department; however the fines cannot be used for Medicare or Medicaid survey and certification operations or as a state's share of the costs for Medicaid services or administration. The bill makes the use of money in the Residents Protection Fund subject to this restriction.

[74] 42 C.F.R. 488.845.

Under law unchanged by the bill, money in the Residents Protection Fund must be used to (1) protect the health or property of residents of nursing facilities found to have deficiencies, (2) maintain operation of nursing facilities pending correction of deficiencies or closure, and (3) reimburse nursing facility residents for the loss of money the facilities manage. Money in the Fund may be used to pay a nursing facility's temporary resident safety assurance manager for the costs the manager incurs on the nursing facility's behalf.

Refunds and Reconciliation Fund

(R.C. 5162.65 and 5101.074)

The bill codifies (i.e., places in the Revised Code) the Refunds and Reconciliation Fund. The Fund was originally created for the 2014-2015 fiscal biennium and was later extended for the 2016-2017 fiscal biennium.[75] Codifying the Fund provides for its ongoing existence.

The bill specifies that the Fund is in the state treasury and requires that money ODM receives from a refund or reconciliation be deposited into the Fund if ODM does not know the appropriate fund for the money at the time it receives the money or if the money is to go to another government entity. The bill also requires that the Department of Job and Family Services transfer for deposit into the Fund money it receives from a refund or reconciliation related to the Medicaid program.

Money in the Fund, including money transferred by the Department of Job and Family Services, must be transferred to the appropriate fund once the appropriate fund is identified or, if the money is supposed to go to another government entity, transferred to the other government entity.

Health Care Services Administration Fund abolished

(R.C. 5162.52 with conforming changes in R.C. 5162.12, 5162.40, 5162.41, 5164.31, 5165.1010, 5168.01, 5168.06, 5168.07, 5168.10, 5168.11, and 5168.99; repealed R.C. 5162.54)

The bill abolishes the Health Care Services Administration Fund. Money that would otherwise be deposited into that fund are instead to be deposited into the Health Care/Medicaid Support and Recoveries Fund. This includes all of the following:

(1) Money generated by fees charged for Medicaid recipient or claims payment data, data from reports of nursing facility audits, or extracts or analyses of such data,

[75] Section 323.400 of Am. Sub. H.B. 59 of the 130th General Assembly and Section 327.170 of Am. Sub. H.B. 64 of the 131st General Assembly.

other than the portion of that money that is used to pay an entity that contracts with the Medicaid Director to receive and process requests for such data, extracts, or analyses;

(2) ODM's share of federal funds that a state agency or political subdivision obtains for administering a part of the Medicaid program on the Department's behalf;

(3) ODM's share of federal supplemental Medicaid payments to a provider owned or operated by a state agency or political subdivision;

(4) Application fees charged to entities seeking to enter into, or revalidate, a Medicaid provider agreement;

(5) Fines imposed on nursing facilities when an audit includes certain adverse findings;

(6) Assessments imposed on hospitals, and intergovernmental transfers made by governmental hospitals, under the Hospital Care Assurance Program.

The bill revises one of the purposes for which money in the Health Care/Medicaid Support and Recoveries Fund is to be used. Instead of using the money for contracts, ODM is to use the money for costs associated with the administration of the Medicaid program. Additionally, ODM is to continue to use the money to pay for Medicaid services.

Temporary authority regarding employees

(Section 333.20)

The bill extends until July 1, 2019, the authority of the Medicaid Director with respect to employee positions within ODM.

H.B. 59 of the 130th General Assembly gave the Director authority, from July 1, 2013, to June 30, 2015, to establish, change, and abolish positions for the Department, and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all employees of the Department who are not subject to the state's public employees collective bargaining law. H.B. 64 of the 131st General Assembly extended this authority until June 30, 2017.

The authority includes assigning or reassigning an exempt employee to a bargaining unit classification if the Director determines that the bargaining unit classification is the proper classification for that employee.[76] The actions of the Director

[76] An exempt employee is a permanent full-time or permanent part-time employee paid directly by warrant of the Director of Budget and Management whose position is included in the job classification

must comply with a federal regulation establishing standards for a merit system of personnel administration. If an employee in the E-1 pay range is to be assigned, reassigned, classified, reclassified, transferred, reduced, or demoted to a position in a lower classification, the Director, or in the case of a transfer outside ODM, the Director of Administrative Services, must assign the employee to the appropriate classification and place the employee in Step X. The employee is not to receive any increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation. Actions either Director takes under this provision are not subject to appeal to the State Personnel Board of Review.

Integrated Care Delivery System performance payments

(Section 333.60)

ODM is authorized under continuing law to implement a demonstration project to test and evaluate the integration of care received by individuals dually eligible for Medicaid and Medicare. In statute the project is called the Integrated Care Delivery System.[77] It may be better known, however, as MyCare Ohio.

For FYs 2018 and 2019, the bill requires ODM to provide performance payments to Medicaid managed care organizations that provide care under the Integrated Care Delivery System if participants of the system receive care through Medicaid managed care organizations under the system, ODM must do both of the following:

(1) Develop quality measures designed specifically to determine the effectiveness of the health care and other services provided to participants by Medicaid managed care organizations;

(2) Determine an amount to be withheld from the Medicaid premium payments paid to Medicaid managed care organizations for participants.

For purposes of the amount to be withheld from premium payments, the bill requires ODM to establish a percentage amount and apply the same percentage to all Medicaid managed care organizations providing care to participants of the Integrated Care Delivery System. Each organization must agree to the withholding as a condition of receiving or maintaining its Medicaid provider agreement. The bill provides that a Medicaid managed care organization providing care under the system is not subject to

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plan established by the Director of Administrative Services but who is not subject to collective bargaining law. (R.C. 124.152, not in the bill.)

[77] R.C. 5164.91, not in the bill.

withholdings under the Medicaid Managed Care Performance Payment Program for premium payments attributed to participants of the system during FYs 2018 and 2019.

STATE MEDICAL BOARD

- Eliminates references to certificates to practice issued to physicians (including podiatrists) and instead refers to licenses to practice.

- Repeals the law requiring the State Medical Board to administer an examination for physicians (other than podiatrists) seeking to practice in Ohio and instead requires each physician to pass an examination prescribed in rules adopted by the Board.

- Makes changes to the law governing the process by which physicians (other than podiatrists) seek licensure from the Board.

- Authorizes the Board to permit a physician (including a podiatrist) who has failed to complete continuing medical education requirements to agree in writing to complete the education and pay a fine of up to $5,000, in lieu of the Board taking disciplinary action against the physician.

- Requires the Board to provide a renewal notice one month before the expiration of a certificate to practice a limited branch of medicine.

- Combines the $100 renewal fee and the $25 penalty required to reinstate a certificate to practice a limited branch of medicine that has been suspended due to nonrenewal for two years or less.

- Combines the $100 renewal fee and the $50 penalty required to restore a certificate to practice a limited branch of medicine that has been suspended due to nonrenewal for more than two years.

- Requires an individual who provides cosmetic therapy, massage therapy, or other professional service in a salon to maintain an electronically generated license certification or registration or, as under current law the individual's professional license or certificate.

- Removes the per diem compensation that a member of the Physician Assistant Policy Committee receives for the discharge of official duties.

Physician licensure

(R.C. 4731.14 (primary), 4731.09, and 4731.091 with conforming changes in R.C. 102.02, 102.022, 102.03, 124.93, 911.11, 2925.01, 3702.304, 3702.307, 3702.72, 4503.15, 4765.01, 5123.47, and numerous sections in Chapter 4731.; repealed R.C. 4731.11, 4731.12, 4731.13, 4731.141, and 4731.29)

Licenses to practice

With respect to physicians, including podiatrists, authorized to practice by the State Medical Board, the bill eliminates references to certificates to practice issued by the Board and instead refers to licenses to practice; however, the Board may continue to issue the following certificates: certificates to practice massage therapy or cosmetic therapy, training certificates, certificates to practice in state-operated institutions, clinical research faculty certificates, special activity certificates, telemedicine certificates, certificates of conceded eminence, visiting clinical professional development certificates, and certificates to recommend medical marijuana.[78]

Examination requirements for physician applicants

The bill repeals the requirement that the Board administer an examination for individuals seeking to practice in Ohio as physicians (other than as podiatrists). Under the bill, the individual must instead successfully pass an examination prescribed in rules adopted by the board.

The bill repeals related provisions regarding applications for examination, issuing certificates of preliminary education and qualifications for examination.

Applications for physician licensure

In place of the age, character, and educational qualifications for examination, as under current law, the bill requires these same conditions to be satisfied when an individual applies for a license.

The bill eliminates the $300 issuance fee that must be paid before the Board authorizes a physician (other than a podiatrist) to practice in Ohio and a $35 certificate of preliminary education fee and instead requires an applicant for licensure to pay a $305 fee at the time of application.

The bill eliminates current law establishing a separate application procedure for physicians (other than podiatrists) who are licensed in another state and seek to practice

[78] R.C. 4731.17, 4731.291, 4731.292, 4731.293, 4731.294, 4731.295, 4731.296, 4731.297, 4731.298, and 4731.30.

in Ohio. It instead requires most applicants seeking to practice in Ohio to comply with a single application procedure. The bill, however, maintains a separate procedure for those seeking an expedited license to practice by endorsement under which applicants who meet specific eligibility requirements receive enhanced services from the Board.[79]

English language proficiency

The bill excepts the following from the requirement that an individual educated outside of the United States demonstrate proficiency in spoken English before the Board may authorize the individual to practice as a physician (other than as a podiatrist) in Ohio:

(1) An individual licensed in another state who has been actively engaged in practice for the five years preceding the date on which the individual sought authority to practice from the Board;

(2) An individual who, at the beginning of that five-year period, was receiving graduate medical education and, upon completion, has been licensed in another state and actively engaged in practice.

Practice of limited osteopathic medicine and surgery

The bill repeals the law allowing a person who was authorized to practice limited osteopathic medicine and surgery on January 1, 1980 to continue to practice in accordance with statutory limits in effect on that date.

Failure to complete continuing medical education requirements

(R.C. 4731.282 (primary), 4731.22, and 4731.281)

If the Board finds that a physician (including a podiatrist) who certified completion of continuing medical education required to renew, reinstate, or restore a license did not complete those requirements, the bill permits the Board to do either of the following:

(1) Take disciplinary action against the physician, impose a fine, or both;

(2) Permit the physician to agree in writing to complete the continuing medical education and pay a fine.

If the Board takes disciplinary action against the physician, the bill requires the Board's finding to be made pursuant to an adjudication under the Administrative

[79] R.C. 4731.291.

Procedure Act and by an affirmative vote of at least six of its members. If a fine is paid voluntarily by the physician or is imposed by the Board, the bill requires it to be in an amount specified by the Board of not more than $5,000.

Current law permits the Board to impose a fine of not more than $5,000, in addition to or instead of disciplinary action, if it finds that a physician (including a podiatrist) failed to complete continuing education requirements. Existing law also provides that, if the Board imposes only a fine and takes no other action, it cannot conduct an adjudication under the Administrative Procedure Act. Unlike the bill, however, current law does not explicitly provide for a physician to agree in writing to a civil penalty.

Certificates to practice a limited branch of medicine

(R.C. 4731.15)

The bill requires the Board to provide a renewal notice one month before the expiration of a certificate to practice a limited branch of medicine (massage therapy, cosmetic therapy, naprapathy, or mechanotherapy), rather than six months before the certificate expires as under current law. Consequently, the bill eliminates the requirement that the certificate holder submit the renewal application and fee to the Board three months before a certificate expires.

The bill also combines renewal fees and penalties for late renewal of a certificate to practice a limited branch of medicine. Under current law, if a certificate to practice a limited branch of medicine is suspended for failure to timely renew, it can be reinstated within two years or less after the suspension date if the holder pays a $100 renewal fee and a $25 penalty. If the certificate has been suspended for more than two years, it can be restored for the $100 fee and a $50 penalty. The bill combines the renewal fee with the applicable penalties, resulting in a $125 fee for reinstatement and a $150 fee for restoration.

Maintenance of a license or certificate to provide certain services in a salon

(R.C. 4713.56)

Under current law, an individual who provides cosmetic therapy, massage therapy, or other professional service in a salon is required to maintain the individual's professional license or certificate and state-issued photo identification that can be produced upon inspection or request. The bill requires an individual to maintain an electronically generated license certification or registration, as added by the bill, or the individual's professional license or certificate, as required under current law.

Physician Assistant Policy Committee member reimbursements

(R.C. 4730.05)

The bill eliminates the current law per diem compensation that a member of the Physician Assistant Policy Committee receives for the discharge of the member's official duties. The members continue to be reimbursed for necessary and actual expenses incurred in the performance of official duties.

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Community addiction services

- Revises the conditions under which the Department of Mental Health and Addiction Services may issue to a board of alcohol, drug addiction, and mental health services (ADAMHS board) a waiver regarding the location of ambulatory detoxification and medication-assisted treatment.

- Requires that such a waiver be time limited and specify whether it is for ambulatory detoxification, medication-assisted treatment, or both.

- Eliminates the Department's authority to issue to an ADAMHS board a time-limited waiver of a requirement that the board's community-based continuum of care include all of the essential elements required by state law.

- Gives the Department the discretion to disapprove an ADAMHS board's proposed budget in whole or in part, rather than requiring the Department to disapprove a board's proposed budget in whole, for failure to make the essential elements of a community-based continuum of care available in the board's service district.

Medication assisted treatment drug court program

- Creates a medication-assisted drug court program to provide addiction treatment to persons who are dependent on opioids, alcohol, or both.

- Requires community addiction services providers to provide specified treatment to the participants in the program based on the individual needs of each participant.

Confidentiality of quality assurance records

- Adds improving the safety and security of persons who administer medical and mental health services in Department hospitals and programs to the duties of a quality assurance program it administers, thereby making records associated with that activity confidential.

Dispute resolution process – ADAMHS board contracts

- Repeals a provision that authorizes a board of alcohol, drug addiction, and mental health services (ADAMHS board), a facility, or a community addiction or mental health services provider to apply to the Director of Mental Health and Addiction Services for assistance in resolving an ADAMHS board contract dispute through a third party dispute resolution process.

Residential State Supplement Program

- Eliminates provisions specifying the types of living arrangements in which individuals must reside in order to be eligible for the Residential State Supplement program and requires all program eligibility requirements to be established by rule.

- Eliminates provisions specifying procedures for referring applicants who may have mental health needs for an assessment by a community mental health services provider.

Former Bureau of Recovery Services

- Maintains responsibilities regarding recovery services that were given to the Department when the Bureau of Recovery Services in the Department of Rehabilitation and Correction was abolished.

Block grants for prevention and treatment of substance abuse

- Requires the Department and Department of Medicaid to jointly serve as the designated agency for the purpose of a maintenance of effort requirement that applies to federal funds for the prevention and treatment of substance abuse and related activities.

Updated references

- Updates a reference to the Office of Support Services at the Department of Mental Health with a reference to the Ohio Pharmacy Services at the Department of Mental Health and Addiction Services, its current name.

- Stipulates that any reference to either the former Department of Mental Health or the former Department of Alcohol and Drug Addiction Services is to be construed as referring to the Department of Mental Health and Addiction Services.

Community addiction services

(R.C. 5119.221, 340.032, 340.033, 340.08, 5119.01, and 5119.22)

Waiver regarding location of certain addiction services

The bill revises the conditions under which the Department of Mental Health and Addiction Services may issue to a board of alcohol, drug addiction, and mental health services (ADAMHS board) a waiver regarding the location of ambulatory detoxification and medication-assisted treatment and requires that such a waiver be

time limited. Absent a waiver, each ADAMHS board must make ambulatory detoxification and medication-assisted treatment available in its service district beginning July 1, 2017. These are part of an array of addiction services and recovery supports for all levels of opioid and co-occurring drug addiction that must be included in each ADAMHS board's community-based continuum of care.

To be able to issue such a waiver to an ADAMHS board, the Department is required by the bill to determine that (1) the board has made reasonable efforts to make ambulatory detoxification and medication-assisted treatment available within the borders of its service district and (2) ambulatory detoxification and medication-assisted treatment can be made available through one or more contracts between the board and community addiction services providers that are located not more than 30 miles beyond the service district's borders. Current law, in contrast, does not require the Department to make the reasonable efforts determination and requires the Department to make, in addition to the 30-miles determination, a determination that the amount of time it takes for residents of the service district to travel to a community addiction services provider that provides ambulatory detoxification and medication-assisted treatment does not impose a significant barrier to successful treatment.

The bill requires that each waiver specify the amount of time for which it is in effect and whether it applies to ambulatory detoxification, medication-assisted treatment, or both.

Waiver regarding essential elements of community-based continuum of care

The bill eliminates the authority of the Department to waive for a limited period of time a requirement that an ADAMHS board's community-based continuum of care include all of the essential elements specified in continuing state law. Under current law, the Department may issue to an ADAMHS board such a waiver only after determining that the board has made reasonable efforts to include in the continuum of care the essential elements being waived. The following are the essential elements specified in law: (1) prevention and wellness management services, (2) certain outreach and engagement activities, (3) assessment services, (4) care coordination, (5) residential services, (6) certain inpatient and outpatient services, (7) certain recovery supports, (8) an array of addiction services and recovery supports for all levels of opioid and co-occurring addiction, and (9) additional elements the Department determines are necessary.

Disapproving part of an ADAMHS board's proposed budget

The bill gives the Department the discretion to disapprove an ADAMHS board's proposed budget in whole *or in part* if the board fails to make the essential elements of a

community-based continuum of care available in its service district. In contrast, current law requires the Department to disapprove a proposed budget *in whole* under that circumstance.

Effective dates

Under current law, the Department's authority to issue the types of waivers discussed above, and the requirement to disapprove an ADAMHS board's proposed budget in whole under the circumstance discussed above, take effect July 1, 2017. The bill's revisions to these provisions take effect the 91st day after the bill is filed with the Secretary of State.

Medication-assisted treatment drug court program

(Section 337.70)

The bill requires the Department to conduct a program to provide addiction treatment, including medication-assisted treatment and recovery supports, to persons who are eligible to participate in a medication-assisted treatment (MAT) drug court program. The Department's program is to be conducted in a manner similar to the Department's programs that were established and funded by the previous two main appropriations acts.

In conducting the program, the Department is required to collaborate with the Ohio Supreme Court, the Department of Rehabilitation and Correction, and any state agency that may be of assistance in accomplishing the objectives of the program. The Department also may collaborate with the ADAMHS board that serves the county in which a participating court is located and with the local law enforcement agencies serving that county.

The program must be conducted in those courts of Allen, Clinton, Crawford, Cuyahoga, Franklin, Gallia, Hamilton, Hardin, Hocking, Jackson, Marion, Mercer, Montgomery, Summit, and Warren counties that are conducting MAT drug court programs. A MAT drug court program is a session of a common pleas court, municipal court, or county court, or any division of those courts, that is certified by the Ohio Supreme Court as a specialized docket program for drugs. If any of the counties specified in the bill do not have a MAT drug court program, the Department must conduct its program in a court with a MAT drug court program in another county. The Department may also conduct its program in any other court with a MAT drug court program.

Selection of participants

A MAT drug court program must select the participants for the Department's program. The participants are to be selected because of their dependence on opioids, alcohol, or both. Those who are selected must either be criminal offenders or involved in a family drug or dependency court. They must meet the legal and clinical eligibility criteria for the MAT drug court program and be active participants. The total number of participants in a program at any time is limited to 1,500, subject to available funding. The Department may authorize additional participants in circumstances it considers appropriate. After being enrolled in a MAT drug court program, a participant must comply with all of the program's requirements.

Treatment

Only a community addiction services provider is eligible to provide treatment in a MAT drug court program. The provider is required to do all of the following:

(1) Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the provider;

(2) Assess potential program participants to determine whether they would benefit from treatment and monitoring;

(3) Determine, based on the assessment, the treatment needs of the participants;

(4) Develop individualized goals and objectives for the participants;

(5) Provide access to long-lasting antagonist therapies, partial agonist therapies, or both, that are included in the program's medication-assisted treatment;

(6) Provide other types of therapies, including psychosocial therapies, for both substance abuse and any co-occurring disorders;

(7) Monitor program compliance through the use of regular drug testing, including urinalysis, of the participants;

(8) Provide access to time-limited recovery supports, which are intended to help initiate and sustain an individual's recovery from alcoholism, drug addiction, or mental illness.

In the case of medication-assisted treatment provided under the program, all of the following conditions apply:

- A drug may only be used if the drug has been federally approved for use in treating dependence on opioids, alcohol, or both, or for preventing relapse into the use of opioids, alcohol, or both.

- One or more drugs may be used, but each drug that is used must constitute long-acting antagonist therapy or partial agonist therapy.

- If a drug constituting partial agonist therapy is used, the program must provide safeguards, such as routine drug testing or participants, to minimize abuse and diversion of the drug.

Planning

In order to ensure that funds appropriated to support the Department's program are used in the most efficient manner with a goal of enrolling the maximum number of participants, the bill requires the development of plans by the Medicaid Director in collaboration with major Ohio health care. The bill specifies, however, that there can be no prior authorizations or step therapy for medication-assisted treatment for program participants. The plans must ensure all of the following:

(1) The development of an efficient and timely process for review of eligibility for health benefits for all offenders selected to participate in the Department's program;

(2) A rapid conversion to reimbursement for all health care services by the participant's health care plan following approval for coverage of health care benefits;

(3) The development of a consistent benefit package that provides ready access to and reimbursement for essential health care services, including primary health care, alcohol and opiate detoxification services, appropriate psychosocial services, and medication for long-acting injectable antagonist therapies and partial agonist therapies;

(4) The development of guidelines that require the provision of all treatment services, including medication, with minimal administrative barriers and within a time frame that meets the requirements of individual patient care plans.

Report on previous program

The bill specifies that copies of the report that must be completed by June 30, 2017, on the Department's MAT drug court program operated under the previous main appropriations act, H.B. 64 of the 131st General Assembly, are still required to be distributed by the research institution that prepared the report.

Confidentiality of quality assurance records

(R.C. 5122.32)

Under current law, the Department administers a quality assurance program. As part of the program, the Department must systematically review and improve the safety and security of persons receiving medical and mental health services within the Department and its hospitals and community setting programs. The bill adds that the program must also systematically review and improve the safety and security of persons *administering* medical and mental health services within the Department and its hospitals and community setting programs. Associated with this change, a "quality assurance record" maintained by the program is expanded to include not only records pertaining to reviewing and improving the safety and security of persons who receive services, but also to reviewing and improving the safety and security of those who administer services in the Department hospitals and community setting programs. Pursuant to existing law not modified by the bill, such records are not public records, are confidential, and may be used only in the course of the proper functions of a quality assurance program.

Dispute resolution process – ADAMHS board contracts

(R.C. 340.03)

Under existing law not modified by the bill, an ADAMHS board must enter into contracts with facilities for the operation of facility services and with community addiction and mental health services providers for the provision of addiction and mental health services. If one party proposes not to renew a contract or proposes new terms, existing law authorizes the Director of Mental Health and Addiction Services to require both parties to submit to a third party dispute resolution process. The bill repeals this authority.

Residential State Supplement program

(R.C. 5119.41 with conforming changes in R.C. 173.14 and 5119.34; repealed R.C. 340.091)

The bill eliminates certain statutory requirements that must be met to be eligible for the Residential State Supplement (RSS) program. The program provides cash supplements to eligible aged, blind, or disabled adults who receive federal benefits as supplemental security income, social security, or social security disability insurance and are at risk of institutionalization. RSS payments must be used for the provision of accommodations, supervision, and personal care services.

With respect to living arrangement requirements, the bill eliminates (1) a provision requiring that an individual reside in a residential care facility, assisted living program, or class two residential facility and (2) the provision excluding from the RSS program an individual who resides in a living arrangement that houses more than 16 individuals unless the Director has specifically waived the size limitations for that individual. In the absence of these statutory provisions, all eligibility requirements are to be established in rules adopted by the Director and the Medicaid Director.

Mental health assessments

The bill eliminates a provision requiring an RSS administrative agency to refer an individual enrolled in the RSS program to a community mental health services provider for an assessment if the agency is aware that the individual has mental health needs. The bill repeals a corresponding law that requires each ADAMHS board to contract with a provider to perform the assessments and provide ongoing monitoring and discharge planning.

Conforming changes and corrections

The bill makes other conforming changes and technical corrections to reflect previous enactments regarding the RSS program.

Former Bureau of Recovery Services

(Section 337.80)

H.B. 64 of the 131st General Assembly abolished the Bureau of Recovery Services in the Department of Rehabilitation and Correction on June 30, 2015, and transferred all of the Bureau's functions, assets, and liabilities to the Department of Mental Health and Addiction Services. The bill maintains provisions of H.B. 64 regarding the transfer.

Under the bill, the Department of Mental Health and Addiction Services continues to be required to complete any business regarding recovery services that the Department of Rehabilitation and Correction started before, but did not complete by, June 30, 2015. Any rules, orders, and determinations pertaining to the former Bureau continue in effect until the Department of Mental Health and Addiction Services modifies or rescinds them and any reference to the former Bureau continues to be deemed to refer to the Department or its director, as appropriate. All of the former Bureau's employees continue to be transferred to the Department and retain their positions and benefits, subject to the layoff provisions pertaining to state employees under continuing law. Rights, obligations, and remedies continue to exist unimpaired despite the transfer and the Department must continue to administer them.

Block grants for prevention and treatment of substance abuse

(Section 337.170)

The bill requires that the Department of Mental Health and Addiction Services and Department of Medicaid jointly serve as the designated agency for the purpose of a maintenance of effort requirement that applies to federal funds for the prevention and treatment of substance abuse and related activities. The Department of Mental Health and Addiction Services remains the designated agency for all other purposes regarding federal funds for mental health services available under Part B of Title XIX of the Public Health Service Act.[80]

Updated references

(R.C. 125.035 and 5119.011)

The bill updates a reference to the Office of Support Services at the Department of Mental Health with a reference to the Ohio Pharmacy Services at the Department of Mental Health and Addiction Services, its current name.

The bill also stipulates that any reference to either the former Department of Mental Health or the former Department of Alcohol and Drug Addiction Services is to be construed as referring to the Department of Mental Health and Addiction Services. It also makes a similar stipulation with regard to the directors of these former agencies. These agencies were merged in 2013 by H.B. 59 of the 130th General Assembly.

[80] 42 U.S.C. 300x *et seq.*

DEPARTMENT OF NATURAL RESOURCES

State Park Maintenance Fund

- Creates the State Park Maintenance Fund, and requires the Department of Natural Resources to use money in the Fund only for maintenance, repair, and renovation projects at state parks that are approved by the Director of Natural Resources.

- Authorizes the Director of Natural Resources to request the Director of Budget and Management (OBM) to annually transfer cash to the State Park Maintenance Fund in an amount not exceeding 5% of the annual average revenue received by the State Park Fund.

- For purposes of FY 2018, does both of the following:

  --Requires, on July 1, 2017, or as soon as possible thereafter, that the Director of Natural Resources certify 5% of the average of the previous five years of deposits in the State Park Fund to OBM.

  --Authorizes OBM to transfer up to $1.5 million from the State Park Fund to the State Park Maintenance Fund at that time.

- Prohibits the Department from using money in the Fund to construct new facilities.

- Requires the Chief of the Division of Parks and Watercraft to submit to the Director a list of projects in order to request a disbursement from the Fund.

- Requires the Chief to include with each request a description of necessary maintenance, repair, and renovation projects at state park facilities and requires the Director to determine which projects are eligible for disbursement from the Fund.

- Prohibits the Chief from beginning any project for which a request was submitted before obtaining the Director's approval.

Wildfire suppression payments

- Increases the amount of money annually available for wildfire suppression payments from the Department to local firefighting agencies or companies from not more than $100,000 to not more than $200,000.

- Eliminates the Wildfire Suppression Fund and the required annual transfer of money from the existing State Forest Fund to the Wildfire Suppression Fund for wildfire suppression payment purposes.

- Requires wildfire suppression payments to be made directly from the State Forest Fund.

- Replaces the Chief of the Division of Forestry with the Director of Natural Resources or the Director's designee as the designated state agent responsible for the distribution of money for wildfire suppression payments to firefighting agencies or companies.

Elimination of the Injection Well Review Fund

- Requires the 15% portion of the proceeds from permit fees collected under the injection well permit program that are currently deposited in the Injection Well Review Fund to instead be deposited in the existing Geological Mapping Fund.

- Requires the permit fees deposited in the Geological Mapping Fund under the bill to be used by specified Divisions within the Department to execute the Department's duties under the injection well permit program, which is generally consistent with their use under current law.

- Eliminates the Injection Well Review Fund.

Oil and Gas Well Fund use for plugging idle and orphaned wells

- Eliminates the minimum amount that the Chief of the Division of Oil and Gas Resources Management annually must spend from the Oil and Gas Well Fund for specified purposes related to the plugging of idle and orphaned wells.

Mine Regulation and Safety Fund

- Consolidates the Unreclaimed Lands Fund, the Surface Mining Fund, the Mining Regulation Fund, and the Coal Mining and Reclamation Reserve Fund into a new fund called the Mining Regulation and Safety Fund.

- Allocates all money that is credited to the consolidated Funds to the Mining Regulation and Safety Fund.

- Specifies that the purposes for and the authorized expenditures from the consolidated Funds now apply to the Mining Regulation and Safety Fund.

Severance tax allocation

- Allocates all of the money generated from the coal severance tax to the Mining Regulation and Safety Fund, rather than allocating portions to the existing

Geological Mapping Fund, Coal Mining Administration and Reclamation Reserve Fund, and the Unreclaimed Lands Fund as provided in current law.

- Allocates money generated from the salt severance tax to the Mining Regulation and Safety Fund, rather than to the Geological Mapping Fund as provided in current law.

- Allocates 92.5% of the money generated from the tax on limestone, dolomite, sand, and gravel to the Mining Regulation and Safety Fund, rather than allocating that portion to both the Unreclaimed Lands Fund (42.5%) and the Surface Mining Fund (50%) as under current law.

- Allocates all of the money generated from the tax on clay, sand or conglomerate, shale, gypsum, or quartzite to the Mining Regulation and Safety Fund, rather than the Surface Mining Fund as under current law.

- Allocates all of the money generated from the tax on coal mined by surface mining methods to the Mining Regulations and Safety Fund, rather than the Unreclaimed Lands Fund as under current law.

Coal reclamation funds

- Eliminates the existing Reclamation Forfeiture Fund as a funding source for which the Chief of the Division of Mineral Resources Management may expend money to pay the costs of reclaiming land affected by surface or in-stream mining operations.

Dam construction filing fee and annual fee

- Removes the statutorily imposed filing fee schedule for dam construction permits, and requires the Chief of the Division of Water Resources to adopt rules establishing the fee schedule.

- Removes the statutorily imposed fee schedule for annual fees required to be submitted by owners of Class I, Class II, or Class III dams, and requires the Chief to adopt rules establishing the annual fee schedule.

State Park Maintenance Fund

(R.C. 1501.08; Section 343.20)

The bill creates the State Park Maintenance Fund, and requires the Department of Natural Resources to use money in the Fund only for maintenance, repair, and

renovation projects at state parks that are approved by the Director of Natural Resources. The bill authorizes the Director of Natural Resources to request the Director of Budget and Management (OBM) to annually transfer cash to the State Park Maintenance Fund from the State Park Fund in an amount not exceeding 5% of the average revenue received by the State Park Fund. However, for purposes of FY 2018, the bill does both of the following:

(1) Requires, on July 1, 2017, or as soon as possible thereafter, that the Director of Natural Resources certify 5% of the average of the previous five years of deposits in the State Park Fund to OBM; and

(2) Authorizes OBM to transfer up to $1.5 million from the State Park Fund to the State Park Maintenance Fund at that time.

The Department is prohibited from using money in the State Park Maintenance Fund to construct new facilities. In order to receive money for projects, the Chief of the Division of Parks and Watercraft must submit to the Director a list of projects in order to request a disbursement from the Fund. The Chief must include with each request a description of necessary maintenance, repairs, and renovations at state park facilities and the Director must determine which projects are eligible for disbursement from the Fund. The Chief may not begin any project for which a request was submitted before obtaining the Director's approval.

Wildfire suppression payments

(R.C. 1503.141 and 1503.05)

The bill revises the requirements and procedures regarding wildfire suppression payments made to firefighting agencies and companies. First, the bill increases the amount of money annually available for wildfire suppression payments from the Department to local firefighting agencies or companies from not more than $100,000 to not more than $200,000. Next, it eliminates the Wildfire Suppression Fund from which payments are made and the required annual transfer of money from the existing State Forest Fund to the Wildfire Suppression Fund for wildfire suppression payment purposes. The bill then requires wildfire suppression payments to be made directly from the State Forest Fund. Finally, the bill replaces the Chief of the Division of Forestry with the Director of Natural Resources or the Director's designee as the designated state agent responsible for the distribution of money for wildfire suppression payments to firefighting agencies or companies.

Elimination of the Injection Well Review Fund

(R.C. 1505.09 and 6111.046; repealed R.C. 1501.022)

The bill requires the 15% portion of the proceeds derived from permit fees collected under the injection well permit program that are currently deposited in the Injection Well Review Fund to instead be deposited in the existing Geological Mapping Fund. The bill also eliminates the Injection Well Review Fund. The Divisions of Mineral Resources Management, Oil and Gas Resources Management, Geological Survey, and Water Resources in the Department currently use money in the Injection Well Review Fund to pay the expenses that the Department incurs in executing its duties under the injection well program. That program governs the underground injection of sewage, industrial waste, hazardous waste, and other wastes into wells and is administered by the Environmental Protection Agency and the Department. The money deposited in the Geological Mapping Fund under the bill generally must be used for the same purposes as the money deposited in the Injection Well Review Fund under current law. Thus, under the bill, the Department's use of the money from the permit fees appear to remain unchanged.

Oil and Gas Well Fund use for plugging idle and orphaned wells

(R.C. 1509.071)

The bill eliminates the minimum amount that the Chief of the Division of Oil and Gas Resources Management must spend from the Oil and Gas Well Fund for the following purposes:

(1) Plugging idle and orphaned wells;

(2) Restoring surface lands at idle and orphaned wells;

(3) Correcting conditions the Chief has reasonably determined are causing imminent health or safety risks at an idle or orphaned well or well for which the owner cannot be reached.

Under current law, the Chief must spend at least 14% of the revenue credited to the Fund during the previous fiscal year for the above purposes. The Fund consists of money collected from forfeitures of bonds posted for remedying idle and orphaned wells, but also includes money collected from oil and gas severance taxes and other

sources under the law governing oil and gas, such as permit fees, fines, and civil penalties.[81]

Mine Regulation and Safety Fund

(Repealed R.C. 1513.181, 1513.30, and 1561.48; Section 512.90; conforming changes in numerous other R.C. sections)

The bill consolidates the Unreclaimed Lands Fund, the Surface Mining Fund, the Mining Regulation Fund, and the Coal Mining Administrative and Reclamation Reserve Fund into a new fund called the Mining Regulation and Safety Fund. Under the bill, all money that is currently credited to the individual consolidated Funds must be credited to the Mining Regulation and Safety Fund. Likewise, all money currently in those consolidated Funds is transferred to the new Mining Regulation and Safety Fund. The bill specifies that the purposes for and expenditures from the consolidated Funds now apply to the Mining Regulation and Safety Fund. Under current law, the consolidated Funds, the revenue source for each of the consolidated Funds and the authorized uses of each of the consolidated Funds are as follows:

Funds being consolidated into the new Mining Regulation and Safety Fund		
Existing fund name	**Source of revenue**	**Authorized uses**
Unreclaimed Lands Fund	Derived from all of the following: (1) money received from the sale of reclaimed lands, or in payment for easements, leases, or royalties, (2) money collected from lien foreclosures that result from reclamation activities conducted by a community improvement corporation with grant money from the Chief of the Division of Mineral Resources Management, and (3) a portion of the money collected from the coal severance tax.	Used for the following purposes: (1) reclaiming land affected by mining, or controlling mine drainage for which no cash is held in the continuing Reclamation Forfeiture Fund, (2) purchasing any eroded land, including land affected by strip mining, for which no cash is held in the continuing Reclamation Forfeiture Fund, and (3) making grants for the payment of up to 75% of reclamation expenses incurred by specified entities regarding unreclaimed land affected by mining before April 10, 1972.
Surface Mining Fund	Derived from all of the following: (1) Surface mining permit fees; (2) Annual filing and acreage fees collected from surface or in-stream mining operations;	Used for the following purposes: (1) reclaiming land affected by surface or in-stream mining under specified circumstances, (2) administering and enforcing the law governing surface mining, and (3) mine safety and first aid training.

[81] R.C. 1509.02, not in the bill.

Funds being consolidated into the new Mining Regulation and Safety Fund		
Existing fund name	**Source of revenue**	**Authorized uses**
	(3) Collection of liens imposed on a surface or in-stream mine operator for forfeiting a performance bond; (4) Civil penalties assessed and criminal fines imposed for violating the laws governing surface mining; (5) Criminal fines imposed for violating the law governing usage of roads in connection with surface mining operations; (6) Mine safety training fees for surface or in-stream mine operators; (7) Safety, first aid, and rescue class fees for miners; (8) A portion of the money collected from limestone, dolomite, and sand and gravel severance taxes; and (9) Clay, sandstone or conglomerate, shale, gypsum, and quartzite severance taxes.	
Mining Regulation Fund	Derived from money collected from both of the following: (1) Certification/recertification for mine-related employment, and (2) Criminal fines for violation of laws governed by the Division of Mineral Resources Management.	Used for paying the operating expenses of the Division of Mineral Resources Management.
Coal Mining Administration and Reclamation Reserve Fund	Derived from both of the following: (1) Portion of the money collected from the coal severance tax, and (2) Transfers from the Unreclaimed Lands Fund.	Used for the administration and enforcement of the law governing coal surface mining and for reclaiming land affected by coal mining under specified circumstances.

Severance tax allocation

(R.C. 5749.02 and 1514.11)

The bill allocates money generated from certain severance taxes as follows:

Severance tax	Amount of severance tax (unchanged under the bill)	Disbursement of money generated from tax under current law	Disbursement of money generated from tax under the bill
Coal	10¢ per ton of coal removed from the ground	-- 80.95% to the Coal Mining Administration and Reclamation Fund; -- 14.29% to the Unreclaimed Lands Fund; and -- 4.76% to the Geological Mapping Fund (fund is not consolidated under the bill*)	100% to the Mining Regulation and Safety Fund
Salt	4¢ per ton of salt removed from the ground	100% to the Geological Mapping Fund	100% to the Mining Regulation and Safety Fund
Limestone, dolomite, or sand and gravel	2¢ per ton of limestone, dolomite, or sand and gravel removed from the ground	-- 50% to the Surface Mining Fund; -- 42.5% to the Unreclaimed Lands Fund; and -- 7.5% to the Geological Mapping Fund	-- 92.5% to the Mining Regulation and Safety Fund -- 7.5% to the Geological Mapping Fund
Clay, sandstone or conglomerate, shale, gypsum, or quartzite	1¢ per ton of clay, sand or conglomerate, shale, gypsum, or quartzite removed from the ground	100% to the Surface Mining Fund	100% to the Mining Regulation and Safety Fund
Coal mined by surface mining methods	1.2¢ per ton of coal mined by surface mining methods removed from the ground	100% to the Unreclaimed Lands Fund	100% to the Mining Regulation and Safety Fund

* The Geological Mapping Fund is used by the Division of Geological Survey for the purposes of performing the necessary field, laboratory, and administrative tasks to map and make public reports on the geology, geologic hazards, and energy and mineral resources of Ohio.

Coal reclamation funds

(R.C. 1514.06)

The bill eliminates the existing Reclamation Forfeiture Fund as a funding source for which the Chief of the Division of Mineral Resources Management may expend money to pay the costs of reclaiming land affected by surface or in-stream mining operations if the Mining Regulation and Safety Fund has insufficient funds.

Dam construction filing fee and annual fee

(R.C. 1521.06 and 1521.063)

The bill removes the statutorily imposed filing fee schedule for dam construction permits, and requires the Chief of the Division of Water Resources to adopt rules establishing the fee schedule. Under current law, a person who seeks a permit to construct a dam must file plans and specifications with the Chief along with a filing fee. The filing fee schedule set forth under current law is as follows:

(1) For the first $100,000 of estimated cost, a fee of 4%;

(2) For the next $400,000 of estimated cost, a fee of 3%;

(3) For the next $500,000 of estimated cost, a fee of 2%; and

(4) For all costs exceeding $1 million, a fee of 0.5%.

Current law prohibits the filing fee from being less than $1,000 or more than $100,000. If the actual cost of the dam project exceeds the estimated cost by more than 15%, an additional filing fee determined by the preceding schedule is required less the original filing fee. In addition, under current law, the Chief is authorized to establish a filing fee schedule in lieu of the above schedule. However, evidently, the Chief has not done so.

The bill also removes the statutorily imposed fee schedule for annual fees required to be submitted by owners of Class I, Class II, or Class III dams to the Division of Water Resources, and requires the Chief to adopt rules establishing the annual fee schedule. Under current law, the owner of a Class I, Class II, or Class III dam must pay an annual fee to the Division on or before June 30, as follows:

(1) For any dam classified as a Class I dam under rules adopted by the Chief, $300 plus $10 per foot of height of the dam, 5¢ per foot of length of the dam, and 5¢ per acre-foot of water impounded by the dam;

(2) For any dam classified as a Class II dam under rules, $90 plus $6 per foot of height of the dam, 5¢ per foot of length of the dam, and 5¢ per acre-foot of water impounded; and

(3) For any dam classified as a Class III dam under those rules, $90 plus $4 per foot of height of the dam, 5¢ per foot of length of the dam, and 5¢ per acre-foot of volume of water impounded.

Current law also authorizes the Chief to adopt rules for the establishment of an annual fee schedule in lieu of the above schedule, but, evidently, the Chief has not done so. As indicated above, the bill removes these provisions and requires the Chief to adopt rules, establishing the annual fee schedule. The bill retains the current law specification that the annual fee schedule must be based on the height, linear foot length, and the per acre-foot of volume of water impounded by the dam.

- Eliminates, as of January 21, 2018, the requirement that the Board of Nursing's Executive Director be a registered nurse in Ohio with at least five years of experience practicing as a registered nurse.

Qualifications for Executive Director

(R.C. 4723.05)

The bill eliminates, beginning January 21, 2018, current law's requirement that the Board of Nursing's Executive Director be a registered nurse in Ohio with at least five years of experience practicing as a registered nurse.

OPPORTUNITIES FOR OHIOANS WITH DISABILITIES AGENCY

- Removes the requirement that the Opportunities for Ohioans with Disabilities Agency (OODA) receive Controlling Board approval to release funds to be used for OODA's program to provide personal care assistance for individuals with severe physical disabilities.
- Changes "person with a disability" to "eligible individual with a disability" throughout the law.
- Expands the definition of "physical or mental impairment."
- Specifies the types of activities and items for which maintenance payments may be used.
- Requires OODA to implement an order of selection if vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in Ohio who apply for services.

Fund authority for personal care assistance program

(R.C. 3304.41)

The bill eliminates the requirement that the Opportunities for Ohioans with Disabilities Agency (OODA) receive Controlling Board approval to release funds to be used for the OODA's program to provide personal care assistance for individuals with severe physical disabilities to live and work independently.

Definitions and terms

(R.C. 3304.11, with conforming changes in numerous other R.C. sections)

The bill makes the following changes to definitions and terms used in the Worker Retraining Law:

- Replaces the term "person with a disability" with "eligible individual with a disability";
- Expands the definition of "physical or mental impairment" to mean any physiological, mental, or psychological disorder, rather than a physical or mental condition that materially limits, contributes to limiting, or will

probably result in limiting a person's activities or functioning if not corrected, as under current law;

- Specifies the types of activities and items for which maintenance payments may be used (see "**Maintenance payments**," below);

- Replaces the definition of "vocational rehabilitation services" used in current law with the definition adopted in the rules implementing the federal Rehabilitation Act of 1973, which focuses more on job training and work-based learning experiences than diagnostic services;[82]

- Replaces the term "visually impaired person" with "individual who is blind" throughout the Worker Retraining Law;

- Makes conforming changes throughout the Worker Retraining Law.

Maintenance payments

(R.C. 3304.11 and 3304.19, with conforming changes in R.C. 2329.66)

The bill revises the definition of "maintenance" to specify the types of activities and items for which maintenance payments may be used. Under the bill, "maintenance" is monetary support provided to an individual for expenses such as food, shelter, and clothing that are in excess of the individual's normal expenses. The excess expense must be necessitated by the individual's participation in an assessment to determine the individual's eligibility and need for vocational rehabilitation services or the individual's receipt of vocational rehabilitation services under an individualized plan for employment to be considered maintenance. Current law defines "maintenance" as money payments made to persons with disabilities who need financial assistance for their subsistence during their vocational rehabilitation.

Additionally, the bill specifies that any maintenance instead of living maintenance, as under current law, provided under the Worker Retraining Law is not transferrable or assignable at law or in equity.

[82] 29 U.S.C. 701 *et seq.*

Order of selection

(R.C. 3304.17)

The bill requires OODA to implement an order of selection in accordance with the Rehabilitation Act of 1973 if vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in Ohio who apply for services.

The order of selection must be included in the state plan required under the Act and must do all of the following:

- Show the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services;
- Provide a justification for the order of selection;
- Identify service and outcome goals and the time within which the goals may be achieved for individuals in each priority category within the order, as required under the Act's regulations;
- Assure that individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services and individuals who do not meet the order of selection criteria will have access to services provided through the information and referral system established under continuing law;
- State whether the designated state unit will elect to serve, in its discretion, eligible individuals who require specific services or equipment to maintain employment.

Under continuing law, OODA must provide vocational rehabilitation services to all eligible individuals with disabilities, including any eligible individual with a disability who is eligible under the terms of an agreement or arrangement with another state or with the federal government.

OHIO STATE BOARD OF PHARMACY

Terminal and wholesale distributors of dangerous drugs

Terminal distributor licensure

- Eliminates category I and limited category I terminal distributor licenses.
- Requires the State Board of Pharmacy to adopt rules specifying when a licensed terminal distributor must provide updated application documentation.

Wholesale distributor licensure

- Changes the existing registration for wholesale distributors of dangerous drugs into a license for manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors of dangerous drugs.
- Transfers existing requirements governing registration as a wholesale distributor to the new types of licenses and specifies that any of the license types may be issued as a category II or category III license.
- Generally specifies that a licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor may engage in the distribution of dangerous drugs, in addition to the sale of such drugs.

License renewal

- Requires license renewal to be on a schedule specified by the Board, with the effective period not to exceed 24 months unless the Board extends the period for purposes of adjusting license renewal schedules.
- Increases license fees and adjusts the fees to reflect biennial renewal.
- Prohibits a license holder that fails to renew from engaging in certain conduct related to dangerous drugs until a valid license is issued.
- Permits the Board to enter into agreements with other states, federal agencies, and other entities to exchange information concerning licensing and inspection and to investigate alleged violations.

Discipline

- Authorizes the Board to restrict or limit a license and to reprimand or place a license holder on probation.

- Authorizes the Board to impose disciplinary sanctions for additional causes, including other causes set forth in rules adopted by the Board.

- Specifies that when a hearing is required, if the licensee does not timely request a hearing in accordance with existing law, the Board is not required to hold a hearing and may adopt a final order with its findings, including any sanctions imposed.

- Specifies that the Board is not required to seal, destroy, redact, or otherwise modify its records of disciplinary proceedings notwithstanding a court's sealing of conviction records.

Summary suspension

- Authorizes the Board to suspend a license without a hearing if the Board determines there is clear and convincing evidence that the method of possessing dangerous drugs presents a danger of immediate and serious harm to others.

- Specifies that a summary license suspension is void on the 121st day, as opposed to the 91st day, after the suspension if the Board has not issued its final adjudication before that date.

Pharmacist and pharmacy intern licensure

- Adjusts the licensing renewal schedule for pharmacists and pharmacy interns from annually to a period specified by the Board that is generally not to exceed 24 months.

- Prohibits a pharmacist or pharmacy intern who fails to renew by the license renewal date from engaging in the practice of pharmacy until a valid license is issued.

- Modifies licensure and other fees charged by the Board.

- Eliminates a requirement that the Board issue, and licensed pharmacists and pharmacy interns carry, identification cards.

- Requires the Board to adopt rules defining "good moral character" for licensing purposes.

Investigative records and subpoenas

- Makes information the Board receives during an investigation of a license holder generally confidential, but allows the Board to share the information with law enforcement agencies, other professional licensing boards, and other governmental agencies.

- Authorizes the Board, when investigating alleged violations of the Pharmacists and Dangerous Drug Law, to issue subpoenas, take depositions, and examine and copy records.

Unlicensed pain management clinics

- Authorizes the Board to impose a fine for violation of pain management clinic licensure requirements when any person violates those requirements, rather than only when the violator is an otherwise licensed terminal distributor.

OARRS drug database

- Requires the Board to provide from its drug database, commonly known as the Ohio Automated Rx Reporting System or OARRS, information related to (1) a drug court program participant if requested by a judge of a certified drug court and (2) a deceased person if requested by the examining coroner.

- Authorizes the Board to provide a health care professional licensing agency with OARRS information related to a person acting as an expert witness in an investigation being conducted by the agency.

- Authorizes the Board to provide a prescriber with a summary of the prescriber's prescribing record from OARRS.

- Authorizes the Board to provide to the Department of Medicaid records of requests for OARRS information made by a prescriber who treated a Medicaid recipient.

- Extends the period for which the Board must retain information in OARRS to at least five years and requires the Board to make the information accessible to authorized persons during that time.

- Authorizes the Board to retain patient identifying information in excess of five years if necessary to serve an investigatory or public health purpose.

Criminal records checks under the Medical Marijuana Control Program

- Eliminates the requirement that the results of criminal records checks of prospective employees of entities licensed under the Medical Marijuana Control Program be reported to those entities.

- Identifies the Board and Department of Commerce as "licensing agencies" relative to their authority to issue licenses under the Program.

Terminal and wholesale distributors of dangerous drugs

(R.C. 4729.54 and 4729.52 (primary) and 4729.01, 4729.51, 4729.52, 4729.53, 4729.56, 4729.561, 4729.57, 4729.571, 4729.58, 4729.59, 4729.60, 4729.61, and 4729.62 with conforming changes in 2925.23, 3719.04, 3719.07, 3719.08, 4729.78, 4729.83, and 4729.84; repealed R.C. 3719.02, 3719.021, 3719.03, and 3719.031)

Terminal distributors of dangerous drugs

Licensure categories

The bill eliminates category I and limited category I licensure for terminal distributors of dangerous drugs. Under current law, there are six categories of terminal distributor licenses: category I, II, and III and limited category I, II, and III. The category of the license determines the dangerous drugs that the person may possess, have custody and control of, and distribute. The eliminated category I and limited category I licenses are for single dose injections of intravenous fluids, such as saline, and other fluids specified in rule. The continuing category II and III licenses and limited licenses are for dangerous drugs, including controlled substances.

The bill also eliminates a requirement that every terminal distributor license indicate on its face the category of licensure, and for a limited category license, specification that the licensee can possess, have custody or control of, and distribute only the dangerous drugs listed in the license application.

Application for licensure

Current law requires an application for licensure to state the category of license the person is seeking. For a limited category license application, it must include a list of the dangerous drugs the person is seeking to possess. The bill eliminates a requirement that the list of drugs be notarized.

For an applicant that is an emergency medical service organization, the bill eliminates a provision requiring notarization of the standing orders or protocols that must be submitted with the application, but adds a physician signature requirement to a provision that requires submission of a list of dangerous drugs the organization's units may carry. The bill eliminates a requirement that an emergency medical service organization licensed as a terminal distributor must immediately notify the State Board of Pharmacy of changes to its standing orders or protocols that were submitted with its application. Instead, the bill requires the Board to adopt rules specifying when the Board must be notified of changes to any of the documentation that was submitted with the application.

Similar changes are made for applications on behalf of animal shelters. The bill eliminates the notarization requirement for submitted protocols, standing orders, or lists of dangerous drugs to be administered. It requires the Board to adopt rules specifying when the Board must be notified of changes to any of the documentation that was submitted with the application.

Wholesale distributors of dangerous drugs

The bill changes the existing registration requirement for wholesale distributors of dangerous drugs into a license requirement with new licensure distinctions created according to the activities being performed. Specifically, the bill requires manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors to obtain the license. Under current law, those entities are not specifically referred to by name, but according to representatives of the Board, they are registered as wholesale distributors. The bill applies all of the requirements for registration as a wholesaler under current law to its licensure of manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors, with the changes discussed below.

Definitions

The bill establishes and modifies statutory definitions of activities involving drug distribution, as follows:

"Third-party logistics provider" – defined by the bill as a person that provides or coordinates warehousing or other logistics services pertaining to dangerous drugs, including distribution, but does not take ownership of the drugs or have responsibility to direct sale or disposition.

"Repackager of dangerous drugs" – defined by the bill as a person that repacks and relabels dangerous drugs for sale or distribution.

"Outsourcing facility" – defined by the bill as a facility that is engaged in the compounding and sale of sterile drugs and is registered with the U.S. Food and Drug Administration.

"Manufacturer" – modified by the bill by excluding a prescriber from the definition. (Under current law, a manufacturer is a person, other than a pharmacist, who manufactures and sells dangerous drugs.)

"Sale" or "sell" – modified by the bill by adding that the definition also includes distributing, brokering, or giving away, and specifying that transferring includes

transfer by passage of title, physical movement, or both. (Under current law, sale or sell includes delivery, transfer, barter, exchange, or gift, or offer therefore.)

License categories and classifications

The bill specifies that the license of a manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor can be a category II or category III license. As discussed above for terminal distributors, the category of license determines which dangerous drugs the holder may possess, have custody or control of, and distribute. The bill also permits the Board to create classification types for the licenses in rule.

Application for licensure

In addition to the application requirements in current law, the bill specifies that after an application is filed, it cannot be withdrawn without approval of the Board.

For persons not residing in Ohio, the bill permits the Board to issue a license if the person meets the Board's licensure requirements, as verified by a state, federal, or other entity recognized by the Board, and pays the required licensure fee. Current law permits the Board to license persons who do not reside in Ohio if the person possesses a current and valid license issued by another state that has licensure qualifications comparable to Ohio's requirements. The bill adds that the person must have been physically located in the state that licensed them.

Provisions affecting terminal and wholesale distributors, manufacturers, outsourcing facilities, third-party logistics providers, and repackagers

Renewal schedules

The bill specifies that licenses for terminal distributors, manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors are valid for a period specified in rules. The period cannot exceed 24 months unless the Board extends it in rule to adjust license renewal schedules. This is in place of current law that specifies licenses are valid for 12 months.

A license holder who is a terminal distributor that fails to renew by the renewal date is prohibited under the bill from engaging in the retail sale, possession, or distribution of dangerous drugs until a valid license is issued. A license holder who is a manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor that fails to renew by the renewal date is prohibited from engaging in manufacturing, repackaging, compounding, or distributing until a valid license is issued.

The bill specifies that if a renewal application has not been submitted by the 61st day after the renewal date, the license is considered void and cannot be renewed, but the license holder may reapply for licensure.

Fees

The bill adjusts license renewal fees to account for biennial registration. It also increases the fees as follows:

For terminal distributors:

--For issuance of a category II or limited category II license, increases the fee to $320 per biennium (from $112.50 per year);

--For issuance of a category III or limited category III license, increases the fee to $440 per biennium (from $150 per year);

--For issuance of a license to a person practicing veterinary medicine, $120 per biennium (from $40 per year);

--For renewal of a license, the fee is increased to that of the fee paid for the initial license (see above), plus a $110 penalty fee per biennium (the penalty is currently $55 per year).

For manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors:

--For issuance and renewal of a category II license, increases the fee to $1,900 per biennium (from $750 per year);

--For issuance and renewal of a category III license, establishes a fee of $2,000 (under current law, there are not multiple categories of licenses for wholesale distributors).

Discipline

Regarding the Board's authority to impose sanctions on terminal distributors, manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors, the bill authorizes the Board to restrict or limit licenses and to reprimand license holders or place them on probation. This is in addition to current law that authorizes the Board to impose a fine or to suspend, revoke, or refuse to grant or renew a license. For manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors, the bill increases to $2,500 the fine that may be imposed (from $1,000).

The bill also adds causes to the conduct for which the Board can impose discipline. For terminal distributors, in addition to the conduct specified in current law, the Board may impose sanctions for (1) conviction of a felony and (2) any other causes set forth by the Board in rules. For manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors, in addition to the conduct specified in current law, the Board may impose sanctions for (1) falsely or fraudulently promoting a dangerous drug to the public, (2) violating the Federal Food, Drug, and Cosmetic Act or Ohio's Pure Food and Drug Law, and (3) any other causes set forth by the Board in rules.

Summary suspension

For terminal distributors, manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors, the bill authorizes the Board to suspend a license without a hearing if the Board determines that there is clear and convincing evidence that the method used to possess dangerous drugs presents a danger of immediate and serious harm to others. This is in addition to current law that authorizes a summary suspension if the method of distributing presents such an immediate danger.

The bill specifies that a summary license suspension is void on the 121st day after the suspension if the Board has not issued its final adjudication before that date. Under current law, it is void on the 91st day.

Board records of licensees

The bill continues to require the Board to make available a roster of persons licensed as terminal distributors, manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors. It eliminates a provision requiring the Board to make open for public examination its register of the names, addresses, and date of licensure for those licensees.

Pre-sale and pre-purchase investigations

The bill modifies the investigation a terminal distributor of dangerous drugs must conduct before purchasing dangerous drugs at wholesale by requiring the terminal distributor to query the Board's roster of licensees before purchasing. Documentation of the query results must be kept for at least three years. If the results of the query demonstrate that the seller is licensed, another query regarding that seller is not required until 12 months have elapsed since the results were obtained.

Similarly, for manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors, the bill requires them to query the

Board's roster of licensees before selling or distributing dangerous drugs at wholesale. Documentation of the query results must be kept for at least three years. If the results of the query demonstrate that the purchaser is licensed, another query regarding that purchaser is not required until 12 months have elapsed since the results were obtained.

Those provisions are in place of current law that requires (1) wholesalers to obtain from the purchaser a certificate indicating the purchaser is licensed and (2) terminal distributors to obtain from the seller the seller's registration certificate. Because the certificates no longer are exchanged, the bill eliminates a provision prohibiting any person from making or furnishing a false certificate in those circumstances.

Ceasing to engage in authorized activities

The bill authorizes the Board to specify a time frame in rule within which a terminal distributor, manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor must notify the Board if the person ceases to engage in the activities for which the license was issued. The notice is required under current law but no time frame is specified.

Agreements with other states, federal agencies, and other entities

The bill authorizes the Board to enter into agreements with other states, federal agencies, and other entities to exchange information concerning licensing and inspection of terminal distributors, manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors located within or outside Ohio and to investigate alleged violations of the laws and rules governing distribution of drugs by them. Any information received pursuant to such an agreement is subject to the same confidentiality requirements that apply to the agency or entity from which the information was received and it cannot be released without prior authorization from that agency or entity.

Notice of hearings

The bill adds a provision regarding hearings conducted by the Board. It provides that if notice of an opportunity for a hearing is required, but a license holder does not make a timely request for a hearing, the Board is not required to hold a hearing. The Board may adopt a final order that contains the Board's findings and may impose any of the sanctions listed above.

Sealing of records

The bill provides that, notwithstanding continuing law, the sealing of the following criminal records does not have an effect on the Board's action or any sanction imposed: records of any conviction, guilty plea, judicial finding of guilt resulting from a

plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction. Under the bill, the Board is not required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

Pharmacist and pharmacy intern licensure

(R.C. 4729.06, 4729.08, 4729.09, 4729.11, 4729.12, 4729.13, 4729.15, 4729.16, 4729.67; repealed R.C. 4729.14)

License renewal

The bill replaces annual licensure of pharmacists and pharmacy interns with a period to be specified in rules adopted by the Board. The period cannot exceed 24 months unless the Board extends it in rule to adjust license renewal schedules. A pharmacist or pharmacy intern who fails to renew by the renewal date is prohibited under the bill from engaging in the practice of pharmacy until a valid license is issued by the Board.

For renewal of a license that has expired for more than three years, the bill requires an applicant to comply with criminal records check requirements that apply to initial licensees, as well as passing an examination as required by current law.

Licensure and other fees

The bill adjusts the license renewal fees for pharmacists and pharmacy interns to account for biennial registration. It also increases the fees as follows:

--For renewal of a pharmacist's license before it expires, increases the fee to $250 per biennium (from $97 per year);

--For renewal of a license that has expired for less than three years, increases the fee to $250 per biennium plus a late fee of $50 per year or fraction of a year that the renewal is late (from $135 per year).

The bill also increases to $35, from $10, the fee for certifying licensure and grades for reciprocal licensure.

The bill extends an existing fee waiver for active duty members of the U.S. armed forces to the spouses of active duty members.

Other changes

Identification cards and electronic licensure

The bill eliminates a requirement that the Board issue pocket identification cards to pharmacists and pharmacy interns and all provisions related to identification cards, including provisions (1) requiring pharmacists and pharmacy interns to carry the cards while practicing pharmacy and (2) providing for replacement of lost or destroyed cards. Also part of transitioning to electronic licensure, the bill eliminates a requirement that a pharmacist and pharmacy intern display a license at the principal place where the pharmacist or intern practices.

Good moral character

The bill requires the Board to define in rule what it means to be of "good moral character" for purposes of pharmacist and pharmacy intern licensure.

Pharmacy internship program director

The bill eliminates a provision authorizing the Board to appoint a director of its existing pharmacy internship program.

Investigative records and subpoenas

(R.C. 4729.23 and 4729.24)

Investigative records

The bill generally provides that information the Board receives during an investigation of a license holder is confidential, and is not subject to discovery in any lawsuit. Any record that identifies a patient, confidential informant, or individual who files a complaint with the Board or may reasonably lead to the patient's, informant's, or complainant's identification is not a public record under the Public Records Law and is not subject to inspection or copying under disclosure laws that apply to other state-implemented personal information systems.

The bill requires the Board to conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients, confidential informants, and complainants. The Board must not make public the names or any other identifying information of these individuals unless the individual consents or, in the case of a patient, a waiver of the patient privilege exists.

The bill permits the Board, for good cause shown, to disclose or authorize disclosure of information gathered pursuant to an investigation.

On request, the bill also allows the Board to share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other state or federal governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or rules. An agency or board that receives the information must generally comply with the same requirements regarding confidentiality that apply to the Board. Any information the Board receives from a state or federal agency is subject to the same confidentiality requirements as the agency from which it was received and must not be released by the Board without prior authorization from that agency.

The bill's confidentiality provisions also apply to any Board activity that involves continued monitoring of a license holder for substance abuse treatment or recovery purposes as part of or following any disciplinary action the Board takes against a license holder.

Subpoenas

The bill allows the Board, when investigating alleged violations of the Pharmacists and Dangerous Drug Law, to issue subpoenas, take depositions, examine and copy and compel the production of books, accounts, papers, records, documents, and other tangible objects, and compel the attendance of witnesses. If a person fails to comply with a Board-issued subpoena, the Board may apply to the Franklin County Court of Common Pleas for an order compelling the production of persons or records.

Under the bill, a subpoena for patient record information may be issued only with the approval of the Board's Executive Director and President or the President's designee, in consultation with the Attorney General's office. Before issuing the subpoena, the Executive Director and the Attorney General's office must determine whether there is probable cause to believe that (1) the complaint filed alleges, or an investigation has revealed, a violation of the Pharmacists and Dangerous Drug Law, (2) the records sought are relevant to the alleged violation and are material to the investigation, and (3) the records cover a reasonable period of time surrounding the alleged violation.

A subpoena issued by the Board may be served by a sheriff, sheriff's deputy, or a Board employee. A subpoena may be served by delivering a copy of it to the person named in the subpoena or by leaving it at the person's usual residence.

The bill permits the Board to adopt rules in accordance with the Administrative Procedure Act establishing procedures to be followed in issuing subpoenas, including procedures regarding payment for and service of subpoenas.

Unlicensed pain management clinics

(R.C. 4729.552)

Current law authorizes the Board to impose a fine of up to $5,000 on a licensed terminal distributor of dangerous drugs that operates a pain management clinic without a category III terminal distributor of dangerous drugs license with a pain management clinic classification. The bill permits the Board to impose that fine on any person who operates a pain management clinic without the required license, not just a licensed terminal distributor.

OARRS drug database

(R.C. 4729.80, 4729.82, and 4729.86)

Access to database information

Current law authorizes the Board to establish a drug database to monitor the misuse and diversion of controlled substances and other dangerous drugs. The Board's database, known as the Ohio Automated Rx Reporting System (OARRS), is used to provide information about prescription drug use to prescribers and others. In addition to the OARRS information the Board is currently authorized or required to provide, the bill authorizes or requires the Board to provide the following from the database:

(1) Information requested by an agency that licenses health care professionals relating to a government expert witness in an active investigation being conducted by the agency;

(2) Information requested by a judge of a drug court certified by the Ohio Supreme Court relating to a current or prospective participant of a drug court program;

(3) Information requested by the examining coroner, deputy coroner, or coroner's delegate about a deceased person.

The bill also permits the Board to provide a prescriber with a summary of the prescriber's prescribing record if such a record is created by the Board. The summary information is subject to the confidentiality requirements of existing law.

Records of an individual's requests for information

The bill authorizes the Board to provide to a designated representative of the Department of Medicaid records of requests for OARRS information made by a prescriber who is treating or has treated a Medicaid recipient.

Information retention

The bill requires the Board to retain OARRS information and make it accessible to identified persons for at least five years. Current law requires retention for three years. The bill also extends to five years the time after which information identifying a patient must be destroyed, but provides that the Board may retain such information for longer than five years if it considers retention necessary to serve an investigatory or public health purpose.

Medical Marijuana Control Program

Criminal records checks for employees

(R.C. 109.572, 4776.02, and 4776.04)

The bill eliminates several provisions of law related to criminal records check requirements for prospective employees of license holders under the Medical Marijuana Control Program. As a result, it appears that a medical marijuana license holder will no longer be able to determine whether an individual seeking employment with the holder has been convicted of or pleaded guilty to a disqualifying offense.

At present, an individual seeking employment with a medical marijuana license holder must submit to the Bureau of Criminal Identification and Investigation (BCII) a request for a criminal records check. As part of the request, the prospective employee must provide BCII with the name and address of the license holder. After completing the check, BCII must report the results to the license holder. Current law specifically prohibits a medical marijuana license holder from employing an individual if the report demonstrates that the individual has been convicted of or pleaded guilty to a disqualifying offense.[83]

Although the bill maintains the requirement that a prospective employee request a criminal records check, it eliminates the requirement that the employee submit to BCII the license holder's name and address. The bill also eliminates the requirement that BCII report the results to the license holder.

Criminal records checks for license holders

(R.C. 4776.01)

The bill includes the State Board of Pharmacy and Department of Commerce as "licensing agencies" in the general law governing criminal records checks of applicants

[83] R.C. 3796.13, not in the bill.

for licensure in various professions. It specifies that the addition is relative to their authority to issue licenses pursuant to the Medical Marijuana Control Program statutes and any rules adopted under those statutes.

This provision of the bill appears to duplicate an existing law that creates a separate criminal records check procedure for applicants seeking licenses to cultivate, process, test, or dispense marijuana.[84]

[84] R.C. 3796.12, not in the bill.

- Modifies the percentages of funds in the Indigent Defense Support Fund the State Public Defender may use for reimbursing county governments and for the operation of the State Public Defender Office.

- Removes the requirement that a sworn and notarized affidavit of indigency accompany the financial disclosure form for indigent defense.

Indigent Defense Support Fund

(R.C. 120.08)

The bill modifies existing law by specifying that the State Public Defender must use 83% (decreased from 88%) of the money in the Indigent Defense Support Fund for the purposes of reimbursing county governments for expenses incurred for indigent defense and that the State Public Defender may not use more than 17% (increased from 12%) of the money in the Fund for the purposes of appointing assistant state public defenders, providing other personnel, equipment, and facilities necessary for the operation of the State Public Defender office, and providing training, developing and implementing electronic forms, or establishing and maintaining an information technology system.

Affidavit of indigency

(R.C. 120.33, 120.36, and 2941.51)

The bill removes the existing requirement that a sworn and notarized affidavit of indigency accompany the financial disclosure form completed by an indigent person when seeking counsel for public defense.

- Establishes the following new funds:

  --The Public Safety Highway Patrol Custodial Fund, consisting of all money seized during investigations or other enforcement activities of the Highway Patrol (except as otherwise provided below);

  --The Ohio Investigative Unit Contingency Fund, consisting of all money seized during investigations or other enforcement activities of the Department of Public Safety Investigative Unit prior to January 1, 2017; and

  --The Ohio Investigative Unit Custodial Fund, consisting of all money seized during investigations or other enforcement activities of the Department of Public Safety Investigative Unit on and after January 1, 2017.

Public safety funds related to seizures of money

(R.C. 4501.07 and 5502.1321)

The bill establishes three new funds, which consist of money seized by the Highway Patrol or the Department of Public Safety Investigative Unit during investigations or other enforcement activities. The money must be held by the Treasurer of State but is not part of the state treasury, and must be transferred upon the resolution of legal proceedings under the forfeiture law. According to representatives of the Department of Public Safety, this is a codification of current practice. The new Funds created by the bill are as follows:

New public safety funds	
Name	**Source**
Public Safety Highway Patrol Custodial Fund	All money seized during investigations or other enforcement activities of the Highway Patrol (except as otherwise provided below)
Ohio Investigative Unit Contingency Fund	All money seized during investigations or other enforcement activities of the Department of Public Safety Investigative Unit prior to January 1, 2017
Ohio Investigative Unit Custodial Fund	All money seized during investigations or other enforcement activities of the Department of Public Safety Investigative Unit on and after January 1, 2017

PUBLIC UTILITIES COMMISSION

Power Siting Board law changes

- Includes as a "major utility facility" an electric transmission line and associated facilities with a design capacity of 100 kilovolts or more (125 kilovolts or more is the existing law requirement).

- Eliminates the two-year initial operation period during which the Ohio Environmental Protection Agency (OEPA) monitors and enforces compliance by newly certificated electric generating major utility facilities with OEPA law.

- Eliminates from the Power Siting Board law those provisions stating that a major utility facility (1) is under OEPA continuing jurisdiction and (2) must comply with all laws, rules, and standards regarding air and water pollution and solid and hazardous waste disposal laws.

- Limits a public agency or political subdivision from requiring approval, consent, a permit, a certificate, or any other condition for the operation of a major utility facility or an economically significant wind farm (under current law the limit is imposed only on initial operation).

Transportation of hazardous materials

- Eliminates the uniform registration and permitting of the transportation of hazardous materials by the Public Utilities Commission (PUCO) and makes conforming changes.

- Requires a person to file an annual registration statement with, and pay an annual registration fee to, the U.S. Department of Transportation in order to transport hazardous waste in Ohio, rather than requiring such persons to obtain a uniform permit from PUCO.

- Eliminates the requirement that PUCO use a system for determining forfeitures that may be imposed on transporters of hazardous material or hazardous waste that is comparable to the recommendations of the Commercial Vehicle Safety Alliance.

Transportation of household goods

- Eliminates several requirements with which PUCO must comply when setting the application fees for a certificate for the transportation of household goods.

Modification of lifeline telephone service

- Eliminates the requirements that lifeline service be touch-tone, flat-rate, and for a primary line.

- Reconciles the eligibility for lifeline service provision that is based on household income to federal rules, effectively lowering the income threshold from 150% of the federal poverty level to 135%.

- Reduces from 60 days to 30 the time a customer has, after receiving a lifeline service termination notice, to submit documentation of continued eligibility or to dispute the termination.

Electric distribution system innovations

- Revises the state competitive retail electric services policy to include researching and implementing technological and regulatory innovations in the electric distribution system.

- Requires PUCO to research the latest technological and regulatory innovations for the electric distribution system.

- Permits PUCO to examine any resulting research work product and issue a report summarizing its findings and recommending a course of action to implement cost-effective distribution system innovations.

Power Siting Board law changes

The bill makes changes to the Power Siting Board (PSB) law governing the certification and operation of major utility facilities and the regulation of such facilities and economically significant wind farms.

Major utility facility expansion

(R.C. 4906.01)

The bill expands what type of "major utility facility" is subject to PSB certification. Under the bill, an electric transmission line and associated facilities with a design capacity of 100 kilovolts or more is included as a major utility facility. Under existing law, the threshold is 125 kilovolts or more.

PSB law changes and OEPA oversight

(R.C. 4906.10)

The bill also eliminates from PSB law certain provisions regarding the initial operation period and Ohio Environmental Protection Agency (OEPA) oversight of major utility facilities.

Initial operation period

The bill eliminates the initial two-year operation period during which the OEPA enforces and monitors compliance by newly certificated facilities with Ohio's air and water pollution laws and laws governing solid and hazardous waste disposal. Despite this change, the bill does not amend OEPA law to remove OEPA monitoring and enforcement duties regarding those laws

With respect to the initial operation period elimination, the bill also repeals provisions permitting a facility to apply to OEPA for a conditional operating permit if it fails to meet all applicable air pollution requirements. The eliminated language provides that the application is to be made under continuing OEPA law. The bill, however, does not amend that continuing OEPA law to exclude newly certificated facilities from applying, with the result that such application may still be made, despite the bill's changes.[85] In fact, the bill does not change the continuing law requirement that certificates are conditioned on compliance with Ohio's air and water pollution laws and laws governing solid and hazardous waste disposal.

The bill also repeals the provision stating that "a major utility facility in compliance with a conditional operating permit is not in violation of its certificate."

OEPA continuing jurisdiction

The bill also eliminates from the PSB law the provision that after the initial operation period, a major utility facility is (1) under the OEPA's jurisdiction and (2) must comply with all laws, rules, and standards regarding air and water pollution and solid and hazardous waste disposal. The bill does not, however, repeal those laws, rules, and standards, which, presumably, would still apply to such a facility.

Major utility facility certification background

Under continuing law, before construction and operation can begin on any major utility facility, the PSB must issue a certificate to the facility.[86] The certificate is

[85] R.C. 3704.03(G), not in the bill.

[86] R.C. 4906.04, not in the bill.

conditioned on compliance with conditions imposed by the PSB and other standards and rules, including the air and water pollution laws and laws governing solid and hazardous waste disposal.

Major utility facility/economically significant wind farm operation

(R.C. 4906.13)

The bill provides that no public agency or political subdivision may require approval, consent, permit, certificate, or other condition for the operations of a major utility facility or an economically significant wind farm (a wind farm that has an aggregate capacity of more than 5, but less than 50, megawatts). Current law places this limitation only on the *initial* operation of such a facility or wind farm.

Transportation of hazardous materials

(R.C. 3734.15, 4905.02, 4921.01, 4921.19, 4921.21, 4923.02, and 4923.99; repealed R.C. 4921.15 and 4921.16)

The bill eliminates the provisions of current law related to the uniform registration of, and issuance of permits to, persons who transport hazardous materials into, within, or through Ohio. Specifically, the bill eliminates the authority of the Public Utilities Commission (PUCO) to adopt rules for registering and issuing permits for the transportation of hazardous materials and the authority to enter into agreements with other states and the national repository established under the federal Hazardous Materials Transportation Uniform Safety Act of 1990 to ensure that permits and fees are handled uniformly. The bill eliminates existing related requirements, including the process for appealing orders of PUCO with regard to a uniform permit, the classification of information disclosed as part of the registration process as a public record or exempt record, and the fees for a uniform registration and permit.

The bill also prohibits the transportation of hazardous waste in Ohio unless the transporter has filed an annual registration statement with, and paid an annual registration fee to, the U.S. Department of Transportation in accordance with federal rules. Current law prohibits the transportation of hazardous waste unless the transporter has registered with and obtained a uniform permit from PUCO in accordance with the provisions of current law that are eliminated by the bill.

According to PUCO, a uniform hazardous materials transportation system has not been adopted by every state. Thus, under current law, hazardous waste carriers are required to comply with both Ohio requirements and federal requirements established by the federal Pipeline and Hazardous Materials Safety Administration.

Lastly, the bill eliminates the requirement that, when determining the amount of a forfeiture for a violation committed by a transporter of hazardous material or hazardous waste that was discovered during a motor vehicle inspection or compliance review, PUCO must use a system that is comparable to the recommendations of the Commercial Vehicle Safety Alliance (CVSA). According to the Commission, the CVSA fine schedules have been discontinued. PUCO still must comply with requirements of the U.S. Department of Transportation, use the standard of culpability established under the federal Hazardous Materials Transportation Uniform Safety Act of 1990, and use the assessment considerations for civil penalties established under the federal Hazardous Materials Transportation Act.

Transportation of household goods

(R.C. 4921.19)

The bill eliminates several requirements with which the Public Utilities Commission must comply when establishing the application fees for a certificate for the transportation of household goods. Under current law, unchanged by the bill, the application fee must be based on the certificate holder's gross revenue in the prior year for the intrastate transportation of household goods. However, the bill eliminates the provisions of current law that require the Commission to do all of the following:

(1) Establish ranges of gross revenue and the fee for each range;

(2) Set the fees in amounts sufficient to carry out the duties of the Commission with regard to the regulation of the transportation of household goods and the enforcement of requirements;

(3) Make changes to the fee structure as necessary to ensure that neither over or under collection of fees occurs; and

(4) Take into consideration the revenue generated from the assessment of forfeitures.

Modification of lifeline telephone service

(R.C. 4927.13)

The bill makes several changes to the lifeline telephone service program. First, the bill eliminates the requirements that the service be touch-tone, flat-rate, and for a primary line. Lifeline would continue to require monthly access service at a recurring discount to the monthly basic local exchange service rate.

Next, the bill changes one of the paths for eligibility, by removing the maximum income threshold established in Ohio law, which is 150% of federal poverty level, and replacing it with the threshold established by federal rules. Presently the rules establish the threshold at 135%. In practical terms, this restricts eligibility. For example, it lowers the maximum income for a family of 4 from $36,900 to $33,210.[87] However, continuing law also permits eligibility if the customer participates in any federal or state low-income assistance program. The PUCO has specified in rules that Medicaid, SNAP/food stamps, SSI, SSDI, section 8 housing, home energy assistance programs, the free school lunch program, TANF, and general or disability assistance all qualify for lifeline eligibility.[88]

Finally, the bill reduces the number of days, from 60 to 30, a customer has to respond to a lifetime service termination notice. During that time, a customer may submit acceptable documentation proving continued eligibility or dispute the carrier's findings regarding the termination.

Electric distribution system innovations

(R.C. 4928.02; Section 749.10)

State competitive retail electric services policy

The bill amends the state competitive retail electric services policy to include researching and implementing technological and regulatory innovations in the electric distribution system. The bill specifies that distributed energy resources, such as battery storage; advanced metering infrastructure; distribution automation; sensors; controls; data exchange and use; and associated electric rate design may be included as subjects for research and implementation. Current law includes several provisions within the state competitive retail electric service policy, one of which is the policy to ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service.

Electric distribution system innovations

Under the bill, PUCO must explore the latest technological and regulatory innovations for the electric distribution system. Research may be in whatever format PUCO considers appropriate and may include the following:

- Distributed energy resources, including battery storage;

[87] The calculations are based on 2017 U.S. Department of Health & Human Services guideline figures, available at https://aspe.hhs.gov/poverty-guidelines.

[88] O.A.C. 4901:1-6-19(H)(1).

- Advanced metering infrastructure;
- Electric distribution automation, sensors, controls, and data exchange and use;
- Associated electric rate design;
- Any other available technological and regulatory innovations, including those developed in the future.

The bill permits PUCO, after completion of the research and if it finds it necessary, to examine any resulting work product and issue a report. The report may summarize major findings and recommend a course of action to implement cost-effective distribution system innovations.

- Modifies the distribution of certain moneys paid to the Tax Commissioner by horse racing permit holders in order to correct an error.

Quarterhorse wagering tax distribution

(R.C. 3769.087)

The bill modifies the distribution of certain moneys paid to the Tax Commissioner by horse racing permit holders in order to correct an error made in H.B. 64 of the 131st General Assembly. Specifically, the bill reduces by one-twelfth the amount of additional moneys paid to the Tax Commissioner by *thoroughbred* racing permit holders that must be paid into the Ohio Thoroughbred Race Fund and requires that one-twelfth of the moneys paid to the Tax Commissioner by *quarterhorse* racing permit holders be paid into the Fund. Current law allocates thirteen-twelfths of certain thoroughbred racing permit holder's moneys paid to the state and only eleven-twelfths of quarterhorse racing permit holder's funds.

DEPARTMENT OF REHABILITATION AND CORRECTION

Community-based correctional facility reporting

- Requires specified community-based correctional facilities to file an annual financial report, rather than the Department of Rehabilitation and Correction (DRC) filing quarterly financial reports, to the State Auditor.

Location of imprisonment for commission of a felony

- Prohibits a person who is sentenced to a prison term that is 12 months or less for a fifth degree felony, other than specified crimes, from serving the prison term in an institution under the control of DRC.

- Specifies the types of facilities where the person will serve that sentence.

Probation Improvement and Probation Incentive Grants

- Specifies what must be included in the rules adopted by DRC regarding the distribution of the Probation Improvement Grant.

- Requires that the costs savings estimate calculated by DRC be based on the average of such commitments from the five calendar years immediately preceding the calendar year in which the grant application was made and the fiscal year under examination.

Certificates of qualification for employment

- Permits an out-of-state resident with an Ohio conviction record to apply for a certificate of qualification for employment (CQE) through the court of common pleas in any county where a conviction was entered against the person.

- Permits DRC to develop criteria that would allow an individual to apply for a CQE earlier than otherwise.

- Removes the requirement that an applicant for a CQE list the specific collateral sanctions from which the individual is seeking relief, and instead requires the applicant to provide a general statement as to why the individual has applied and how the CQE would assist the individual.

- Provides that a CQE creates a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for employment or a professional license.

- Directs DRC to maintain a database that identifies granted and revoked CQEs and the jobs and types of employers to which the CQEs have been most applicable, and requires DRC to annually create a publicly available report summarizing the information maintained in the database.

- Requires DRC to review its database of certificates issued to identify those that are subject to revocation, and to note in the database that the CQE has been revoked, the reason for revocation, and the effective date of the revocation.

Earned credit for completion of high school education in prison

- Provides an incarcerated person 90 days of earned credit toward satisfaction of the person's prison term upon successful completion of a high school diploma or certification of high school equivalence certified by the Ohio Central School System.

Division of Business Administration

- Allows the Division of Business Administration within DRC to use excess funds in the Property Receipts Fund for specified purposes if, after meeting the required expenditure obligations, the Division determines that the Fund has excess funds.

Community-based correctional facility reporting

(R.C. 2301.56)

The bill requires each community-based correctional facility and program, district community-based correctional facility and program, and, to the extent that information is available, private or nonprofit entity that performs the day-to-day operation of any community-based correctional facility and program or district community-based correctional facility and program to prepare and provide to the State Auditor an annual financial report in accordance with R.C. 117.38 (requirements for filing an annual financial report with the State Auditor). Existing law requires the Department of Rehabilitation and Correction (DRC) to prepare and provide to the State Auditor quarterly financial reports for each of the above-described correctional facilities and programs. Each report must cover a three-month period and must be provided to the State Auditor not later than 15 days after the end of the period covered by the report.

Location of imprisonment for commission of a felony

(R.C. 2929.34)

The bill modifies existing law by providing that a person who is convicted of or pleads guilty to a felony other than aggravated murder, murder, or an offense punishable by life imprisonment and who is sentenced to a term of imprisonment or a prison term pursuant to that conviction generally must serve that term in an institution under the control of DRC if the term is a prison term *of more than 12 months*. Under the bill, on and after July 1, 2018, no person sentenced to a prison term that is 12 months or less for a fifth degree felony must serve that term in an institution under the control of DRC. The person must instead serve the sentence as a term of confinement in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, in a community alternative sentencing center or district community alternative sentencing center, or a community-based correctional facility.

This provision does not apply to any person to whom any of the following apply:

(1) The fifth degree felony was an offense of violence, a sex offense, or any offense for which a mandatory prison term is required.

(2) The person previously has been convicted of or pleaded guilty to any felony offense of violence.

(3) The person previously has been convicted of or pleaded guilty to any felony sex offense.

Probation Improvement and Probation Incentive Grants

(R.C. 5149.311)

The bill modifies existing law by providing that DRC establish and administer the probation improvement grant and the probation incentive grant for common pleas, municipal, and county court probation departments that supervise offenders sentenced by courts of common pleas, municipal courts, *or county courts.* The bill also requires that the rules DRC adopts for the distribution of the probation improvement grant include the allocation of funds for the purpose of offsetting costs incurred by political subdivisions in relation to offenders who are prohibited from serving the term of imprisonment in an institution under the control of DRC pursuant to R.C. 2929.34(B)(3)(a).

The bill modifies the requirement that DRC calculate annually any cost savings realized by the state from a reduction in the percentage of people who are incarcerated

because their terms of supervised probation were revoked. Instead of the cost savings estimate being based on the difference from FY 2010 and the fiscal year under examination, the estimate will be based on the average of such commitments from the five calendar years immediately preceding the calendar year in which the application for the grant was made and the fiscal year under examination.

Certificates of qualification for employment

(R.C. 2953.25)

The bill makes several changes to the procedure for obtaining a certificate of qualification for employment (CQE). A CQE lifts the automatic bar to certain forms of employment resulting from a conviction, so that a decision-maker must consider on a case-by-case basis whether to hire an applicant for employment or issue an occupational license.

CQE application process

The bill permits an out-of-state resident to apply for a CQE by filing a petition with the court of common pleas in any county where the conviction or guilty plea from which the individual seeks relief was entered, or with a designee of the deputy director of the DRC division of parole and community services. To conform with this change, the bill provides that an application must state the length of time the applicant has resided in the person's current state of residence, rather than the applicant's time residing in this state.

The bill permits DRC to establish criteria by rule that would allow an individual to apply for a CQE before the expiration of six months or one year from final release from incarceration or supervision, whichever applies. Under current law, a person may only apply for a CQE after six months from the date of release if the conviction was for a misdemeanor, or one year after release if the conviction was for a felony.

The bill removes the current requirement that an applicant for a CQE list the specific collateral sanctions from which the individual is seeking relief, and instead requires the applicant to provide a general statement as to why the individual has applied and how the CQE would assist the individual. Additionally, the bill removes a provision that prohibits a court from issuing a CQE that grants relief from certain collateral sanctions, and instead specifies that a CQE does not create relief from those sanctions.

Effect of CQE on employment and licensing

Under the bill, a CQE creates a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for the license, employment opportunity, or certification in question. However, notwithstanding that presumption, the agency may deny the license or certification if it determines that the person is unfit for issuance of the license. A similar presumption applies if an employer has hired a person with a CQE and applies to a licensing agency for a license or certification that otherwise would be barred due to the person's conviction record. The CQE constitutes a rebuttable presumption that the person's criminal convictions are insufficient evidence that the employer is unfit for the license or certification in question.

DRC database of certificates issued and revoked

The bill directs DRC to maintain a database that identifies granted and revoked CQEs and the jobs and types of employers to which the CQEs have been most applicable. It requires DRC to annually create a publicly available report summarizing the information maintained in the database, and to make the report available on DRC's website.

The bill requires DRC to revoke a CQE if the individual is convicted of or pleads guilty to a felony offense after receiving the CQE. DRC must periodically review its database to identify certificates that are subject to revocation. Upon identifying a CQE subject to revocation, DRC must note in the database that the CQE has been revoked, the reason for revocation, and the effective date of revocation. The effective date of revocation is considered the date of the conviction or guilty plea that occurred after issuance of the CQE.

Earned credit for completion of high school education in prison

(R.C. 2967.193(A)(2))

The bill allows an incarcerated person to receive 90 days of earned credit toward completion of the person's stated prison term by earning an Ohio high school diploma or certificate of high school equivalence certified by the Ohio Central School System. For this purpose, the bill creates an exception to current law, which caps the aggregate days of credit an offender may earn at 8% of the total number of days in the person's stated prison term. The bill also permits the 90 days of earned credit without regard to the type of offense that led to the person's confinement. Under existing law, unchanged

by the bill, the Ohio Central School System must provide education programs to all correctional institutions under DRC's control.[89]

Division of Business Administration

(R.C. 5120.22)

Existing law requires the Division of Business Administration within DRC to deposit all money collected for rent, utilities, and leasing and services performed in accordance with a lease or agreement into the Property Receipts Fund. The bill provides that if, after meeting the expenditure obligations required by law, the Division determines that the Property Receipts Fund has excess funds, the Division may use money in the Fund for services performed, construction, maintenance, repair, reconstruction, or demolition of any other facilities or property owned by DRC.

[89] R.C. 5145.06(A), not in the bill.

- Increases the fee to apply to register as a sanitarian-in-training and the fee for a sanitarian-in-training to apply to register as a sanitarian from $80 to $120.

- Increases the registration renewal fee for registered sanitarians and sanitarians-in-training from $90 to $105.

Sanitarian registration fees

(R.C. 4736.12)

The bill increases sanitarian registration fees charged by the State Board of Sanitarian Registration as follows:

Type of fee	Fee amount under current law	Fees amount under the bill
Fee to apply to register as a sanitarian-in-training	$80	$120
Fee for a person already registered as a sanitarian-in-training to apply to register as a sanitarian	$80	$120
Renewal fee for registered sanitarian	$90	$105
Renewal fee for sanitarian-in-training	$90	$105

DEPARTMENT OF TAXATION

Income taxes

- Reduces the income tax rates applicable to individual nonbusiness income, trusts, and estates for tax years beginning in 2017 and thereafter.

- Reduces the number of income tax brackets for individual nonbusiness income, trusts, and estates from nine to four.

- Increases the personal and dependent exemption amounts from $2,250 to $3,000 for taxpayers with Ohio adjusted gross income (OAGI) of $40,000 or less and from $2,000 to $2,500 for taxpayers with OAGI between $40,000 and $80,000.

- Suspends the annual inflation indexing adjustment of income tax brackets and personal exemption amounts for taxable years beginning in 2017 or 2018.

- Extends eligibility for the low-income credit, which functions as a full exemption for low-income taxpayers, to all individuals and joint filers whose OAGI is $15,000 or less.

- Repeals the credit for contributions to political campaigns.

- Prescribes the manner in which school district income tax applies to a school district resulting from the consolidation of territory of two or more districts.

- Transfers the responsibility for collecting and administering municipal income taxes on business income, other than the income of sole proprietors, from individual municipal corporations to the Department of Taxation, beginning in 2018.

- For businesses that will file municipal income tax returns with the Department, preserves the current computation of taxable income except for removing the "throw-back rule" used in determining what amount of a business' income is apportioned to a particular municipal corporation.

- Decreases, from three to one, the number of municipal tax administrator representatives that the Governor may appoint to the Ohio Business Gateway Steering Committee.

- Eliminates reimbursement to the Department for the cost of administering the six income tax refund contribution check-offs.

- Reduces the Tax Commissioner's role in distributing revenue derived from the Ohio political party fund income tax check-off.

Sales and use taxes

- Increases the state sales and use tax rate from 5.75% to 6.25% beginning October 1, 2017.

- Subjects cosmetic surgery, lobbying services, repossession services, cable television services, landscape design services, interior design and decorating services, and travel services to sales and use tax.

- Provides payments to counties and transit authorities to mitigate their revenue loss resulting from the termination of all sales taxes on health care services provided by Medicaid health insuring corporations under contracts with the state.

- Prescribes the manner by which county auditors issue sales tax vendor's licenses.

- Requires certain sales and use tax information to be published on the Department's website.

- Allows reinstatement of a vendor's sales tax license that was suspended for the vendor's repeated failure to report or pay sales tax only if the vendor reports and remits not only delinquent sales taxes, but delinquent income tax required to be withheld from its employees' wages.

- Authorizes the Tax Commissioner to suspend a vendor's sales tax license for the vendor's repeated failure to report or pay its employees' income tax withholdings.

- Modifies rules for situsing sales and use tax for direct mail – i.e., for determining the proper taxing jurisdiction for material that is mass mailed to predetermined recipients.

- Changes a reporting date relative to businesses subject to a gross receipts tax levied in a tourism development district.

Severance tax

- Replaces an existing volume-based oil and gas severance tax and cost recovery assessment with a new severance tax based on the market value and volume, and credits all revenue from the new tax to the General Revenue Fund.

- Replaces a severance tax exemption for resources used to improve the severer's homestead with an exemption for natural gas produced by an "exempt domestic well," but continues to subject the owners of most such wells to a $60 annual fee.

- Transfers severance tax permitting responsibilities from the Department of Taxation to the Department of Natural Resources (DNR).

- Adjusts the due dates of severance tax returns.

- Requires severance tax revenue to be credited to funds on a monthly, rather than quarterly, basis.

- Limits the authority of DNR to disclose severance tax information received by the Tax Commissioner.

Excise taxes

Cigarettes and other tobacco products

- Increases the rate of the cigarette excise tax from $1.60 per pack to $2.25 per pack.

- Increases the rate of the excise tax levied on tobacco products other than cigarettes and little cigars from 17% (37% in the case of little cigars) to 69% of such products' wholesale price.

- Specifies a maximum tax that may be imposed on "specialty cigars," at the rate of $2 per cigar.

- Permanently fixes the discount provided to cigarette dealers as consideration for affixing tax stamps to cigarette packages at 2.25¢ per pack.

- Eliminates the 2.5% discount to which a seller or distributor is entitled for timely remitting excise taxes for tobacco products other than cigarettes.

- Requires that cigarette tax returns be filed monthly instead of semiannually.

Vapor products

- Levies an excise tax on the distribution, sale, or use of nicotine vapor products at a rate of 69% of the invoice price paid by the first person to receive the product in Ohio.

- Specifies that the taxable price of gratis or free tobacco or vapor products is the greater of the wholesale price computed for a transaction involving the same product in the preceding 30 days, or the manufacturer's list price.

Alcoholic beverages

- Increases the alcoholic beverage excise tax rate on beer, wine, vermouth, mixed drinks, and cider and decreases the tax on sparkling wine and champagne, beginning July 1, 2017.

- Decreases an exemption from the beer excise tax for the first 9,300,000 gallons sold or distributed annually by a permit holder to the first 310,000 gallons of such beer.

- Exempts from alcoholic beverage excise tax the first 310,000 gallons of cider sold or distributed annually by a permit holder.

- Eliminates requirement to make advance payments of beer excise tax, thus removing the 3% discount for timely making such payments.

- Eliminates a 3% discount for timely reporting and remitting tax on wine, cider, and mixed drinks.

- Changes the due date for reporting and remitting tax on wine, cider, and mixed drinks.

Petroleum activity tax

- Clarifies the deadline by which a person newly subject to the petroleum activity tax must apply for a supplier's license and stipulates an annual expiration date for all such licenses.

Commercial activity tax

- Narrows the interest income exclusion for the commercial activity tax (CAT) so that interest on loans made in the normal course of business is included in taxable gross receipts.

- Ensures that at least 10% of the receipts derived by a taxpayer from property shipped through "qualified distribution centers" (i.e., certain large warehouse transshipment or metal refining facilities) are taxable.

Property taxation

- Authorizes a multi-county health district board to propose property tax levies directly to the voters of the district to pay the district's expenses.

- Revises the procedure for appealing a county board of revision's determination on an application for remission of property tax or manufactured home tax penalties.

- Requires that exemption applications for state university property be approved or disapproved by the Tax Commissioner rather than the county auditor.

- Extends the deadline by which a county or municipality must petition for the Director of Development Services to approve its designation of a community reinvestment area.

- Eliminates several superfluous provisions in current law pertaining to the property tax exemption for burial grounds.

Tax credits

- Requires that every main biennial budget bill include detailed estimates of the state revenue that will be foregone due to certain "business incentive" tax credits in the current biennium and future biennia.

- Modifies the $10 million annual cap on the New Markets Tax Credit to be a limit on the amount of credits that may be approved per year, rather than a limit on the amount of credits that taxpayers may claim each year.

- Provides that, when a taxpayer holds a tax credit certificate demonstrating the taxpayer's eligibility for a tax credit, the taxpayer must automatically submit the certificate to the Tax Commissioner when claiming the credit, rather than providing the certificate only upon the Commissioner's request.

- Modifies the crediting and use of fees charged by the Development Services Agency (DSA) to administer certain tax incentive programs.

Tax administration

- Generally authorizes the Department of Taxation, the Treasurer of State, and certain county officials to deny or revoke a license if certain prohibited acts are performed in relation to an application to approve or renew the license.

- Specifies that, before approving a retail tire dealer or wholesale tire distributor registration, motor fuel dealer license, or tobacco product distributor license, the Tax Commissioner must confirm that the applicant is not delinquent in paying any tax administered by the Commissioner.

- Requires that, in addition to delinquent sales and income withholding taxes, the Commissioner must notify the Division of Liquor Control when a liquor permit holder is delinquent in paying most other types of state taxes.

- Specifically authorizes the Department to disclose such information to the Division of Liquor Control.

- Transfers from the Treasurer of State to the Tax Commissioner the collection and refund responsibilities for the public utility excise tax.

- Allocates all revenue from fees paid to have various pollution control or energy conversion facilities certified for property tax and sales and use tax exemptions to the appropriate state oversight agency – either EPA or DSA.

- Applies a $1 minimum payment and refund floor for fees administered by the Tax Commissioner.

- Clarifies that underpayments of sales tax-related charges accrue statutory interest until remedied or assessed.

- Reduces from two to one the number of times each year that county auditors and treasurers are required to distribute estate tax revenue.

Local Government Fund and other revenue distributions

Local Government Fund

- Modifies the formula for distributing money in the Local Government Fund (LGF) to local governments.

- Makes permanent a monthly $1 million set-aside of LGF funds for villages with a population of less than 1,000 and for townships.

- Requires that, after the monthly set-aside, the majority of LGF funds be distributed based on each county LGF's share of the total amount distributed from the LGF in 2017, and that the remainder be distributed directly to local governments based on their population and tax-raising capacity.

- Freezes the direct payments to municipal corporations required, under current law, to be made between July and December of 2017 at 2016 levels, and eliminates such payments beginning in 2018.

- Requires county auditors to report to the Tax Commissioner the LGF amounts distributed to each political subdivision in the previous year, and allows the Commissioner to withhold future LGF payments if the county does not report the required information.

Public Library Fund

- Returns the Public Library Fund's share of GRF revenue to 1.66% after the temporarily higher percentage of 1.70% in the FY 2016-2017 biennium.
- Increases the share of commercial activity tax revenue credited to the General Revenue Fund and decreases the share allocated to reimburse school districts and other local taxing units for the loss of tangible personal property taxes.

Income taxes

Tax rates and brackets

(R.C. 5747.02)

The bill reduces income tax rates and the number of income tax brackets for individual nonbusiness income, trusts, and estates from nine to four. Under continuing law, state income tax on nonbusiness income is imposed via tiered tax rate brackets with increasingly greater rates assigned to higher income brackets. Currently there are nine brackets; there are four under the bill. Rates are reduced over two years. The following table summarizes the bill's changes to the income tax rates and brackets.

Income Tax Rates for Nonbusiness Income and Estates and Trusts				
Current Brackets	**2016 Rates**	**Proposed Brackets**	**2017 Rates**	**2018 Rates**
$0 - $5,000	0.495%	$0 - $10,000	0.5%	0.456%
$5,000 - $10,000	0.990%			
$10,000 - $15,000	1.980%	$10,000 - $25,000	1.5%	1.367%
$15,000 - $20,000	2.476%			
$20,000 - $40,000	2.969%	$25,000 - $100,000	3.25%	2.963%
$40,000 - $80,000	3.465%			
$80,000 - $100,000	3.960%			
$100,000 - $200,000	4.597%	$100,000 - $200,000	4.25%	3.874%
Over $200,000	4.997%	Over $200,000	4.75%	4.330%

The bill's changes to the income tax rates and brackets have no effect on individual business income, which is taxed at a flat rate of 3% after a $250,000 deduction ($125,000 for spouses filing separate returns).

Personal exemption increase for lower income taxpayers

(R.C. 5747.025)

Continuing law allows an income tax taxpayer to claim a personal exemption for the taxpayer, the taxpayer's spouse (if the spouses do not file separately), and the taxpayer's dependents. The amount of the exemption depends on the taxpayer's Ohio adjusted gross income (OAGI), as reported on the taxpayer's individual or joint annual return. Lower OAGI taxpayers are eligible for a greater exemption amount than higher OAGI taxpayers.

For taxable years beginning in 2017 and thereafter, the bill increases the personal exemption amount available to taxpayers with an OAGI of $80,000 or less, as reported on the taxpayer's individual or joint annual return. The following table outlines current personal exemption amounts and the amounts proposed under the bill (the current amounts reflect the $50 inflation adjustment for 2016, which is not reflected in the statute):

Ohio adjusted gross income	Current personal exemption amount (2016)	Proposed personal exemption amount
$40,000 or less	$2,250	$3,000
$40,001 to $80,000	$2,000	$2,500
$80,001 or more	$1,750	$1,750

Under current law, the exemption amounts are adjusted upward by at least $50 each year to account for general price inflation. The bill suspends such adjustments for taxable years beginning in 2017 or 2018.

Bracket and exemption indexing suspension

(R.C. 5747.02 and 5747.025)

Continuing law requires the Tax Commissioner to annually adjust the income tax brackets and personal exemption amounts for inflation, as measured by the percentage by which the federal gross domestic product deflator increased during the calendar year. The bill suspends these adjustments for taxable years beginning in 2017 or 2018. Consequently, the income tax brackets and exemption amounts prescribed by the bill would apply through 2018. The indexing is scheduled to resume for taxable years beginning in 2019 or thereafter.

Low-income credit

(R.C. 5747.056)

The bill extends eligibility for the low-income credit to all taxpayers whose OAGI is $15,000 or less. Currently, the credit may be claimed only by taxpayers whose OAGI is $10,000 or less. The amount of the credit is also changed by the bill to account for expanded eligibility. Under current law, the credit equals $88. Under the bill, the credit equals the amount otherwise due on the taxpayer's return. Since the credit is nonrefundable, and $88 exceeds the tax otherwise due on $10,000 in taxable income under the current rates, the net result is the same – taxpayers eligible for the low-income credit are completely exempted from state income tax.

The bill also clarifies that the low-income tax credit is granted on the basis of the income reported on either an individual or joint return.

Repeal political contribution credit

(R.C. 5747.29 and 5747.98; Section 803.200)

The bill repeals a personal income tax credit for monetary contributions to a candidate running for statewide executive or judicial office or for the General Assembly or State Board of Education. Under current law, this nonrefundable credit equals the lesser of the amount of an individual's combined contributions or $50. For joint filers, the credit equals the lesser of the amount of combined contributions or $100. The credit may no longer be claimed for taxable years beginning after 2016.

School district income tax in consolidated districts

(R.C. 3311.27 and 5748.10)

Continuing law prescribes various procedures by which some or all of the territory of a school district may be merged or joined with or transferred to another school district ("school district consolidation"). The bill specifies that, following a school district consolidation, school district income tax is levied throughout the combined district's territory at the rate and according to the other terms in effect for the "surviving" school district gaining the territory. Current law does not explicitly prescribe the manner in which existing school district income taxes apply after a school district consolidation.

The bill also requires the school board of the surviving school district to report certain tax-related information to the Tax Commissioner within 90 days before a school district consolidation takes effect. Specifically, the school board is required to identify

that effective date and each school district that is a party to the consolidation, including the rate of income tax levied by each district after that effective date, if any.

State administration of municipal income taxes on business income

(R.C. 718.01, 718.02, 718.04, 718.05, 5703.57, 5718.01, 5718.02, 5718.04, 5718.041, 5718.05, 5718.051, 5718.06, 5718.07, 5718.08, 5718.10, 5718.12, 5718.13, 5718.15, 5718.19, 5718.23, 5718.24, 5718.27, 5718.35, 5718.41, 5718.97, and 5718.99, with conforming changes in R.C. 113.061, 709.023, 715.691, 715.70, 715.71, 715.72, 718.27, 718.41, 5701.11, 5703.052, 5703.053, 5703.19, 5703.21, 5703.50, 5703.57, 5703.70, and 5703.90; repealed R.C. 718.06; Section 803.10)

The bill transfers the responsibility for collecting and administering municipal income taxes on business income from individual municipalities to the state. Under the bill, rather than submitting separate tax returns to different municipalities based on where a business' income is earned, the business would submit a single tax return to the Department of Taxation covering all of the business' income. The Department would collect the taxes and distribute the revenue among municipalities.

The shift applies to the income of all businesses, other than sole proprietors and other single-member entities owned by one individual, beginning in 2018. It also applies to estates and trusts that have business income to the extent it is taxable by a municipal corporation. Under the bill, a municipality would continue to administer its tax on the income of individuals, including sole proprietors and such single-member entities. Each municipality would still control the rate of its tax on business income, and whether any business credits are allowed against that municipality's tax. As under current law, municipalities retain their authority to tax residents' distributive shares of pass-through entity (PTE) income. Taxes that accrued for taxable years that began before January 1, 2018, would still be administered by each municipal corporation.

Comparison to current law

The bill preserves most of current law's provisions governing the calculation of a business' taxable income, filing and payment requirements, and the issuance of assessments and refunds, but moves those provisions to a new statutory chapter – R.C. Chapter 5718. The main differences between the bill and current law are as follows:

- The bill requires the Tax Commissioner, rather than a municipality's tax administrator, to perform all of the duties related to the administration of the tax.

- The bill removes the "throw-back rule" used in apportioning the income of businesses subject to R.C. Chapter 5718. This provision is discussed in further detail below.

- Business entities, unlike individuals, would no longer be required to deduct net operating losses incurred before 2017 before deducting those incurred later.

- Under current law, annual tax returns are due on the 15th day of the fourth month after the end of the taxpayer's taxable year. The bill specifies a due date of April 15 of the calendar year after the calendar year in which the taxpayer's taxable year ended. (This change only affects taxpayers with a taxable year that does not end on December 31.)

- The bill requires the electronic filing of tax returns, and allows the Commissioner to excuse taxpayers from the requirement for good cause shown. Under current law, a municipality may require electronic filing, but is not required to do so.

- The bill includes provisions for the filing of a final return and for successor liability when a taxpayer goes out of business. Under current law, a municipality may specify rules for such cases, but is not required to do so.

Throw-back rule

(R.C. 5718.02)

For businesses that will file tax returns with the Department, the bill removes current law's "throw-back rule." Under continuing law, when determining the portion of a business' net profits attributable to a municipality, the business uses a three-factor formula based on the business' payroll, sales, and property. The bill modifies the formula's "sales factor."

Under current law, sales of goods are considered to be made in a municipality when the goods are any of the following:

(1) Both shipped from and delivered within the municipal corporation;

(2) Delivered within the municipal corporation, but shipped from elsewhere, if employees of the business regularly solicit sales within the municipal corporation and the sale of the goods results from that solicitation;

(3) Shipped from the municipal corporation, but delivered elsewhere, if the business, through its own employees, does not regularly solicit sales at the location where the goods are delivered.

The third criterion, in coordination with the inverse language of the second criterion, is known as the "throw-back rule." The bill removes this rule for businesses other than sole proprietors, and instead simply provides that sales are considered to be made in the municipality in which the purchaser receives the goods, with the effect that a sale of goods shipped from the municipality to somewhere else is never attributed to the municipality, thus reducing the portion of net profits taxable by that municipality relative to current law. The throw-back rule will continue to apply to sole proprietors.

Revenue distribution

(R.C. 5718.04(C)(1) and 5718.10)

The bill requires the Department to distribute municipal income tax revenue to municipalities on a quarterly basis, after deducting 1% of such revenue to cover the Department's administrative expenses.

On or before January 31 of each year, each municipality that levies an income tax must certify its tax rate for that year to the Tax Commissioner. If a municipality fails to make the annual certification, the Commissioner may withhold 50% of all subsequent tax revenue distributions to the municipality until it certifies its tax rate.

Ohio Business Gateway Steering Committee membership

(R.C. 5703.57)

The bill reduces, from three to one, the number of municipal tax administrator representatives that the Governor may appoint to the Ohio Business Gateway Steering Committee. The Committee is responsible for overseeing the operations of the Ohio Business Gateway, which is the state-administered online system that allows businesses to electronically file business and tax forms with state agencies. Under continuing law, the Committee also consists of up to four representatives of the business community and two tax practitioners, plus ex officio members representing various state agencies.

Before 2016, as under the bill, the Governor was permitted to appoint only one municipal tax administrator representative to the Committee. The maximum number of such representatives was increased to three by H.B. 5 of the 130th General Assembly, which also required that the representatives be selected from a list provided by the Ohio Municipal League. The bill returns the maximum number of such representatives

back to one, but retains the requirement that the municipal tax administrator representative be selected from a list compiled by the Ohio Municipal League.

Electronic filing and payment through the Gateway

(R.C. 718.051 and 5718.051)

The bill specifies that the chairperson of the Ohio Business Gateway Steering Committee, rather than the Tax Commissioner, is responsible for adopting rules governing the filing and payment of individual income taxes and employer withholdings through the Gateway. The chairperson of the committee is appointed by the Governor from among the committee membership. The Tax Commissioner is authorized by the bill, but not required, to adopt such rules for business entity filers.

Administrative fees for refund check-offs

(R.C. 5747.113)

The bill eliminates a provision in current law that reimburses the Department for the cost of administering the six income tax refund contribution "check-offs." The administration fee, which cannot exceed 2.5% of the total fund contributions, is currently removed in equal one-sixth shares from each fund twice a year.

Under continuing law, check-offs allow taxpayers to contribute all or part of their income tax refund to the Natural Areas and Preserves Fund, the Nongame and Endangered Wildlife Fund, the Military Injury Relief Fund, the Ohio History Connection, the Breast and Cervical Cancer Project, or the Wishes for Sick Children Income Tax Contribution Fund.

Ohio Political Party Fund distributions

(R.C. 3517.17; Section 803.50)

The bill reduces the Tax Commissioner's role in distributing revenue derived from the Ohio Political Party Fund income tax check-off. Currently, the Commissioner directly distributes 50% of the revenue to the statewide political party and 50% to the various county party committees based on the relative number of check-offs in each county. The bill retains the same allocation formula and the quarterly distribution schedule, but eliminates direct distributions by the Commissioner to the county party committees. Instead, the statewide political party would receive all of the check-off revenue, and then allocate 50% to the county party committees. The changes begin to apply to distributions of check-offs made for taxable years beginning in 2017.

The Ohio Political Party Fund income tax check-off is an option on the state income tax return that allows each taxpayer to designate $1 to help fund the state's "major" political parties. The fund is divided equally among the two major parties. Fund distributions may be used to maintain a party headquarters, organize voter registration programs, administer fundraising drives, and communicate with registered voters regarding issues unrelated to any particular candidate or election. The parties may not use fund distributions to further the election or defeat of a particular candidate or issue or to pay debts incurred as the result of any election. Approximately $42,300 was contributed to the Ohio Political Party Fund in 2016.

Sales and use taxes

Sales and use tax rate increase

(R.C. 5739.02, 5739.025, 5739.10, and 5741.02; Sections 803.140 and 812.20)

Current law imposes a sales and use tax rate of 5.75% on all retail sales or storage, use, or consumption of tangible personal property and taxable services in Ohio (continuing law authorizes counties and transit authorities to impose additional "piggyback" sales and use taxes at a total rate of up to 3%). Beginning October 1, 2017, the bill increases the state sales and use tax rate to 6.25%.

The bill also removes date-restricted Ohio sales and use tax brackets that no longer apply because of the passage of time. As of 2006, sales and use taxes are computed without the use of brackets.

Expansion of base

(R.C. 5739.01(B) and (D)(5) and 5739.02(B)(42)(m) and (B)(53); Sections 803.140 and 812.20)

Under continuing law, sales or use tax generally does not apply to a service unless the service is expressly made subject to the tax. Beginning October 1, 2017, the bill expands the sales and use tax base by expressly including the sale or use of cosmetic surgery, lobbying services, repossession services, cable television services, landscape design services, interior design and decorating services, and travel services. However, the bill exempts sales of these services, except for cosmetic surgery, between members of an affiliated group – businesses related in such a way that one controls or owns the other's operations such as by majority ownership.

For purposes of sales and use taxation:

- "Cosmetic surgery" is a medical procedure directed at improving an individual's appearance rather than treating an illness, excluding

reconstructive surgery necessary to ameliorate a deformity related to an injury, disease, or congenital condition.

- "Lobbying services" are activities engaged in by a state- or federally registered lobbyist that serve to influence the behavior or opinion of individuals, industries, or organizations, excluding advertising services or services rendered by an attorney to represent a client in a specific administrative or judicial matter.

- "Repossession services" are repossessing tangible assets such as automobiles, boats, equipment, aircraft, furniture, and appliances for a creditor as a result of delinquent debts.

- "Cable television services" are the one-way transmission of video and other programming services to subscribers, including any subscriber interaction required for the selection or use of those services.

- "Landscape design services" are the planning and designing of exterior spaces.

- "Interior design and decorating services" are the planning and designing of interior spaces.

- "Travel services" are the selling of travel, tour, and accommodation services by an agent to the general public and commercial clients, not including the cost of the travel, tour, or accommodation.

Medicaid provider sales tax cessation and transition payments

(Section 387.20)

The bill provides payments to counties and transit authorities in November 2017 to mitigate their sales tax revenue loss from the cessation of all sales tax on Medicaid managed care services provided by health insuring corporations (MHICs or Medicaid MCOs) under contracts with the state. The one-time payment is intended to cover the entire local tax loss for those counties and transit authorities for the fourth quarter of calendar year 2017 and some of the loss thereafter. The amount each county and transit authority receives for the post-2017 loss is computed on the basis of its historical MHIC sales tax revenue, per-capita non-MHIC sales tax revenue, and a factor stipulated to adjust for its fiscal capacity to absorb the loss.

The cessation of sales tax on such services (see R.C. 5739.01(B)(11)) is implied by federal approval, in December 2016, of the state's request for a waiver from "broad-

based and uniformity" requirements for other MCO taxes, described elsewhere in this analysis, that are intended to replace the sales tax on those services. States must follow those requirements when providing their share of Medicaid funding through taxation of MCOs. Ohio's replacement taxes terminate the need for the sales tax on MCO services, which has been in jeopardy because of its apparent failure to comply with the broad-based and uniformity requirements of federal law.

Vendor licenses

(R.C. 5739.18)

The bill prescribes the manner by which county auditors issue sales tax vendor licenses and requires certain sales and use tax license information be published on the Department's website. Continuing law requires a person who will make retail sales ("vendor") to obtain a vendor's license from the county auditor of each county where the person desires to engage in business, thereby enabling the person to collect and remit sales tax. Current law does not regulate the manner by which auditors must issue those licenses. The bill requires auditors to use a system provided and maintained by the Tax Commissioner to issue those licenses.

Under current law, each county auditor is required to certify weekly to the Tax Commissioner and county treasurer the names of all vendors licensed with the auditor during the preceding week, and the Commissioner is required to keep a list of all certified vendors except those whose license has been cancelled. The bill removes the auditors' weekly reporting duties and requires the Commissioner to publish on the Department of Taxation's website more extensive identifying information than is required to be compiled under current law. In particular, the Commissioner is required to list the name, business address, and sales and use tax account number of each licensed vendor, each holder of a "direct payment" permit issued by the Commissioner that enables the holder to remit sales tax directly to the state, and each out-of-state seller that registers with the Commissioner to collect and remit use tax on sales to Ohio customers. The bill additionally requires the Commissioner to identify whether such a license, permit, or registration is active or inactive. There currently are such lists published on the Department's website, although it is not required by law.

Vendor's license suspension

(R.C. 5739.30; Section 803.150)

Under continuing law, the Tax Commissioner may suspend the sales tax vendor's license of a vendor that fails to report or remit sales tax within a consecutive two-month period or for three months within a 12-month period or, for semiannual reporters, for two or more occasions within a 24-month period. A vendor's license is

required for any business that makes sales that are taxable under the sales tax. Under current law, the vendor's license may be reinstated only after the vendor correctly reports and pays delinquent sales taxes, including penalties and interest.

The bill adds the requirement that a vendor who has also failed to properly report or remit its employees' income tax withholdings during or before that suspension period must correctly report and pay all such unreported or unpaid withholdings as a condition of reinstating the vendor's license.

The bill also authorizes the Tax Commissioner to suspend the license of a vendor that fails to report or remit its employees' income tax withholdings for two consecutive occasions or on three or more occasions within a twelve-month period. Similar to the suspension for unreported or unpaid sales taxes, this suspension may be lifted only if the vendor properly reports and pays all delinquent employee income tax withholdings and sales taxes.

The bill's changes to vendor's license suspension procedures apply beginning January 1, 2018.

Direct mail sourcing

(R.C. 5739.033; conforming changes in R.C. 5739.01(ZZ) and (SSS))

The bill modifies the statutory rules for situsing sales and use tax for direct mail to conform with the Streamlined Sales and Use Tax Agreement (SSUTA) and current practice by distinguishing between direct mail used for advertising purposes and all other forms of direct mail, and expressly applying a new situsing rule to the nonadvertising kind. In general, direct mail is printed material mass mailed by one party – the "vendor" – to predetermined recipients on behalf of another party – the "consumer."

The purpose of "situsing" a sale is to determine which taxing jurisdiction (state, county, and transit authority) properly taxes the sale and receives the revenue. Under current law, all direct mail is sitused to the location from where the direct mail was shipped, unless the direct mail's consumer provides the vendor with an exemption certificate or direct payment permit or information showing where the mail will be delivered ("delivery information"). If an exemption certificate or direct payment permit is furnished, the consumer is required to pay sales and use tax directly, and the vendor is relieved of all obligations to collect and remit tax on that transaction. If a consumer instead furnishes delivery information, the vendor or seller must situs the tax to those locations. (Under continuing law, a consumer that holds a direct payment permit remits

sales tax directly to the state rather than through a vendor.[90] An exemption certificate, in this context, is a certificate prescribed by the Streamlined Sales and Use Tax Governing Board signifying that the certificate holder will pay the sales tax directly to the state for direct mail purchases.[91])

Under the bill, advertising direct mail – direct mail designed to attract attention to or to attempt to sell, popularize, or secure financial support for a product, business, or other person – continues to be sitused as under current law. But other direct mail is sitused, by default, to the location of the direct mail's consumer rather than the location from which the mail is shipped. The consumer may still submit a direct payment permit or exemption certificate excusing the vendor from collecting tax but is no longer permitted to furnish delivery information that would require situsing to delivery locations.

The bill's direct mail situsing modifications conform with SSUTA requirements and current Department of Taxation practices.[92] Ohio is a member of the SSUTA, which generally requires member states to conform their sales and use tax law to its uniform guidelines.

Tourism development districts

The bill changes a reporting date concerning businesses located in a "tourism development district." Tourism development districts (TDDs) may be established by townships and municipal corporations located in Stark County to fund local tourism promotion and development. TDDs may generate revenue through the imposition of a gross receipts tax of up to 2% on local businesses located in the TDD. Currently, the township or municipal corporation must provide the Tax Commissioner with a list of businesses that will be subject to the TDD gross receipts tax, which will be collected and enforced by the Commissioner. The list currently must be submitted by January 1 and June 1 of each year. Under the bill, the second report would instead be due on July 1.

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[90] R.C. 5739.031, not in the bill.

[91] "Exemption Certificate Forms," Ohio Department of Taxation Information Release ST 2005-02 (May 2005), *available at* http://www.tax.ohio.gov/sales_and_use/information_releases/st200502.aspx.

[92] Section 313 of the Streamlined Sales and Use Tax Agreement (adopted November 12, 2002 and amended through December 16, 2016); "Direct Mail Sourcing and Definitions," Ohio Department of Taxation Information Release ST 2013-01 (August 2013), *available at* http://www.tax.ohio.gov/Portals/0/communications/information_releases/DirectMailSourcing82013.pdf.

Severance tax

Hydrocarbon severance taxes

Current law levies a tax on any person that severs either of two hydrocarbons – oil or natural gas – from the ground or water in Ohio. The tax equals 10¢ per barrel of oil and 2½¢ per Mcf (1,000 cubic feet) of natural gas and is generally remitted quarterly. A separate "cost recovery assessment" is levied in the additional amount of 10¢ per barrel of oil and ½¢ per Mcf of natural gas for all oil and gas wells, except certain low-volume gas wells (see "**Exemption and fee for small gas wells**," below). Oil and gas severance tax revenue is currently divided between two funds used to fund divisions of the Department of Natural Resources (DNR) – the Oil and Gas Well Fund and the Geological Mapping Fund; all revenue from the cost recovery assessment is credited to the Oil and Gas Well Fund.

Effective October 1, 2017, the bill repeals the cost recovery assessment, and imposes new severance tax rates, bases, and exemptions for oil and gas, distinguishes for tax purposes additional types of hydrocarbons, and earmarks revenue from hydrocarbon severances taxes to the General Revenue Fund.

Taxable resources

(R.C. 1509.01 and 5749.01; Sections 803.220 and 812.20)

The bill defines "oil" and "gas" for the purposes of the severance tax. "Gas" (as compared to the current "natural gas"), is defined as hydrocarbons in a gaseous phase at standard temperature and pressure. "Oil" is defined as hydrocarbons produced in liquid form by ordinary production methods.

The bill also distinguishes two other types of hydrocarbons for the purposes of the severance tax: condensate – liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system or by gas processing – and natural gas liquids (NGLs) – hydrocarbons separated from severed gas, such as propane and ethane.

Tax rates, base, and revenue distribution

(R.C. 1509.50 and 5749.02; R.C. 1509.02, 1509.34, 1513.08, 1513.182, 1514.11, 5703.052, 5703.19, 5749.01, 5749.06, 5749.07, 5749.08, 5749.10, 5749.11, 5749.12, 5749.13, 5749.14, and 5749.15; Sections 803.220 and 812.20)

Beginning October 1, 2017, the bill replaces the existing volume-based oil and gas severance tax and cost recovery assessment with new value-based severance taxes on oil, gas, condensate, and NGLs. The new taxes, similar to current law's tax, is imposed

on the person that severs the oil or gas. The table below summarizes the base and rates of the new taxes, categorized according to each resource. Gas is taxed at one of two rates depending on whether the gas is placed directly into the natural gas distribution system or processed first to extract condensate or NGLs.

	Tax Base (Quarterly)	Tax Rate
Oil	Barrels × average oil spot price	6½%
Unprocessed Gas	Mcf × average gas spot price	6½%
Processed Gas	Mcf collected after processing × average gas spot price	4½%
Condensate	Barrels × average condensate spot price	6½%
NGLs	1 million BTUs × average NGL spot price	4½%

As the table indicates, the new tax is based on the product of two variables – the "spot price" of severed gas, oil, condensate, or NGL multiplied by the quantity of each resource severed from, or separated from oil or gas severed from, a well. The Tax Commissioner calculates the quarterly spot price for a unit of each hydrocarbon by averaging each day's closing spot price reported for that hydrocarbon during the quarter beginning six months before the current quarter, as reported by a publicly available source determined by the Commissioner. The spot price for condensate is based on the price of Appalachian condensate, and the spot price for NGLs is based on the price of one million BTUs natural gas plant liquids composite.

The bill requires the Commissioner to post average quarterly spot prices for oil, gas, condensate, and NGLs applicable to each quarter on the Department of Taxation's website by the last day of the first month of the quarter for which the tax is due. Thus, the average quarterly spot price applicable for a particular quarter is made available to taxpayers several months before the due date of the severance tax return (see "**Return due dates**," below).

All revenue from the new hydrocarbon severance taxes are credited to the General Revenue Fund.

Exemption and fee for small gas wells

(R.C. 1509.11 and 5749.03; Sections 803.220 and 812.20)

The bill replaces an existing severance tax exemption for natural resources having an annual value of $1,000 or less and severed from land owned by the severer with a new exemption for natural gas severed from an exempt domestic well –

generally a gas well owned by a landowner for the purpose of providing gas for the owner's domestic use. Current law does not explicitly exempt natural gas severed by exempt domestic wells from severance tax, but, as a practical matter, at least some of those wells may qualify for the homestead exemption repealed by the bill.

Notwithstanding the new severance tax exemption, exempt domestic wells designated on or after June 30, 2010, will continue to be subject to the annual "cost recovery assessment" of $60. The assessment is payable to DNR and is credited to the Oil and Gas Well Fund.

Severance tax administrative provisions

The bill makes several changes related to the administration of severance taxes, which, in addition to the hydrocarbon taxes described above, are also levied on other resources severed from the ground or water in Ohio such as coal, gravel, clay, salt, and sand. These changes apply beginning October 1, 2017.

Severance tax permits

(R.C. 5749.04; Sections 803.220 and 812.20)

Current law requires a severer to obtain a license from the Tax Commissioner or, if required to do so under another provision of law, a permit from DNR before severing or selling natural resources from Ohio's soil or water. Under the bill, the Commissioner would no longer issue severance tax licenses. Instead, severers would have to obtain a permit from, or register with, DNR. However, before severing natural resources, severers would have to apply to the Commissioner to open a severance tax account. But those severing natural gas from an exempt domestic well, which the bill exempts from severance tax, are not required to register for the account (see "**Exemption and fee for small gas wells**," above).

The bill also authorizes the Commissioner to request that DNR revoke a severer's permit or registration if the Commissioner finds that the severer failed to comply with Ohio severance tax law. In response, DNR may revoke the severer's permit or registration.

Return due dates

(R.C. 5749.06; Sections 803.220 and 812.20)

Under continuing law, severers are generally required to file returns for natural resources severed in each calendar quarter unless the Tax Commissioner prescribes a different reporting period. Current law requires severers to file returns 45 days after the end of a calendar quarter or other prescribed reporting period. The bill adjusts the

return due dates by requiring returns to be filed no later than the 15th day of the second month following the end of each quarter or other reporting period.

Revenue transfers

(R.C. 5749.06(H); Sections 803.220 and 812.20)

The bill provides for monthly distribution of severance tax revenues instead of the current quarterly distribution schedule. Current law requires the Tax Commissioner, by the 15th day of the month following the end of each calendar quarter (i.e., January 15, April 15, July 15, and October 15) to certify to the Director of OBM the total amount in the fund that holds all severance tax revenue – the Severance Tax Receipts Fund – after accounting for amounts set aside for severance tax refunds. The certification must include the proportion of such revenue attributed to the tax on each type of natural resource.

The bill instead requires the Tax Commissioner to make this certification by the 25th day of each month. Additionally, after making this certification, the bill requires the Tax Commissioner to provide for payment of severance tax revenue from the Severance Tax Receipts Fund to the funds to which each severance tax is required to be credited.

Disclosure of severance tax information

(R.C. 5749.17; Sections 803.220 and 812.20)

Current law appears to authorize DNR to publicly disclose severance tax information given to it by the Tax Commissioner for the purpose of enforcing oil and gas regulatory laws. The bill explicitly limits the ability of DNR to disclose severance tax information by allowing disclosure only to the Attorney General for purposes of enforcing those laws.

Excise taxes

Cigarettes and other tobacco products

Ohio levies an excise tax on the sale, distribution, or use of cigarettes at the current rate of $1.60 per pack. The tax is paid primarily by wholesale dealers through the purchase of stamps that are affixed to packs of cigarettes. Retail sellers must pay the tax on cigarettes that are not taxed at the wholesale dealer level. A separate tax is levied on tobacco products other than cigarettes at the current rate of 17% of the wholesale price, or 37% of wholesale price for "little cigars" – noncigarette, filtered smoking rolls wrapped in any substance containing tobacco, other than natural leaf tobacco. This tax

is often referred to as the other tobacco products (OTP) tax. Revenue from the cigarette and OTP taxes is credited to the GRF.

Cigarette tax rate increase

(R.C. 5743.02 and 5743.32; Sections 757.10, 803.180, and 812.20)

The bill increases the rate of the cigarette excise tax from the current $1.60 per pack to $2.25 per pack beginning July 1, 2017. On a per-cigarette basis, the increase is from 8¢ to 11.25¢. The rate increase also applies to cigarettes in wholesale and retail dealers' inventories and tax stamps in wholesale dealers' inventories on July 1, 2017. Dealers must pay a "net additional tax" on those inventories. The net additional tax is the additional tax resulting from the rate increase for all cigarette packs bearing a tax stamp and for all unaffixed tax stamps in the dealer's possession at the beginning of business on that day. All dealers owing additional tax must file a return with the Tax Commissioner and pay the tax by September 30, 2017. A late charge applies for late payments or returns equal to $50 or 10% of the tax due, whichever is greater.

Tobacco products tax rate

(R.C. 5743.01, 5743.51, 5743.62, and 5743.64; Sections 803.160 and 812.20)

The bill increases the rate of the OTP tax from the current 17% of the wholesale price (37% in the case of little cigars) to 69% beginning October 1, 2017. In doing so, the bill eliminates the separate treatment of little cigars, which will be taxed at the same level as other OTPs. However, the bill sets aside a new category of cigars for special tax treatment – "specialty cigars." Specialty cigars are rolls of tobacco with (a) a binder and wrapper consisting entirely of leaf tobacco, (b) no tip or filter or mouthpiece that is not made of tobacco, and (c) a weight of at least six pounds per 1,000 rolls. Such cigars are taxed at 69% of their wholesale price or $2 per cigar, whichever is less.

Cigarette tax wholesale stamping discount

(R.C. 5743.05; Section 812.10)

The bill reduces the tax stamp discount for cigarette dealers as consideration for affixing tax stamps to cigarette packages and sets it at a fixed amount that will not fluctuate with any future tax rate change. Under current law, the Tax Commissioner must, by rule, authorize a discount of between 1.8% and 10% of the face value of the tax stamps. Currently, the Commissioner has set the discount at 1.8%, which equates to 0.114¢ per cigarette or 2.88¢ per pack. The bill reduces this to 0.1125¢ (2.25¢ per pack, equivalent to a 1% discount at the proposed tax rate of $2.25 per pack). The discount would remain at this level regardless of future tax rate changes unless it is changed directly by legislation.

Monthly returns

(R.C. 5743.03 and 5743.081; Sections 803.180 and 812.20)

The bill requires that cigarette tax returns be filed monthly rather than semiannually. Under continuing law, wholesale dealers that purchase cigarettes and affix tax stamps are required to file tax returns detailing the dealer's entire purchases and sales of cigarettes and stamps for the reporting period. The return must also include accurate inventories of cigarettes and stamps as of the beginning and end of each period.

Currently, wholesale dealers are required to submit a return and remit payment of any tax deficiency every six months. The return for the period running from January 1 to June 31 is due on July 31, and the return and payment for the period running from July 1 to December 31 are due on January 31. The bill instead requires that such returns and payments be filed on a monthly basis. Each month's return is due on the last day of the following calendar month.

Tobacco products tax discount

(R.C. 5743.52 and 5743.62(C); Sections 803.190 and 812.20)

Beginning July 1, 2017, the bill eliminates the discount available under current law to sellers and distributors that file OTP tax returns and remit the tax on or before the return's due date. Currently, the discount equals 2.5% of the amount of tax due. Under continuing law, sellers and distributors file OTP tax returns for each month, and each return is due on or before the 23rd day of the following month.

Free or gratis tobacco products

(R.C. 5743.01)

The bill specifies that the taxable price (i.e., "wholesale price") of gratis or free tobacco products is the greater of the wholesale price computed for a transaction involving the same product in the preceding 30 days or the manufacturer's list price for the product. Under continuing law, the wholesale price of a tobacco product is generally the undiscounted invoice price (including federal taxes) at which a manufacturer sells the tobacco product to unaffiliated distributors.

New tax on vapor products

The bill levies an excise tax on the distribution, sale, or use of nicotine vapor products, effective January 1, 2018. Similar to the existing tax on tobacco products other than cigarettes (OTP), the vapor products tax would be levied on distributors on the

basis of the "first invoice price" of the product excluding discounts. The tax rate would be 69% (the same rate as the OTP tax under the bill) and all revenue from the tax is to be credited to the General Revenue Fund.

A corresponding "use" tax would also be imposed on persons using, storing, or consuming vapor products for which a vapor distributor has not paid the tax. (That is, the use tax applies, for example, to vapor products purchased outside Ohio and brought into Ohio, or otherwise acquired from someone other than a vapor distributor or retail dealer, in a manner analogous to the cigarette and tobacco product use taxes levied under continuing law.)

Tax base

(R.C. 5743.01 and 5743.51)

The bill defines a vapor product as any noncombustible product that (1) contains nicotine, in any concentration, (2) is intended and marketed for human consumption, (3) includes a component that is used to deliver the vapor product by means of a mechanical heating element, battery, or electronic circuit, and (4) is not regulated as a drug or device by the U.S. Food and Drug Administration.

The "first invoice price" equals the invoice price paid by the first distributor or other person who receives the product in Ohio, excluding discounts based on method of payment or time of payment of the invoice. If the vapor product was received gratis or free, the invoice price equals the greater of the first invoice price computed for a transaction involving the same product in the preceding 30 days, or the manufacturer's list price for the product. The tax applies to only one sale of a product in the supply chain. However, if the product has been repackaged, reconstituted, diluted, or reprocessed by a secondary manufacturer, the first transaction after the product has been altered is also subject to taxation.

Taxpayers

(R.C. 5743.01, 5743.51, 5743.62, and 5743.63)

The excise tax is payable by vapor distributors and sellers of vapor products. A "seller" is any person located outside the state who is engaged in the business of selling vapor products to Ohio consumers. A distributor includes any person that:

(1) Sells vapor products to retail dealers;

(2) Is a retail dealer that receives vapor products upon which the tax has not been paid by another person;

(3) Is a "secondary manufacturer," i.e., a person that repackages, reconstitutes, dilutes, or reprocesses vapor products for resale to consumers.

The use tax is payable by any person who uses, stores, or consumes vapor products for which the tax has not already been paid.

Tax returns and payments

(R.C. 5743.52 and 5743.54)

Vapor distributors must file returns and pay the tax due on a monthly basis, by the 23rd day of each month, unless the Commissioner allows a longer reporting interval. Returns must be filed electronically. Vapor distributors must also maintain the invoice from each vapor product transaction. For each vapor product transaction, the invoice must indicate the vapor distributor's account number and whether or not the tax has been paid.

Licensing requirements

(R.C. 5743.20 and 5743.61; Sections 757.30 and 803.170)

The bill requires vapor distributors to obtain an annual license to operate in the state. Under the bill, a licensed vapor distributor may sell vapor products only to retail dealers, other licensed vapor distributors, or, if the vapor distributor is also a retail dealer, to consumers.

The licensing process for vapor distributors is identical to the process for wholesale dealers of OTP. Vapor distributors must apply to the Tax Commissioner for the license, which is valid for one year beginning on the first day of February. The annual application fee is $1,000 per business location. If a license is issued after February 1, the application fee is reduced proportionately for the remainder of the year. Revenue from the fee is to be deposited to the General Revenue Fund.

The bill specifies that all vapor products licenses issued before January 31, 2019, are valid until that date. This prevents expiration of the initial group of vapor products licenses (issued on or before December 31, 2017) within one month of receipt.

The Commissioner may refuse to issue or reissue a license if the applicant has any outstanding tax liability or has failed to file any prior vapor products tax return. The Commissioner may also suspend a license if a taxpayer fails to file a return or pay the tax. In addition, the Commissioner may cancel a license at the request of the licensee.

The Commissioner must maintain a list on the Department of Taxation's website of all licensed vapor distributors in the state.

Administration and enforcement

The bill incorporated vapor products into many of the existing provisions for the administration and enforcement of the state cigarette and OTP taxes. These provisions include:

- Tax refunds and the application of a taxpayer's refund to offset a debt the taxpayer owes to the state (R.C. 5743.53).
- Records retention, fraud prevention, and inspections (R.C. 5743.14, 5743.41, 5743.54, 5743.59, and 5743.60).
- Seizure and forfeiture of products when the Commissioner has reason to believe that a person is avoiding paying the tax (R.C. 5743.44 and 5743.55).
- Civil and criminal penalties (R.C. 5743.99, not in the bill).
- Prohibition against municipal corporations imposing a similar tax (R.C. 715.013, not in the bill).

The bill also explicitly requires secondary manufacturers to comply with federal packaging laws when reconstituting, diluting, or reprocessing vapor products.

Alcoholic beverage excise taxes

Continuing law levies an excise tax on the sale of alcohol other than spirituous liquor – i.e., beer, wine, vermouth, mixed drinks, and cider. The tax is paid by persons holding state-issued permits to sell or distribute such drinks. Most of the revenue from these taxes is primarily credited to the General Revenue Fund. The bill changes the rates of these taxes, modifies an exemption available to low-volume beer producers, creates an exemption for low-volume cider producers, removes the requirement that beer producers remit advances of estimated tax payments, and eliminates a 3% discount for timely reporting and paying other alcoholic beverage taxes.

Rate adjustments

(R.C. 4301.42, 4301.43, and 4305.01; Sections 803.80 and 812.20)

The bill increases the alcoholic beverage excise tax rate on beer, and creates a higher tier tax rate for high-alcohol beer. It also increases the tax rate on wine, vermouth, mixed drinks, and cider and decreases the tax on sparkling wine and champagne, beginning July 1, 2017, as follows:

Alcoholic beverage	Tax rate under current law	Tax rate under bill
Beer (<12% alcohol content (AC))	Bottled or canned: 0.14¢/oz. Barrels: $5.58/barrel	0.239¢/oz. $9.49/barrel
Beer (>12% AC)	Bottled or canned: 0.14¢/oz. Barrels: $5.58/barrel	0.781¢/oz. $31.00/barrel
Wine (4-14% AC)	33¢/gallon (gal.)[1]	53¢/gal.[1]
Wine (14-21% AC)	$1.01/gal.[1]	$1.69/gal.[1]
Sparkling wine and champagne	$1.50/gal.[1]	53¢/gal.[1]
Vermouth	$1.10/gal.[93]	$1.69/gal.[1]
Mixed drinks	$1.20/gal.	$2.04/gal.
Cider	24¢/gal.	40.8¢/gal.

Beer exemption modifications

(R.C. 4303.332; Section 803.70)

The bill decreases the volume of beer exempt from the beer excise tax from the first 9,300,000 gallons of beer sold or distributed by an A-1c permit holder in a year to the first 310,000 gallons of such beer, beginning in 2018. Under continuing law, an A-1c permit is for brewers producing 31 million or fewer gallons of beer per year.

Current law's exemption is required to be claimed as an estimated monthly credit, with reconciliation at the last monthly report for the calendar year. The bill removes this requirement, but does not specify the manner in which the beer exemption is now to be claimed.

Cider exemption

(R.C. 4303.333; Section 803.70)

The bill exempts from excise tax the first 310,000 gallons of cider produced and sold in Ohio in a year by an A-2 or A-2f permit holder beginning in 2018. Continuing law exempts an A-2 or A-2f permit holder from tax if the holder's annual in-state production of wine or cider does not exceed 500,000 gallons. The effect of the bill

[93] 5¢ per gallon of this tax is earmarked for the Ohio Grape Industries Fund to promote the grape industry (see "**Wine tax diversion to Ohio Grape Industries Fund**," above).

appears to be to exempt the first 310,000 gallons of such products for permit holders whose annual production exceeds 500,000 gallons.

Under continuing law, an A-2f permit is for wine and cider producers that produce wine or cider from fruit grown on Ohio agricultural land; an A-2 permit is required for other wine and cider producers. This exemption mirrors a similar exemption for beer sold or distributed by A-1c permit holders (see above).

Tax payments and discounts

(R.C. 4303.33; Sections 803.60 and 812.20)

Current law requires beer excise taxpayers to file returns by the 18th day of each month estimating the quantity of beer that the person will sell or distribute during that month and remitting the tax due on the basis of that estimate as an advance payment. A taxpayer may claim a 3% discount for timely filing these advance payment returns. The taxpayer is additionally required to file a return by the 10th day of the following month reconciling the advance payments and discount with the taxpayer's actual beer excise tax liability for the preceding month.

Beginning July 1, 2017, the bill eliminates the advance payment requirement, thus removing the 3% discount, but maintains the requirement that taxpayers report and remit tax by the 10th day of each month on the volume of beer sold or distributed during the preceding month.

Current law requires taxpayers to file returns on the 18th day of each month to report and pay tax on the volume of wine, cider, and mixed drinks sold or distributed during the preceding month. A taxpayer timely filing this report may claim a 3% discount against the tax due. Beginning July 1, 2017, the bill eliminates this discount and moves the due date of those reports to the 10th day of the following month – the same due date for beer excise tax returns.

Petroleum activity tax licensing

(R.C. 5736.06)

Continuing law levies the petroleum activity tax (PAT) on suppliers of motor fuel on the basis of each supplier's "calculated gross receipts" – the volume of the supplier's first sales of motor fuel in the state multiplied by the average price for unleaded gasoline or diesel fuel, as applicable. Suppliers are prohibited from distributing, importing, or causing the importation of motor fuel into the state without applying for and obtaining a supplier's license from the Tax Commissioner. The bill

clarifies the deadline by which a new motor fuel supplier must apply for a supplier's license and stipulates an annual expiration date for all supplier's licenses.

Under current law, persons subject to the PAT must apply for a supplier's license by March 31, 2014, or within 30 days of first becoming subject to the tax, whichever is earlier. This provision, enacted in 2013 by H.B. 59 of the 130th General Assembly, set up a mass licensing date as part of the initial phase-in of the PAT. Now that the tax is fully implemented, the provision is outdated. The bill eliminates the reference to March 31, 2014, and instead requires that new motor fuel suppliers apply for a license within 30 days after first becoming subject to the PAT.

The bill also specifies that supplier's licenses expire on the last day of February each year. Continuing law requires each person issued a supplier's license to annually apply for renewal on or before March 1. However, the current provision does not explicitly state that the supplier's license will otherwise expire.

Commercial activity tax

Interest income exclusion

(R.C. 5751.01(F)(2)(a); Sections 803.230 and 812.20)

The bill narrows an existing commercial activity tax (CAT) exclusion that allows taxpayers to exclude interest income from taxable gross receipts. Under the bill, interest on loans made in the normal course of business would be taxable beginning July 1, 2017. Generally, such interest will be a taxable gross receipt if the borrower is located in Ohio or, in the case of a loan secured by real property, if the property is located in Ohio. Currently, only interest on credit sales is included in taxable gross receipts for CAT purposes.

Exclusion for qualified distribution center receipts

(R.C. 5751.01(F)(2)(z); Sections 803.230 and 812.20)

The bill revises the computation of a qualified distribution center's (QDC) "Ohio delivery percentage" such that at least 10% of the receipts derived by a supplier from property shipped to the QDC are included in the supplier's taxable gross receipts for CAT purposes. Continuing law excludes from the CAT gross receipts base a percentage of receipts suppliers of a QDC derive from property they ship to the QDC. The percentage that remains taxable (i.e., the Ohio delivery percentage) equals the percentage of property shipped by the distribution center to locations inside Ohio during a 12-month "qualifying period" or, in the case of a transitioning QDC, an estimate of the percentage of property that will be shipped to locations inside Ohio after

a 36-month transition period. The bill specifies that, in either case, the Ohio Delivery Percentage cannot be less than 10%.

Under continuing law, a QDC includes a warehouse, refining facility, or other similar facility in Ohio that has obtained a certificate from the Tax Commissioner indicating that the facility's suppliers qualify for the exemption. To qualify as a QDC, all persons operating the center must have had more than 50% of the cost of the property shipped from the center to locations outside Ohio, using CAT situsing rules under continuing law, for a 12-month period and must have had cumulative costs from its suppliers of at least $500 million for that period. A transitioning QDC may qualify by demonstrating that it will meet the foregoing requirements within 36 months.

To qualify for the associated CAT exclusion, a supplier must deliver property to the QDC certificate holder solely for further shipping by the center to another location inside or outside Ohio. The property may be stored or repackaged into smaller or larger bundles, but may not be subjected to further manufacturing or processing at the distribution center. In the case of a refining facility, the property may be smelted or put through some other process to extract the impurities without disqualifying the supplier from the exemption.

Since the CAT is levied on the basis of a taxpayer's receipts from selling property (or services) to Ohio-based customers, the QDC provision permits taxpayers that ship property to a QDC to pay CAT on the basis of the QDC's overall sales to Ohio-based customers regardless of the destination of the taxpayer's individual sales. Without the QDC provision, receipts from all of the taxpayer's shipments to the QDC facility might be taxable. Each QDC operator must submit an annual fee of $100,000.

Property taxation

Multi-county health district taxing authority

(R.C. 3709.29 and 5705.01)

The bill authorizes a multi-county health district board to propose a property tax levy to pay for the district's expenses. The board may submit the levy proposal directly to the voters of the district.

Continuing law allows the creation of general health districts (townships and villages), city health districts, and combined health districts. Combined health districts may be comprised of townships and municipalities within a single county ("county health districts") or multiple counties ("multi-county health districts").

Under current law, only a single-county combined district may levy its own property taxes, via the county's board of commissioners. General and city health districts may not separately levy property taxes, but receive tax revenue from their constituent political subdivisions. The bill allows a multi-county health district to also levy its own property taxes. The district's board of health may propose such a levy and submit the levy question to all of the voters in the district.

Property tax penalty waiver

Penalties and interest are charged for late property tax and manufactured home tax payments. Continuing law requires county auditors to remit (i.e., waive) late payment penalties under certain circumstances, including the following: the taxpayer is incapacitated; mail delivery fails; the county auditor or treasurer errs; the taxpayer does not receive the bill but tries, in good faith, to obtain the bill within 30 days after the due date; or the property owner satisfies a mortgage, the lender fails to notify the county auditor that the mortgage has been satisfied and the tax bill is not mailed to the property owner. In all other cases, the failure to receive a tax bill does not excuse a taxpayer from having to pay taxes on time or prevent the imposition of late payment penalties, unless the county board of revision finds that the lateness is "due to reasonable cause and not willful neglect."

Appeals

(R.C. 5715.20 and 5715.39)

Under continuing law, the county auditor, in consultation with the county treasurer, makes the initial decision with respect to applications for remission. If the auditor determines that waiver of the penalty and interest is not warranted, the application is submitted to the board of revision for further review. The bill clarifies the manner in which the board of revision must issue its determination and revises the procedure for appealing that determination.

The bill specifies that the board of revision must send notice of its determination by certified mail to the person who submitted the application for remission. Current law refers to the date on which the board's determination was mailed, but does not explicitly require certified as opposed to regular mail.

The bill also requires that appeals of the board of revision's determination be filed with the Board of Tax Appeals (BTA) – a separate, quasi-judicial, administrative agency that acts as the state's administrative tax court. BTA appeals must be filed within 30 days of the date the board of revision mails its determination. The appeal may be filed in person or by certified mail, express mail, facsimile transmission, electronic transmission, or authorized delivery service. Under current law, the determination of

the board of revision is appealable first to the Tax Commissioner, then to the BTA. The applicant has 60 days to file an appeal to the Tax Commissioner in person or by certified mail.

Property tax exemption procedures

(R.C. 5715.27)

The Tax Commissioner is responsible for approving or disapproving exemption applications for most kinds of property. However, in the case of some kinds of publicly owned property the county auditor, not the Tax Commissioner, decides on the application. Under current law, the county auditor reviews and approves applications for public roads, federal government property, state university property, and new additions to buildings and structures owned by the state or local government and used for public purposes.

The bill revises the procedure for exempting state university property by requiring that exemption applications respecting such property be reviewed by the Tax Commissioner rather than the county auditor.

Community reinvestment area designation approval

(R.C. 3735.66)

The bill extends the deadline by which a municipal corporation or county must petition the Director of Development Services to approve the subdivision's designation of a community reinvestment area (CRA) from 15 to 60 days after the subdivision's adoption of a designating resolution. Under continuing law, property located in a CRA may be eligible for property tax exemptions on new construction or remodeling projects. However, a CRA is not established until the Director determines that a resolution designating a CRA comports with zoning regulations and contains valid findings that (1) housing facilities or historical structures are located in the CRA and (2) new housing construction and repair of existing facilities is discouraged within the CRA.

Property tax exemption for burial grounds

(R.C. 1721.01 and 5709.17; repealing R.C. 759.24)

The bill eliminates several superfluous provisions in current law pertaining to the property tax exemption for burial grounds. Under continuing law, R.C. 5709.14 (not in the bill) exempts all lands used exclusively as burial grounds except those that are held by a person, company, or corporation with a view to profit. This exemption is broad enough to fully encompass all property described in the exemptions eliminated

by the bill (i.e., cemeteries established and operated by a village and land held exclusively for cemetery or burial purposes with no view to profit by a company or association incorporated for such purposes).

Tax credits

Biennial forecasts for business incentive tax credits

(R.C. 107.036; Section 757.40)

The bill requires that every main biennial budget bill include detailed estimates of the state revenue that will be foregone due to "business incentive" tax credits in the current biennium and future biennia. The estimates must be provided for the Job Creation Tax Credit, Job Retention Tax Credit, Historic Preservation Tax Credit, Motion Picture Tax Credit, New Markets Tax Credit, Research and Development Credit, and InvestOhio small business investment tax credit. For each credit, the bill must include estimates of (a) the amount of credits that may be authorized in each year of that biennium, (b) the amount of credits that may be claimed in each year of that biennium, and (c) the total amount of authorized credits that could be claimed in future biennia. The estimates must be provided in the state budget that the Governor submits to the General Assembly, and in the final bill passed by the General Assembly.

In accordance with this new requirement, the bill includes estimates for the listed business incentive tax credits for the 2018-2019 biennium.

Annual cap on New Markets Tax Credit

(R.C. 5725.33)

The bill modifies the annual cap on the New Markets Tax Credit. Under current law, the cap is a limit on the amount of credits that taxpayers may claim in a year. The bill converts the cap into a limit on the amount of credits the Director of Development Services may approve in a year. The amount of the annual cap – $10 million – remains the same.

The New Markets Tax Credit is modeled on the federal New Markets Tax Credit program. The credit is nonrefundable and may be claimed against the insurance and financial institution taxes. The credit is awarded to insurance companies and financial institutions that purchase and hold securities issued by Community Development Entities to finance investments in qualified businesses operating in low-income communities in Ohio.

Required filing of tax credit certificates

(R.C. 122.17, 122.171, 122.175, and 5703.0511)

Under continuing law, before claiming certain tax credits, a taxpayer must receive a tax credit certificate demonstrating the taxpayer's eligibility for the credit. The certificate may indicate the credit amount for which the taxpayer is eligible, the tax year in which the credit may be claimed, or other relevant information. Examples of tax credits for which certificates are issued include: the job retention and creation tax credits, the historic building rehabilitation tax credit, and the motion picture tax credit.

Under current law, for many tax credits, taxpayers are only required to submit tax credit certificates to the Tax Commissioner upon the Commissioner's request. The bill instead provides that taxpayers must always submit an accompanying certificate whenever claiming a tax credit. In addition, the bill allows the Commissioner to create, and require taxpayers to submit, a form tracking the credits claimed by a taxpayer. If a taxpayer fails to submit that form or any tax credit certificate, the Commissioner may deny the tax credit.

Tax credit administrative fees

(R.C. 122.17, 122.171, 122.174, 122.175, 122.85, 122.86, 3735.672, 5709.68, and 5725.33)

The bill credits existing administrative fees charged by the Development Services Agency (DSA) to administer several economic development tax incentive programs to a new Tax Incentives Operating Fund to pay the expenses of DSA's Business Services Division and expenses DSA otherwise incurs in administering those programs. The fees affected are those for the job creation, job retention, motion picture, small business investment, and New Markets Tax credits; community reinvestment area and enterprise zone property tax exemptions; and a computer data center sales and use tax exemption. The amounts of the fees are unchanged.

Under current law, administrative fees DSA charges for the small business investment tax credit and the New Markets Tax Credit are credited to separate funds used exclusively to fund those programs. Administrative fees charged by DSA to administer the other incentive programs are currently credited to the Business Assistance Fund and used exclusively to fund the administrative expenses of DSA's Business Services Division. (Under continuing law and practice, this Division administers many of these incentive programs.)

Licensing and permitting issues

(R.C. 3734.9011, 4303.26, 4303.271, 5703.21, 5703.26, 5735.02, and 5743.61; Section 803.120)

General authority to deny fraudulently obtained licenses

The bill generally authorizes the Department of Taxation, the Treasurer of State, and certain county officials to deny or revoke a license if certain prohibited acts are performed in relation to an application to approve or renew the license.

Continuing law generally prohibits any person from providing false or fraudulent information to the Department of Taxation, the Treasurer of State, a county auditor, a county treasurer, or a county clerk of courts. Similarly, assisting a person in providing false or fraudulent information, or altering records upon which such information is based in an attempt to defraud the state, are also prohibited. The bill adds that, when such fraudulent acts relate to an application to approve or renew a license, such acts are cause for the denial or revocation of the license. Although the Revised Code includes license-specific provisions for denying or revoking a fraudulently obtained license, the bill provides a blanket authorization that applies to any license administered by such officials.

Tax compliance: licenses administered by the Tax Commissioner

Continuing law requires certain businesses to register with or obtain a license from the Tax Commissioner in order to operate in the state. The bill modifies the registration or licensing requirements for four such business classes: (1) retail tire dealers, (2) wholesale tire distributors, (3) motor fuel dealers, and (4) distributors of tobacco products other than cigarettes.

Under the bill, when a person registers or applies for a new or renewal license to operate as a dealer or distributor listed above, the Commissioner must specifically confirm that the person has filed any tax returns, paid any outstanding taxes or fees, and submitted any required information that, to the Commissioner's knowledge, are due at the time of registration or application. Under current law, the Commissioner is already required to confirm that an applicant for one of the licenses described above – the motor fuel dealer license – is in compliance with Ohio's tax laws, but that provision does not specifically mention delinquent returns, payments, or information.

Tax compliance: liquor permits

Continuing law requires that, before approving the transfer or renewal of a liquor license, the Division of Liquor Control must confirm with the Tax Commissioner that the applicant is not delinquent in remitting any sales tax or withheld income taxes.

The bill additionally requires the Commissioner to confirm that the applicant is not delinquent in paying, filing returns for, or providing information regarding the following: horse-racing taxes, alcoholic beverage taxes, motor fuel taxes, petroleum activity taxes, cigarette and other tobacco product taxes, and casino gross receipts taxes.

Under continuing law, the Commissioner is also required to annually review the Department of Taxation's sales and income tax records and notify the Division of Liquor Control if any liquor permit holder is delinquent in paying or filing returns for either of those taxes. The bill adds that the Commissioner must also review the records for the taxes listed above and notify the Division of any related delinquencies. The bill also expressly authorizes Department of Taxation agents and employees to disclose such information to the Division of Liquor Control. (Under continuing law, taxpayer information possessed by the Department of Taxation may not be disclosed to anyone unless the law specifically authorizes disclosure.)

Public utility excise tax collection

(R.C. 5727.26, 5727.28, 5727.31, 5727.311, 5727.38, 5727.42, 5727.47, 5727.48, 5727.53, and 5727.60)

The bill transfers from the Treasurer of State to the Tax Commissioner the collection and refund responsibilities for the public utility excise tax. Currently, the Commissioner determines the amount of tax due and certifies it to the utility company and the Treasurer, and the company must pay the tax to the Treasurer; estimated tax installments also are paid to the Treasurer, and tax reports are filed with the Commissioner. The Treasurer also issues refunds, although the Commissioner determines refund amounts. The bill requires all payments to be made to, and all refunds to be made by, the Commissioner, except for tax payments required to be made by electronic funds transfer, which will continue to be paid to the Treasurer.

The bill also shortens the maximum tax filing extension that the Tax Commissioner may allow for public utilities, from 60 to 30 days; removes a requirement that excise tax penalties not paid within 15 days be certified to the Attorney General for collection (another existing law still provides for certification of tax debts but not within 15 days); and states that the Commissioner may assess the excise tax against utilities, but is not required to (the effect of this change is not clear since utilities subject to the tax still must report and pay the tax).

The public utility excise tax is imposed on the basis of the gross receipts of various classes of utilities, including natural gas, water-works, and pipe-line companies. All revenue from the public utility excise tax is credited to the General Revenue Fund.

Pollution control, energy facility tax exemption fees

(R.C. 5709.212)

Under continuing law, an air, noise, or water pollution control facility or a facility that converts natural gas, oil, solid waste, or waste heat to other forms of energy in industrial or commercial settings may apply to the Department of Taxation (ODT) to exempt property used for such purposes from property tax and purchases of such property from sales and use taxation. Before approving a facility for such exemptions, ODT must obtain certification that a facility qualifies for those exemptions from the Environmental Protection Agency (EPA) in the case of a pollution control facility or the Development Services Agency (DSA) in the case of an energy conversion facility.

Under current law, an applicant for such exemptions pays an application fee, one-half of which is allocated to ODT and one-half of which is allocated to the agency that certifies the facility's eligibility – EPA or DSA. The bill instead allocates all revenue arising from these administrative fees to that certifying agency.

Fee payments and refunds: $1 minimum

(R.C. 5703.75)

The bill establishes a $1 minimum payment floor for all fees administered by the Tax Commissioner. Under the bill, a person liable for such a fee is not required to pay it if the amount due is $1 or less. Similarly, the Commissioner is not required to issue a refund of any such fee if the amount of the refund is $1 or less. Currently, these $1 minimums apply only to taxes administered by the Commissioner. Fees administered by the Commissioner include a wireless 9-1-1 fee and a tire fee.[94]

Interest on wireless 9-1-1 fees

(R.C. 5739.132)

The bill specifies that interest is charged for late wireless 9-1-1 fee remittances, and is payable on refunds of overpaid fee remittances, as is the case with unpaid or overpaid sales or use tax remittances. The wireless 9-1-1 fee is a state fee currently imposed on wireless telephone service (both prepaid and other) payable by the subscriber to the provider of the wireless service, who must remit the fee collections to the state in a manner similar to vendors remitting sales tax collections. Revenue from the fees provides financial support for 9-1-1 systems.

[94] R.C. 128.42 (wireless 9-1-1 fee) and 3734.901 (tire fee), not in the bill.

Estate tax: annual settlements

(R.C. 319.54, 321.27, 5731.46, and 5731.49; Section 803.110)

The bill reduces the number of times each year that county auditors and treasurers are required to distribute estate tax revenue. Currently, treasurers are required to make semiannual settlements for all received estate tax revenue on February 25 and August 20 each year. The bill eliminates the August settlement and instead requires treasurers to distribute all revenue received in the preceding calendar year on February 25.

The estate tax has been repealed and does not apply to any person whose death occurred after 2012. Generally, the tax is due within nine months of death. However, extensions (with interest) were permitted in some cases and are still being collected. Eighty per cent of the revenue is distributed to the municipal corporation or township where the tax originates and 20% (less administrative costs) is allocated to the state GRF.

Local Government Fund and other revenue distributions

Local Government Fund

(R.C. 131.44, 131.51, 5747.50, 5747.501, 5747.502, and 5747.51 (amended); R.C. 5747.503 and 5747.504 (enacted); Sections 757.20 to 757.23, and 803.210)

The bill modifies the formula that directs how money in the Local Government Fund (LGF) is distributed to local governments. Under continuing law, the LGF receives 1.66% of the total state tax revenue credited to the General Revenue Fund each month. Most of these funds are distributed to county undivided local government funds (county LGFs) in every county in the state. Local governments in the county agree on how money in the county LGF is allocated among the various political subdivisions within the county. (In a few counties, a default statutory formula determines the allocation.)

Current law formula

Under current law, distributions to county LGFs and municipal corporations' general funds are calculated using a two-step formula. The first step is determining each fund's proportionate share of the total amount distributed from the LGF in 2007. For direct distributions to municipal corporations, no further adjustment is made. However, for distributions to county LGFs, the proportionate share allocated to each county must be adjusted to ensure that every county receives at least the lesser of (a) $750,000 or (b) the amount the county received in FY 2013. The proportionate shares of county LGFs that would otherwise receive less than this minimum distribution (about

20 counties) are increased upward, while the proportionate shares of all other county LGFs are reduced accordingly.

Direct payments to municipal corporations in 2017

(Section 757.21)

The bill freezes the direct payments to municipalities that will be made between July and December of 2017. For each of those months, a municipality will receive the same amount that municipality received for that month in 2016.

New formula

(R.C. 5747.50, 5747.501, 5747.51, 5747.503, 5747.504; Sections 757.20 to 757.23)

Beginning in 2018, the bill eliminates the existing direct payments to municipal corporations and introduces a new, three-part formula for distributing LGF money to local governments. Under the formula, each month, (1) $1 million is first set aside for townships and less populous villages, and then (2) the majority of the remaining funds are distributed to county LGFs based on the county's past share of LGF money and (3) a smaller portion of the remaining funds are distributed directly to subdivisions based on each subdivision's population and tax-raising capacity as compared to state averages.

Township and village set aside

(R.C. 5747.503; Section 757.20)

Each month, before any other payments are made, the bill provides for $1 million to be paid to villages with a population of less than 1,000 (16.6%) and to all townships (83.3%). This money is divided among the townships and villages half in equal amounts, and half based on the road miles in each subdivision. As an example, each month, the $833,333 allocated to townships would be distributed as follows: (a) one-half divided equally among all townships and (b) one-half allocated to townships based on the proportion of the township-controlled road miles in that township as compared to the total miles of all township-controlled roads in the state.

The bill's set aside is a continuation of identical payments allowed in FYs 2016 and 2017 in temporary law. The bill provides for these payments in permanent law and for them to continue during the gap between the end of FY 2017 and January of 2018, when the bill's formula takes effect.

The set-aside payments are made to county LGFs, and county treasurers are responsible for distributing the payments among townships and villages. Each month, the Tax Commissioner must identify the amount to be distributed to each subdivision.

The Commissioner must also update the road mile information used to determine the payments at least once every five years.

Payments based on percentage of prior distributions

(R.C. 5747.50 and 5747.501; Section 757.23)

Of the funds remaining after the township/village set aside, the majority is distributed through a formula based on each county's prior share of LGF money. In general, the percentage dedicated to such distributions gradually decreases over the next three years: 95% in 2018, 87% in 2019, and 80% in 2020.[95] The formula used to determine each county LGF's share of such distributions is somewhat similar to current law: first, the proportionate share of each county LGF is determined, then those shares are adjusted to ensure that some county LGFs' historical minimum shares are largely preserved.

Under the bill, if the total amount distributed to county LGFs in 2017 is greater than 80% of the total LGF funds available in the current year (after the township/village set aside), each county LGF receives a percentage share based on that county's percentage share in 2017. If the amount distributed in 2017 is less than 80% of the funds available in the current year, each county LGF's share is based on that county's share in 2011. In the latter case, similar to current law, these proportionate shares are then adjusted upward or downward to ensure that every county LGF receives at least the lesser of (a) $750,000 or (b) the amount the county received in 2011.

[95] These percentages are subject to adjustment, however, so that such distributions total one of the following:

(a) 100% of total current-year LGF funds (after the township/village set-aside), if the total amount of LGF funds available in that year is less than a specified percentage of the total amount distributed in 2017 (95% in 2018 and 90% thereafter);

(b) 90-95% (as applicable) of the total amount distributed in 2017 if that amount is more than 80% but less than 100% of total current-year LGF funds (after set-aside);

(c) 80% of total current-year LGF funds (after set-aside), if that amount is greater than 90-95% (as applicable) of the total amount distributed in 2017.

If adjustments are necessary for a particular year, the amounts distributed among the two formulas that receive LGF money after the township/village set-aside are increased or decreased in the first six months of the following year to accommodate the adjustment.

Direct payments based on tax-raising capacity

(R.C. 5747.504; Sections 757.22 and 757.23)

A smaller portion of the amount remaining after the township/village set-aside – 5% in 2018, 13% in 2019, and 20% in 2020[96] – is paid directly to subdivisions. The payments are available to counties (which will 37.3% of each monthly distribution), townships (9.8%), cities (47.7%), villages that levy an income tax (3.7%), and villages that do not (1.5%). Each subdivision's share of the amount allocated to its category is based on that subdivision's population and tax-raising capacity.

A subdivision's tax-raising capacity is determined by comparing its specific tax base(s), averaged over five years,[97] to the state average tax base over that period. For counties, the tax bases used are (a) total sales subject to the county's sales tax (given 80% weight) and (b) the taxable value of all property subject to the county's property taxes (given 20% weight). For cities and villages that levy an income tax, the relevant tax base is the total taxable income subject to the municipality's income tax. For villages that do not levy an income tax and for townships, the tax base is the taxable property of all property in the village or township.

Each subdivision's average tax base is calculated on a per capita basis and compared to the per capita state average for its category (e.g., villages with an income tax are compared only to other villages with an income tax). The result is a factor that is multiplied by the subdivision's share of the total population of all such subdivisions in the state to produce the subdivision's share.

The result of this formula is that, given two subdivisions with similar populations, the subdivision with the lower tax-raising capacity will receive relatively more money than the subdivision with a higher tax-raising capacity. For example, a township with an average per capita taxable property base of $8 million, compared to a state average per capital taxable property base of $10 million would have a factor of 1.25, while a township with an average per capita taxable property base of $12 million would have a factor of .83. If the two townships have the same population, the township with the lower average tax base would receive a higher share of the township LGF distribution.

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[96] Subject to adjustment, as discussed in the immediately preceding footnote.

[97] The "calculation period" for determining these averages is the five-year period ending with the second year before the year in which the distributions are made. E.g., for distributions made in 2018, the "calculation period" would be 2012-2016.

The bill requires the Tax Commissioner to recalculate each subdivision's share each year. In order to assist the Commissioner in making these calculations, the bill requires municipalities that levy an income tax to provide information on the municipality's income tax base for the 2012-2016 taxable years to the Commissioner on or before November 15, 2017. In subsequent years, such municipalities must certify their income tax base for the immediately preceding year on or before August 31. A municipality that does not provide this information will not receive a distribution in the following year.

Tax Commissioner estimates

(R.C. 5747.501 and 5747.51)

Under continuing law, the Tax Commissioner must certify to county auditors, on or before July 25 of each year, an estimate of the amount to be distributed to county LGFs from the LGF in the next year. Under the bill, this estimate includes only the distributions that will be based on the county's prior share of LGF funds (the second step of the formula).

The bill also allows – but does not require – the Commissioner to calculate a second estimate, in December, of the amounts to be distributed to county LGFs under both the second and third step of the formula. The Commissioner is only required to make these estimates available on the Commissioner's website, however, not to certify them to county auditors.

County reporting requirements

(R.C. 5747.51)

Under current law, after the county auditor determines each subdivision's share of the county LGF, the auditor must certify the county's share to the Tax Commissioner. The bill requires the auditor to certify the shares of all subdivisions, as well as the actual amounts distributed to those subdivisions. If the auditor does not provide such information, the Commissioner may withhold future payments to the county LGF.

Public Library Fund

(R.C. 131.51)

The bill restores the share of General Revenue Fund revenue earmarked for the Public Library Fund (PLF) to 1.66%. Although this percentage was in permanent law throughout the FY 2016-2017 biennium, the percentage was temporarily increased to 1.70% for that biennium only (see Section 375.10 of H.B. 64 of the 131st G.A.).

Under continuing law, county undivided public library funds in every county receive a distribution from the state PLF. Agreements among local governments (and, in a few cases, a statutory formula) determine the amounts to be allocated to libraries within the county, and county treasurers distribute the amounts accordingly. (In a few counties, other kinds of local governments receive a share of the county PLF.) The amount a county undivided PLF receives in a given year depends upon the Fund's "guaranteed share" and its "share of the excess." A fund's "guaranteed share" is the amount the fund received in the previous year after an adjustment for inflation. In any year, if the guaranteed shares of all counties exceed the total balance of the state PLF, then the share of county funds must be reduced proportionately. Alternatively, if the balance of the state PLF exceeds the guaranteed shares of the counties, then each county may receive a "share of the excess." That share is calculated by determining an equalization ratio for each county that is based on the county's population and its guaranteed share from the previous year.

Commercial activity tax revenue

(R.C. 5751.02; Section 812.20)

Beginning for fiscal year 2018 and thereafter, the bill reallocates commercial activity tax (CAT) revenue, less 0.85% of such revenue allocated for administrative expenses and "tax reform" measures, as follows:

(1) Increases the share credited to the General Revenue Fund from 75% to 85%;

(2) Decreases the share allocated to reimburse school districts for the loss of tangible personal property taxes from 20% to 13%;

(3) Decreases the share allocated to reimburse taxing units other than school districts for the loss of tangible personal property taxes from 5% to 2%.

DEPARTMENT OF TRANSPORTATION

- Modifies the Department of Transportation's (ODOT's) authority, and the related authority of airport zoning boards, to regulate obstructions to the navigable airspace to conform with federal law.

- Eliminates the requirement that, if ODOT waives compliance with its obstruction standards, ODOT must base its decision on sound aeronautic principles as set out in Federal Aviation Administration technical manuals.

- Modifies the process for filing a permit application or an amended permit application to construct or alter a structure that is reasonably expected to penetrate the navigable airspace.

- Eliminates a provision of current law that exempts a person who obtains a permit from an airport zoning board for the construction or alteration of a structure within an airport hazard area from the requirement to obtain a permit to penetrate the navigable airspace from the ODOT Office of Aviation.

- Enhances the penalties for installing a structure without obtaining a permit and for substantially changing a structure that was installed prior to October 15, 1991, without obtaining a permit.

- Specifies that when a court determines that a person has violated, or threatens to violate, the law governing obstructions to the navigable airspace, the court may authorize ODOT to:

  -- Enter upon the premises on which the structure is located; or

  -- Remove or demolish the structure or otherwise correct or abate the violation at the expense of the owner of the property.

- Clarifies how changes to the laws governing structures that penetrate the navigable airspace will apply to structures in existence prior to the changes.

- Allows ODOT to order the owner of a nonconforming structure to remove the structure if the nonconforming use is voluntarily discontinued for two years or more.

- Specifies that ODOT and the ODOT Office of Aviation are not liable for damages caused by a structure that obstructs the navigable airspace if the structure was not issued a permit or is not in compliance with a permit.

Permits for structures that obstruct the navigable airspace

(R.C. 4561.01, 4561.31, 4561.32, 4561.33, 4561.37, 4561.39, 4561.40, and 4563.032; repealed R.C. 4561.30; conforming and technical changes in other R.C. sections)

General authority

Under current law, the Department of Transportation (ODOT) is required to adopt rules for purposes of uniformly regulating the height and location of structures and objects of natural growth within an airport's navigable airspace, based on federal air navigation rules. The bill modifies ODOT's authority, and the related authority of airport zoning boards, to regulate obstructions to the navigable airspace in conformance with federal law. Under the bill, navigable airspace means the imaginary surfaces around an airport as specified in federal law, including any clear zone surface, horizontal surface, conical surface, primary surface, approach surface, and transitional surface, as well as any terminal obstacle clearance area and en route obstacle clearance area. The bill also eliminates the requirement that, if ODOT waives compliance with its obstruction standards, ODOT must base its decision on sound aeronautic principles as set out in Federal Aviation Administration technical manuals.

Permit applications

(R.C. 4561.33 with conforming changes in R.C. 4561.05)

The bill modifies the process by which a person must file an application with ODOT for a structure or object of natural growth that will penetrate, or is reasonably expected to penetrate, an airport's navigable airspace. Under current law, an applicant must either file a copy of the Federal Aviation Administration's (FAA) form 7460 "Notice of Proposed Construction or Alteration" or an application form established by ODOT that contains statutorily specified information. Under the bill, an applicant must file the FAA form and, if the ODOT Office of Aviation requires the submission of an application, the applicant must also file an application established by the Office of Aviation. Thus, under the bill, applicants must always file FAA form 7460.

The bill requires an applicant to pay any applicable fee, which the bill authorizes ODOT to establish. The bill also changes the timeline for filing an application to not less than 45 days nor more than two years prior to the proposed installation, rather than not less than 30 days nor more than two years prior. ODOT may waive the timeline at the discretion of the Administrator of ODOT's Office of Aviation.

The bill specifies that an applicant for an amended permit must file an application, as required by the Office of Aviation, if the applicant has received notice of the denial of the permit. The bill retains the existing timeline for filing an amended

permit application, which is not less than 30 days nor more than two years prior to the proposed installation, which may be waived for unforeseen emergencies.

Prohibitions and penalties

(R.C. 4561.31 and 4561.39)

Current law prohibits a person from taking any of the following actions:

(1) Installing a structure or object of natural growth that is reasonably expected to penetrate the navigable airspace without first obtaining a permit;

(2) Substantially changing a structure or object of natural growth that was installed prior to October 15, 1991, without first obtaining a permit; and

(3) Substantially changing a permitted structure or object of natural growth without first obtaining an amended permit; or violating the terms and conditions of a permit.

The bill eliminates two exceptions to these prohibitions. The first exception provides that the replacement of an existing structure or object of natural growth with a structure or object that is not more than ten feet or 20% higher than the existing structure or object, whichever is higher, does not constitute a violation unless the structure or object will penetrate or is reasonably expected to penetrate the navigable airspace. The second exception provides that any person who receives a permit from an airport zoning board to construct or substantially change a structure or object of natural growth on or after October 15, 1991, is not required to obtain a permit from ODOT if the airport zoning board has adopted airport zoning regulations based upon federal air navigation rules.

The bill also modifies the penalties for installing a structure or object of natural growth without obtaining a permit and for substantially changing a structure or object that was installed prior to October 15, 1991, without obtaining a permit. Under current law, a violation of either prohibition is a third degree misdemeanor. The bill enhances the penalties so that a violation of either prohibition is a first degree misdemeanor. This change makes the penalties consistent with the penalties for the other prohibitions in current law that govern substantially changing a permitted structure or object of natural growth without obtaining an amended permit or installing such a structure or object in noncompliance with a permit.

The bill also establishes two specific forms of relief that the court may grant in order to prevent, restrain, correct, or abate any alleged or threatened violation of the law governing obstructions to the navigable airspace. Under current law, the court may

grant such relief as may be necessary. The bill provides that such relief may include both of the following:

(1) Authorizing ODOT or an agent of ODOT to enter the property on which the structure or object of natural growth is located; and

(2) Authorizing ODOT or an agent of ODOT to remove or demolish the structure or object or otherwise correct or abate the violation or threatened violation at the expense of the property owner.

Applicability to existing structures

(R.C. 4561.37)

Generally

The bill clarifies a "grandfather" provision in current law that applies to structures or objects of natural growth that were in existence prior to the adoption or amendment of the law governing obstructions to the navigable airspace. Under that provision, if a structure or object becomes nonconforming because of changes to the law or because ODOT issues a new rule or order, the law, rule, or order cannot be construed to require changes to that structure or object. The bill clarifies this provision of law by instead specifying that:

(1) The law governing obstructions to the navigable airspace cannot be construed to require the removal or lowering of, or the making of any other change to, any structure or object that was in existence prior to October 15, 1991, unless the structure or object is substantially changed after the effective date of the bill; and

(2) If any provision of the law governing obstructions to the navigable airspace or any rule adopted under it is enacted, adopted, or amended after a permit has been issued for a structure or object, the provision does not apply, unless the structure or object is substantially changed after the effective date of the provision.

Exception

Current law establishes an exception to the limitation on the applicability of the law governing obstructions. Specifically, current law provides that the owner of a nonconforming structure or object of natural growth that is permanently out of service or partially dismantled, destroyed, deteriorated, or decayed must demolish or remove that structure or object if ordered to do so by ODOT. The bill modifies this provision so that it applies to a nonconforming structure or object with a nonconforming use that is voluntarily discontinued for two years or more and to a nonconforming structure or

object that is placed out of service or partially dismantled, destroyed, deteriorated, or decayed.

ODOT liability

(R.C. 4561.40)

The bill provides that ODOT and the Office of Aviation within ODOT are not liable for any damages caused by a structure or object of natural growth that is an obstruction to the navigable airspace if either of the following applies:

(1) The structure or object was installed without a permit; or

(2) A permit was issued for the structure or object but the structure or object was not installed in compliance with the terms and conditions of the permit.

DEPARTMENT OF VETERANS SERVICES

Veterans organizations grant program

- Requires the Director of Veterans Services to develop and maintain the veterans organizations grant program.
- Requires the Director to adopt rules to identify eligible veterans organizations and the manner in which funds will be distributed.
- Requires the Director to prescribe the reporting requirements for veterans organizations that receive funding.
- Prohibits the release of state funding to a veterans organization unless the Director determines the reporting requirements are met.
- Removes the specific requirement that the Director review reports within 30 days of receipt and inform the organization of any deficiencies.
- Repeals the requirement that prohibits the Director of Budget and Management from releasing funds to a veterans organization until the Director of Veterans Services advises that a veterans organization has submitted a satisfactory report.
- Removes the requirement that the Director of Veterans Services advocate for adequate state subsidization of veterans organizations.

Veterans' physician recruitment program

- Authorizes the Department of Veterans Services to establish a physician recruitment program.

Veterans organizations grant program

(R.C. 5902.02; repealed R.C. 126.211)

The bill requires the Director of Veterans Services to develop and maintain the veterans organizations grant program. The bill requires the Director to adopt rules under the Administrative Procedure Act to identify eligible veterans organizations and the manner in which funds will be distributed. Any rules adopted must give priority funding to organizations and programs that improve access for veterans and their families to resources from the U.S. Department of Veterans Affairs and to programs that enhance access to employment opportunities.

Additionally, the bill requires the Director to prescribe the reporting requirements for veterans organizations that receive funding. The veterans organization must report annually, unless the Director specifies a shorter period. The bill also prohibits the release of state funding to a veterans organization unless the Director determines the reporting requirements are met. The bill removes the specific requirement that the Director review reports within 30 days of receiving it and to inform the organization of any deficiencies. The bill also repeals the requirement of the Director of Veterans Services to advise the Director of Budget and Management when a report has been submitted, reviewed, and determined satisfactory before the Director of Budget and Management can release funds to a veteran organization.

The bill no longer requires the Director of Veterans Services to advocate for adequate state subsidization of veterans organizations.

Veterans' physician recruitment program

(R.C. 5907.17)

The bill authorizes the Department of Veterans Services to establish a physician recruitment program. The Department must adopt rules under the Administrative Procedure Act to establish the criteria for designating institutions that will be supported under the program, selecting physicians, determining the portion of a physician's loan the Department agrees to repay, determining reasonable amounts of expenses for other school expenses and room and board, procedures for monitoring compliance with the terms of the contract, and any other criteria or procedures necessary.

Under the program, the Department agrees to repay all or part of the principal and interest of a government or other educational loan incurred by a physician who agrees to provide services to the institutions designated under the Department's rules.

A physician is eligible to participate in the program if the physician attended a medical or osteopathic medical school that was located in the U.S. and accredited by the Liaison Committee on Medical Education or the American Osteopathic Association or located outside the U.S. and acknowledged by the World Health Organization and verified by a member state of that Organization.

The bill requires the Department and the physician to enter into a contract that states: (1) the physician agrees to provide a scope of medical or osteopathic services for a specified number of hours per week and a specified number of years, (2) the Department agrees to repay all or a specified portion of the principal and interest of a government or other educational loan if the physician fulfills the service obligation and the expenses were incurred while the physician was in school and was used for tuition, other educational expenses, and room and board, (3) the physician agrees to pay the

Department a specified amount as damages if the physician fails to comply with the contract terms, and (4) any other terms agreed upon by the Department and physician.

CONSOLIDATION OF HEALTH-RELATED BOARDS

Creation of new boards via consolidation

- Creates the State Vision and Hearing Professionals Board, the State Behavioral Health and Social Work Board, and the State Physical Health Services Board by consolidating several existing health professional licensing boards.

- Establishes regulatory procedures for the three new boards that are similar to current law's provisions that apply to the boards abolished under the bill.

- Requires the three new boards to establish a code of ethical practice for each occupation regulated by that board and authorizes each board to take disciplinary action against an applicant or license holder for violating a code of ethics, which applies under current law to most of the occupations.

Regulation of dietitians and respiratory care therapists

- Places the regulation of dietitians under the State Medical Board and abolishes the Ohio Dietetics Board.

- Abolishes the Ohio Respiratory Care Board and places its duties with respect to respiratory care therapists with the State Medical Board and its duties with respect to home medical equipment service providers with the State Board of Pharmacy.

- Requires the State Medical Board to appoint a dietetics advisory council and a respiratory care advisory council to advise the Board on issues relating to the practice of dietetics and respiratory care.

- Requires the State Board of Pharmacy to appoint a home medical equipment services advisory council to advise the Board on issues relating to providing home medical equipment services.

Existing licenses and board employees

- Provides that employees of the abolished boards are transferred to one of the three new boards, the State Medical Board, or the State Board of Pharmacy, and retain their positions and benefits.

- Allows the boards abolished by the bill to establish a retirement incentive plan for eligible employees of those boards who are Public Employees Retirement System (PERS) members.

Other changes

- Requires license applicants for all occupations regulated by the new boards to undergo criminal records checks to receive a license.
- Generally provides for electronic occupational license applications and renewals.

Creation of new boards via consolidation

(R.C. Chapter 4744.; Sections 515.30 to 515.35; conforming changes in numerous other R.C. sections)

The bill creates the State Vision and Hearing Professionals Board, the State Behavioral Health and Social Work Board, and the State Physical Health Services Board by consolidating several existing health professional licensing boards. These boards will regulate the appropriate professions beginning January 21, 2018. The manner in which the boards are consolidated is listed in the table below:

Board consolidation		
State Vision and Hearing Professionals Board	**State Behavioral Health and Social Work Board**	**State Physical Health Services Board**
State Board of Optometry	Chemical Dependency Professionals Board	Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board
Ohio Optical Dispensers Board	Counselor, Social Worker, and Marriage and Family Therapist Board	State Board of Orthotics, Prosthetics, and Pedorthics
Hearing Aid Dealers and Fitters Licensing Board	State Board of Psychology	
Board of Speech-Language Pathology and Audiology		

Membership

The boards consist of the following members:

State Vision and Hearing Professionals Board	
Two licensed optometrists	Two licensed dispensing opticians
Two licensed speech-language pathologists	One licensed audiologist
One licensed hearing aid fitter	One individual representing the general public

State Behavioral Health and Social Work Board	
One licensed psychologist who is not a school psychologist	One licensed school psychologist
One licensed independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, chemical dependency counselor II, or chemical dependency counselor III	One individual holding a prevention consultant certificate or prevention specialist I certificate
One licensed professional clinical counselor or professional counselor	Two licensed independent social workers or social workers
One licensed independent marriage and family therapist or marriage and family therapist	One individual representing the general public

State Physical Health Services Board	
One licensed occupational therapist	One licensed physical therapist
One licensed athletic trainer	Two licensed occupational therapists, physical therapists, or athletic trainers, in any combination of those professionals
One licensed orthotist or orthotist and prosthetist	One licensed prosthetist or orthotist and prosthetist
One licensed pedorthist	One individual representing the general public

Members of these boards are appointed by the Governor with the advice and consent of the Senate. The Governor must make initial appointments to the boards not later than 90 days after the provision's effective date.

Terms of office for board members are three years, except that initial members serve staggered terms of one to three years. Except for initial appointments, terms for board members begin and end on the following dates (initial terms begin on the date of appointment and end on the date identified in the table below):

Board	Dates of office
State Vision and Hearing Professionals Board	Begin March 23 and end March 22
State Behavioral Health and Social Work Board	Begin October 5 and end October 4
State Physical Health Services Board	Begin August 28 and end August 27

Members hold office from the date of appointment until the end of the term for which the member was appointed, except that a member continues in office after the expiration date of the member's term until the member's successor takes office. No member may serve more than three consecutive terms. The bill includes the standard vacancy provisions. When a member's term expires or a vacancy occurs on one of the boards, the bill allows a professional association representing the interests of the occupation of the board position to be filled to recommend to the Governor individuals to fill the position. The Governor must consider the recommendation in making an appointment.

The bill prohibits an individual from being appointed to any of the new boards who has been convicted of or pleaded guilty to a felony. The Governor may remove a board member for malfeasance, misfeasance, or nonfeasance after a hearing in accordance with the Administrative Procedure Act. The Governor must remove, after a hearing, any member who has been convicted of or pleaded guilty to a felony. A board member receives a per diem for each day the member performs the member's official duties and is reimbursed for actual and necessary expenses incurred in performing those duties.

Regulatory procedures

The bill adds provisions regarding regulatory procedures for the three new boards that are similar to current law's provisions that apply to the boards abolished under the bill. In some cases, current law governing the boards abolished by the bill does not include some of these provisions. The provisions include the following:

- Requirements for meetings, recordkeeping, and office space;
- Appointing board officers and employees and setting their compensation;
- Maintaining a register of every individual holding a certificate, license, permit, registration, or endorsement and every individual whose certificate, license, permit, registration, or endorsement has been revoked;

- Annually reporting to the Governor on the board's official acts, receipts and disbursements, and the conditions of the professions regulated by that board;

- Requiring all payments collected by the boards to be deposited into the Occupational Licensing and Regulatory Fund (rather than the General Operations Fund for hearing aid dealers);

- Rulemaking;

- Qualified immunity from liability for board members, employees, agents, and representatives;

- Authorizing the board to (1) enter into contracts to implement the laws and administrative rules governing the professions regulated by that board, (2) join national licensing organizations for the professions regulated by that board, and (3) appoint advisory committees or other groups to assist in fulfilling its duties;

- Prohibiting the board from discriminating against an applicant or license holder based on the person's race, color, religion, sex, national origin, disability, or age.

Code of ethics

The bill requires the three new boards to establish a code of ethical practice for each occupation regulated by that board and authorizes each board to take disciplinary action against an applicant or license holder for violating a code of ethics. Currently, each occupation regulated by the new boards includes these provisions in existing law, except for the licensing law governing optometrists, dispensing opticians, and hearing aid dealers or fitters.

Regulation of dietitians and respiratory care therapists

(R.C. 4729.011, 4759.011, and 4761.011; conforming changes in numerous other R.C. sections)

Effective January 21, 2018, the bill places the regulation of dietitians under the State Medical Board and abolishes the Ohio Dietetics Board. The bill also abolishes the Ohio Respiratory Care Board on that date and places its duties with respect to respiratory care therapists with the State Medical Board and its duties with respect to home medical equipment service providers with the State Board of Pharmacy.

Dietetics, respiratory care, and home medical equipment advisory councils

The bill requires the State Medical Board to appoint a dietetics advisory council and a respiratory care advisory council to advise the Board on issues relating to the practice of dietetics and respiratory care. The bill also requires the State Board of Pharmacy to appoint a home medical equipment services advisory council to advise the Board on issues relating to providing home medical equipment services. Each advisory council must consist of not more than seven individuals knowledgeable in the area of dietetics, respiratory care, or in the provision of home medical equipment services, as applicable.

The State Medical Board and the State Board of Pharmacy must make initial appointments to the advisory councils not later than April 21, 2018. Members serve three-year staggered terms of office in accordance with rules adopted by those boards. With approval from the Director of Administrative Services, each member of the advisory councils may receive a per diem for each day the member performs the member's official duties and be reimbursed for actual and necessary expenses incurred in performing those duties.

State Medical Board regulatory procedures

The bill applies procedures for the regulation of dietitians and respiratory care professionals that apply to the other health care professionals the State Medical Board currently regulates. The procedures include the following:

- Notifications to be provided to the Board by prosecutors, health care facilities, professional associations or societies, and professional liability insurers regarding actions taken against a license holder;

- Requirements relating to dietitians and respiratory care professionals suffering impairment from the use of drugs or alcohol;

- Keeping a register of license applicants and licenses issued and a directory of license holders;

- Requiring fees, penalties, and other funds governing the regulation of dietitians and respiratory care professionals to be deposited in the State Medical Board Operating Fund (rather than the Occupational Licensing and Regulatory Fund);

- Use of universal blood and body fluid precautions in performing exposure prone procedures.

Existing licenses and board employees

The bill includes general transfer authority provisions. With respect to existing licenses, the bill provides that any licenses, certificates, permits, registrations, or endorsements issued before January 21, 2018, by any of the boards that are abolished by the bill will continue in effect as if issued by one of the three new boards, the State Medical Board, or the State Board of Pharmacy, as applicable.

Existing board employees

Under the bill, all employees of the abolished boards are transferred to one of the three new boards, the State Medical Board, or the State Board of Pharmacy, as applicable, and retain their positions and benefits. Beginning January 21, 2018, and ending June 30, 2019, the executive directors of those boards may establish, change, and abolish positions on the boards and assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all board employees.

Retirement incentive plans

Continuing law permits a public employer to establish a retirement incentive plan for its employees who are members of the Public Employees Retirement System (PERS). Under a plan, an employer purchases service credit for eligible members in return for an agreement to retire within 90 days of receiving the credit.

The boards abolished under the bill may, at that board's discretion and with approval from the Office of Budget and Management, establish a retirement incentive plan for eligible employees of those boards who are PERS members. Any retirement incentive plan established under the bill remains in effect until January 20, 2018.

Other changes

Criminal records checks

Continuing law generally requires an individual applying for an occupational license to undergo a criminal records check as a condition of receiving a license. The bill adds provisions requiring individuals applying for any of the following licenses, certificates, or permits to submit to a criminal records check:

- Hearing aid dealer's or fitters licenses;
- Licenses and permits issued under the Speech-Language Pathology and Audiology Licensing Law;

- Licenses and certificates issued under the Chemical Dependency Professionals Licensing Law.

Electronic applications

The bill generally allows for electronic occupational license applications by doing all of the following:

--Eliminating current law's requirement that applications for the following types of licenses, certificates, and endorsements be written:

- All of the following initial licenses, certificates, and endorsements: certificates of licensure to practice optometry, therapeutic pharmaceutical agents certificates, psychology and school psychology licenses, licenses and certificates issued under the Counselors, Social Workers, and Marriage and Family Therapists Licensing Law, licenses, certificates, and endorsements issued under the Chemical Dependency Professionals Licensing Law, dietetics licenses, and certified Ohio behavior analyst certificates.

- Certificate reinstatement under the Optometry Licensing Law.

--Eliminating a provision that applications for initial physical therapy and physical therapy assistant licenses must be notarized.

--Eliminating a requirement that most occupational license renewals be mailed to the individual.

The bill provides that if a failure in any electronic license renewal system occurs, a licensing agency may extend the date by which licenses must be renewed. The licensing agency may extend a renewal period for a reasonable time period after the resolution of the system failure. A licensing agency must obtain approval from the Director of Administrative Services for an extension in excess of 14 days beyond the resolution of the system failure.

Fee increases

The bill authorizes the State Vision and Hearing Professionals Board, with the Controlling Board's approval, to increase fees for the optical dispensing licensing examination in excess of the fee currently established by rule, so long as the increase does not exceed 50% of the current fee.

Complaints

The bill eliminates current law's requirement that a person must file with the State Physical Health Services Board (currently, the State Board of Orthotics, Prosthetics, and Pedorthics) three copies of a complaint against an orthotics, prosthetics, or pedorthics license holder and instead requires a person to file a complaint.

Coroners and county engineers

- Authorizes a board of county commissioners to appoint a coroner or county engineer ("county officer"), or both positions, by resolution of the board and with voter approval.

- Establishes the procedure for submitting the question of appointment to the county's voters.

- Specifies the appointment process, the qualifications for appointment and limitations thereon, the powers and duties of an appointed county officer, and how a vacancy in that office must be filled.

- Requires the board of county commissioners to fix the appointed county officer's salary.

- Creates a procedure to discontinue the appointment of a county officer, with voter approval.

- Authorizes the board of county commissioners of a county that already has an appointed coroner or county engineer, or both, to merge that officer's position, or office and position, with the same appointed county officer position, or office and position, in any number of adjoining counties, by resolution of the board and with voter approval of each participating county.

- Establishes the procedure for submitting the merger question to each county's voters once every participating county has certified its resolution to the board of elections of its respective county.

- Specifies the merger process, the qualifications for appointment of the county officer of the merger and limitations thereon, the powers and duties of the appointed county officer of the merger, and how a vacancy in that office must be filled.

- Requires a majority of the county commissioners of all of the counties participating in the merger to fix the salary of the appointed county officer of the merger.

- Establishes a procedure to discontinue a merger with voter approval, and specifies when a merger must be dissolved.

- Authorizes a county to join an existing merger by following the bill's merger procedure if the county (1) already has an appointed coroner or county engineer and

(2) is adjacent to a county participating in an existing merger that has merged that same appointed county officer position.

- Provides that the adoption or discontinuance of appointing a county officer or of a merger does not affect present acts, contracts, or proceedings of an office.

County auditor financial report filing requirement

- Increases, from 90 to 150, the number of days after the close of the fiscal year within which a county auditor must prepare a financial report of the county for the preceding fiscal year.

County veterans service commission

- Defines minimum qualifications for executive directors of county veterans service commissions.

- Permits county veterans service commissions to hire certain nonveterans (spouses, surviving spouses, parents, or children of veterans) as county veterans service officers in the absence of any qualified veteran candidates.

- Requires the executive director and other commission employees to submit proof of veterans' status.

Township road construction estimates

- Eliminates the requirement that, when advertising a bid for a road improvement project, a board of township trustees provide notice of the estimate of the project cost.

- Specifies that a board is not required to provide notice of the estimate or amended estimate when the board readvertises for bids if the original bidding process did not yield a bid within 110% of the estimate.

Local entity annual reports to Auditor of State

- Eliminates the Auditor of State as an entity to which a municipality and a board of alcohol, drug addiction, and mental health services must provide a copy of their annual reports.

Coroners and county engineers

Appointment of coroners and county engineers by county commissioners

(R.C. 313.01, 314.01, 314.02, 314.03, 314.04, 314.05, 314.06, 314.13, and 315.01)

Authorization to appoint; adoption of a resolution

The bill authorizes a board of county commissioners to appoint a coroner or county engineer, with the approval of the voters of the county. The board of county commissioners of any county may adopt, by a ⅔ vote of the board, or must adopt, upon petition filed with the board by 3% of the county's electors as determined by the number of votes cast therein for the Office of Governor at the most recent gubernatorial election, a resolution seeking to authorize the board of county commissioners to appoint a coroner or county engineer, or both, (defined by the bill as "county officer") by following the procedure set forth in the bill. The resolution must specify the county officer or county officers to be appointed, rather than elected, and the date on which the county officer takes or county officers take office.

The board of county commissioners must certify the resolution to the board of elections in the county within five days after its adoption.

Appointment question submitted to the voters

The board of elections must submit to the county's electors the question of authorizing the board of county commissioners to appoint a county officer or county officers, at the next general election occurring not less than 90 days after the resolution is certified to the board of elections. The bill specifies the question that the board of elections must submit to the electors, in language substantially similar to the language in the bill. If the resolution that was adopted specifies that both a coroner and a county engineer are to be appointed, the board of elections must submit a separate question to the electors for each position.

Immediately following the election, the board of elections must file a certificate of the results with the Secretary of State.

If a majority of the votes cast on the question of appointing a county officer is in the affirmative, the board of county commissioners must appoint the county officer in the manner provided by the bill. If the electors, at the same election, elected a county officer for the same position for which they approved appointment, the election results for the elected county office are void, and the board of county commissioners must appoint the county officer.

If a majority of the votes cast on the question of appointing a county officer is in the negative, that county officer must continue to be elected.

Appointment process and qualifications

Under the bill, if the appointment of a county officer is approved by the electors, the board of county commissioners must make the appointment, and the appointed county officer must take office on the first day after the expiration of the current elected county officer's term of office. The county officer must be appointed for an indefinite term of office, but may be removed from office by a majority vote of the board of county commissioners.

A candidate for appointment must meet the same qualifications to hold the office of coroner or county engineer, as appropriate, that are required by law, as if the candidate were still elected to that office.

No member of the board of county commissioners is eligible for appointment as a county officer until the conclusion of one year after expiration of the member's term.

Salary, powers, and vacancies

Notwithstanding existing law that sets the salaries of coroners and county engineers based on the population of the county they serve, the board of county commissioners must fix the appointed county officer's salary. The salary cannot be less than the salary that the appointed county officer otherwise would have received were the officer still elected. The board must pay the appointed county officer biweekly from the county treasury, upon the warrant of the county auditor.

An appointed county officer is the county officer of the county for purposes of the Revised Code. An appointed county officer must exercise any power, perform any function, and render any service vested by law in the elected county officer, and must comply with all laws that apply to the elected county officer, as if the appointed county officer were still elected.

Notwithstanding existing law regarding vacancies in elected county offices, if a vacancy occurs in the office of an appointed county officer, the vacancy must be filled in the same manner as provided for appointments under the bill (see "**Appointment process and qualifications**," immediately above).

Discontinuing the appointment of the coroner or county engineer

A question to discontinue the appointment of a county officer or county officers may be submitted to the electors of the county at any general election in the manner provided for submitting the question of appointing a county officer or county officers

under the bill. The question submitted must be whether the county should discontinue appointing a county officer or county officers, as appropriate.

Immediately following the election, the board of elections must file a certificate of the results with the Secretary of State.

If a majority of the county's electors vote to discontinue appointing a county officer or county officers, the county board of elections must publish a notice once a week for two consecutive weeks in a newspaper of general circulation or as provided in existing law's abbreviated publication procedure, stating that the board of elections will accept declarations of candidacy for the county office.

Merging the positions and their offices

(R.C. 313.01, 314.07, 314.08, 314.09, 314.10, 314.11, 314.12, 314.13, and 315.01)

Authorization for merger; adoption of resolutions seeking a merger

The bill authorizes a county that has an appointed coroner or county engineer, or both, to merge that officer's position, or office and position, with the same appointed county officer position, or office and position, in any number of adjoining counties, with the approval of the voters of each county participating in the merger. The bill requires that each county approve the merger separately.

The board of county commissioners of each county may adopt, by a ⅔ vote of the board, or must adopt, upon petition filed with the board by 3% of the electors of the county as determined by the number of votes cast therein for the Office of Governor at the most recent gubernatorial election, a resolution seeking a merger. Each resolution must specify all of the following:

(1) The appointed county officer position being merged;

(2) The names of all of the counties that will be participating in the merger;

(3) Which county or counties' appointed county officer position, or office and position, will be eliminated;

(4) The location of the appointed county officer's merged office, if offices are merged;

(5) The minimum amount of funds, the services, and the property to be contributed to the appointed county officer's office by each participating county;

(6) A transition plan and schedule for the merger; and

(7) The name of the position, or office and position, of a merged position, or office and position.

Each board of county commissioners must certify its resolution to the board of elections in that county within five days after its adoption.

Merger question submitted to the voters

Once every county that seeks to participate in the merger has certified its resolution to the board of elections of its respective county, each board of elections must submit to the electors of the county the question of merging appointed county officers' positions, or offices and positions, as designated in the resolution, at the next general election occurring not less than 90 days after the resolution is certified to the board of elections. The bill specifies the ballot language that the board of elections of each of the counties seeking the merger must submit to the electors. The merger question must be submitted in language substantially similar to the ballot language in the bill.

Immediately following the election, the board of elections must file a certificate of the results with the Secretary of State.

If a merger is approved by a majority of those voting on it in each county, separately, the appointed county officer positions must be merged into one position in accordance with the resolutions adopted by the participating counties. If the ballot also included a question of merging offices and that merger is approved, the offices of the appointed county officers must be merged into one in accordance with those resolutions.

If a merger is disapproved by a majority of those voting on it in **any** county, the merger cannot occur.

Appointment and merger process

If a merger is approved by the electors, a county officer must be appointed by vote of a majority of the county commissioners of all of the counties participating in the merger, and the county officer must take office on January 1 after the election. At least one county commissioner of each county participating in the merger must approve the candidate appointed. If the merger approved by the electors also merges offices, the offices must be merged in accordance with the resolutions adopted by the counties participating in the merger. Notwithstanding existing law requiring the office of coroner or county engineer to be located in the county the officer serves, the merged office may be located outside a county participating in the merger, as long as it is located in one of the participating counties.

A candidate for appointment as coroner or county engineer of merged counties must meet the same qualifications as for a coroner or county engineer appointed under the bill (see "**Appointment process and qualifications**," above). The county officer of the merger must be appointed for an indefinite term of office, but may be removed from office by vote of a majority of the county commissioners of all of the counties participating in the merger.

Before the effective date of the appointment of any appointed county officer of the merger, the counties must agree on the total amount of funds to be contributed to the appointed county officer's office by each county participating in the merger. If the counties cannot agree on the total amount to be contributed, each county must contribute at least the minimum amount of the funds specified in the resolution adopted by the county.

Salary and powers of the officer of the merger; filling vacancies

The salary of the appointed county officer of the merger must be as provided for a county officer appointed under the bill (see "**Salary, powers, and vacancies**," above), except that the salary must be fixed by vote of a majority of the county commissioners of all of the counties participating in the merger.

The appointed county officer of the merger is the county officer of each county participating in the merger for purposes of the Revised Code. The appointed county officer of the merger must exercise any power, perform any function, or render any service vested by law in a county officer in all of the counties that participate in the merger, and must comply with all laws that apply to an elected county officer, as if the appointed county officer were still elected.

Notwithstanding existing law regarding vacancies in elected county offices, if a vacancy occurs in the office of the appointed county officer of the merger, the vacancy must be filled in the same manner as the bill provides for appointments of county officers of a merger.

Discontinuing a merger

A question to discontinue a merger that was approved by the electors may be submitted to the electors of any county that is participating in the merger, at any general election, in the manner provided under the bill for the submission of a merger question. The question submitted must be whether the county shall continue to participate in the merger.

Immediately following the election, the board of elections must file a certificate of the results with the Secretary of State.

If a majority of the county's electors vote to discontinue the merger, that county's board of county commissioners immediately must appoint a county officer as provided under the bill for the appointment of a county officer (see "**Appointment process and qualifications**," and "**Salary, powers, and vacancies**," above). The merger continues for any other counties that participate in the merger.

If the discontinuance of the merger by a county would leave only one county participating in the merger, the merger must be dissolved, and each of the counties immediately must appoint a county officer as provided under the bill for the appointment of a county officer (see "**Appointment process and qualifications**," and "**Salary, powers, and vacancies**," above).

Joining an existing merger

A county that has appointed a coroner or county engineer under the bill, and that is adjacent to a county participating in an existing merger that has merged that same appointed county officer position, may join the existing merger in the manner provided under the bill for mergers.

Adoption or discontinuance of appointing a county officer or of a merger not to affect present acts

(R.C. 314.13)

The adoption or discontinuance of appointing a county officer or of a merger under the bill does not affect any act done, ratified, or affirmed, or any contract or other right or obligation other than contracts for personal services, accrued or established, or any cause of action, prosecution, or proceeding, civil or criminal, pending when the change takes effect; nor does the adoption or discontinuance of appointing a county officer or of a merger affect actions, prosecutions, or proceedings existing when it takes effect; but the rights must attach to, and actions, prosecutions, or proceedings may be prosecuted and continued, or instituted and prosecuted against, by, or before the office having jurisdiction or power of the subject matter to which the action, prosecution, or proceeding pertains. All rules, regulations, and orders lawfully promulgated before the adoption or discontinuance must continue in force and effect until amended or rescinded.

On the effective date of the adoption or discontinuance of appointing a county officer or of a merger under the bill that causes a transfer of rights, duties, and powers from one office to another, all books, records, papers, documents, property, real and personal, funds, appropriations and balances of appropriations, and pending business in any way pertaining to those rights, powers, and duties must be similarly transferred.

County auditor financial report filing requirement

(R.C. 319.11)

The bill increases, from 90 to 150, the number of days after the close of the fiscal year within which a county auditor must prepare a financial report of the county for the preceding fiscal year. The current 90-day requirement varies from the general requirement under Ohio law that public offices utilizing generally accepted accounting principles ("GAAP") prepare the report within 150 days.[98] Counties are required to prepare their financial reports using GAAP.[99]

County veterans service commission

(R.C. 5901.06 and 5901.07)

Executive director

The bill defines the minimum qualifications for an executive director of a veterans service commission. The director must possess at least three years of experience in administration, fiscal matters, law, operations, or communications. Continuing law requires that the executive director be a veteran.

Service officers

The bill permits a veterans service commission to hire a spouse, surviving spouse, child, or parent of a veteran as a service officer if a qualified veteran is not available. Under current law, only a qualified veteran may be employed as a service officer. Current law also requires a veteran to prove the veteran's status within 60 days of the date of initial employment by providing a copy of the veteran's DD214 form to the Department of Veterans Services. The bill adds that a veteran may also file a DD215, NGB22, or official summary to the Department to prove veteran status. Under the bill, if a spouse, surviving spouse, child, or parent of a veteran is employed as a service officer, in addition to filing proof of the veteran's status, the service officer must also file proof of the relationship to the veteran, such as a birth certificate, marriage certificate, or other official record.

Investigators, clerks, and other employees

The bill also requires the executive director, investigators, clerks, and other employees to submit proof of veterans' status within 60 days of the date of initial

[98] R.C. 117.38, not in the bill.

[99] O.A.C. 117-2-03.

employment. Proof of veterans' status may be done by providing a copy of the veteran's DD214, DD215, NGB22, or official summary of service to the Department of Veterans Services.

Under current law, a spouse, surviving spouse, child, or parent of a veteran may be hired as an investigator or clerk. The bill adds that a spouse, surviving spouse, child, or parent of a veteran may also be hired as an employee. The bill also adds that any spouse, surviving spouse, child, or parent of a veteran hired as an investigator, clerk, or other employee must file proof of veteran's status and proof of the relationship to the veteran, such as birth certificate, marriage certificate, or other official record.

The bill removes the provision that requires the veterans service commission to employ and fix compensation for the necessary clerks, stenographers, and other personnel that assist service officers. The bill also removes the requirement that the clerks, stenographers, and other personnel be a veteran or a spouse, surviving spouse, child, or parent of a veteran and that these employees are employed in the classified service and exempt from civil service examination.

Township road construction estimates

(R.C. 5575.02 and 5575.03)

The bill modifies the content that must be included in an advertisement for bids when a board of township trustees seeks bids for a road improvement project. Under current law, the board must include a statement that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for the project are on file with the board. The bill eliminates the requirement that the board provide notice that estimates of the project cost are on file with the board, thereby seemingly limiting access to the estimate prepared by the county engineer.

The bill also specifies that a board is not required to provide notice of the county engineer's estimate or amended estimate if the board readvertises for bids for a road improvement project. Under current law, unchanged by the bill, the board must readvertise for bids based either on the county engineer's original estimate or an amended estimate if the board has not received a bid that is equal to or less than 110% of the county engineer's original estimate.

Local entity annual reports to Auditor of State

(R.C. 304.03 and 705.22)

The bill eliminates the requirement for a municipal corporation and a board of alcohol, drug addiction, and mental health services to provide a copy of their annual

reports to the Auditor of State. For municipalities, the municipal library and any citizen of the municipality who requests a copy remain as recipients under continuing law. For boards, the Director of Mental Health and Addiction Services and the county auditor of each county in the board's district remain as recipients.

- Authorizes the conveyance of approximately 1,053 acres of state-owned land in Warren County through a real estate purchase agreement or by sealed bid auction or public auction.

Warren County land conveyance

(Section 753.10)

The bill authorizes the conveyance of approximately 1,053 acres of state-owned land in Warren County through a real estate purchase agreement or by sealed bid auction or public auction. Before selling the real estate, the Directors of DAS and DRC must determine the real estate is surplus real property no longer needed by the state and that the conveyance is in the best interest of the state.

If sold through a real estate purchase agreement, the consideration and terms and conditions must be acceptable to the Directors of DAS and DRC, and the consideration must be paid at closing.

If a sale is conducted by sealed bid auction or public auction, the real estate must be sold to the highest bidder at a price acceptable to the Directors of DAS and DRC. The Director of DAS must advertise the sealed bid auction or public auction by publication in a newspaper of general circulation in the county where the property is located, once a week for three consecutive weeks before the date on which the sealed bids are to be opened or the auction takes place. The Director must notify the successful offeror or bidder in writing, and may reject any or all bids. The purchaser must pay a deposit of 10% of the purchase price to the Director not later than five business days after receiving a notice that the purchaser's proposal or bid has been accepted, and must enter into a real estate purchase agreement in the form prescribed by the Department of Administrative Services. The purchaser must pay the balance of the purchase price at closing, which must occur not later than 60 days after execution of the purchase agreement. Payment must be made by bank draft or certified check payable to the Treasurer of State. A purchaser who does not satisfy the conditions of the sale must forfeit the 10% deposit as liquidated damages. If a purchaser fails to complete the purchase, the Director may accept the next highest bid subject to the same conditions. If the Director rejects all proposals or bids, the Director may repeat the sealed bid auction or public auction, or may use an alternative sale process considered acceptable by the Directors of DAS and DRC.

DRC must pay all advertising costs incident to the sale of the real estate, and the purchaser must pay all other costs associated with the purchase, closing, and conveyance of the real estate.

The Directors of DAS and DRC must determine whether to convey the real estate as entire tracts or as multiple parcels, and whether to convey the real estate to a single purchaser or multiple purchasers. The deeds conveying the property must contain restrictions prohibiting the purchaser from occupying, using, developing, or selling the real estate if the occupation, use, development, or sale will interfere with the quiet enjoyment of neighboring state-owned land. Finally, the proceeds from those conveyances must be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund.[100]

[100] The Adult and Juvenile Correctional Facilities Bond Retirement Fund is created under R.C. 5120.092, not in the bill.

NOTES

Effective dates

(Sections 812.10 to 812.50)

Article II, Section 1d of the Ohio Constitution states that "appropriations for the current expenses of state government and state institutions" and "[l]aws providing for tax levies" go into immediate effect and are not subject to the referendum. The bill includes a default provision stating that, except as otherwise specifically provided, the amendment, enactment, or repeal of a section is subject to the referendum and takes effect on the 91st day after the act is filed with the Secretary of State (barring the filing of a referendum petition). The bill also includes many exceptions to the default provision, some of which provide that specified provisions are not subject to the referendum and go into immediate effect.

Expiration clause

(Section 809.10)

The bill includes an expiration clause stating that an item that composes the whole or part of an uncodified section contained in the bill (other than an amending, enacting, or repealing clause) has no effect after June 30, 2019, unless its context clearly indicates otherwise.

HISTORY

ACTION	DATE
Introduced	02-08-17

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