OHIO LEGISLATIVE SERVICE COMMISSION

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Sub. H.B. 49

132nd General Assembly
(As Passed by the House)

Reps. R. Smith, Duffey, Ginter, Hambley, Hill, Lanese, Manning, McColley, Patton, Perales, Reineke, Ryan, Scherer, Sprague, Rosenberger

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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 two 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, the expiration clause, and other administrative matters.

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.

- Modifies the leave of absence law for permanent public employees who are members of the Ohio organized militia or other reserve components of the U.S. Armed Forces, including the Ohio National Guard.

Military leave for permanent public employees

(R.C. 5923.05)

The bill modifies the leave of absence law for permanent public employees who are members of the Ohio organized militia or other reserve components of the U.S. Armed Forces, including the Ohio National Guard. The bill establishes that the entitlement applies to each federal fiscal year, which is from October 1 through September 30. Current law applies the entitlement to a calendar year. Under continuing law, these employees are entitled to a leave of absence from their positions without loss of pay for the time they are performing service in the uniformed services, for periods of up to one month per year.

DEPARTMENT OF ADMINISTRATIVE SERVICES

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.

Repeal of Ohio Building Authority Law

- Formally repeals the Ohio Building Authority (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.

High-deductible health plan

- Replaces the requirement that DAS establish a medical savings account pilot program with a requirement that DAS establish and offer a high-deductible health plan to state employees.

Staggered renewal process for electronic licensing

- Requires occupational licensing agencies, which utilize the electronic licensing system operated by DAS, to incorporate into the agency's license renewal process a minimum license duration of two years, and a staggered renewal schedule.

Legislative agency office space

- Allows legislative agencies to make purchases, leases, and repairs for the agencies' office spaces, and provides the agencies custody of the office spaces.

Pay for Success Contracting Program

- Establishes the Pay for Success Contracting Program and authorizes the DAS Director to enter into multi-year contracts with social service intermediaries under the Program to achieve certain social goals in Ohio.

- Requires that one or two projects intended to reduce infant mortality and poor birth outcomes, as well as promote equity in birth outcomes among different races in Ohio, be administered by such a contractor.

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 notwithstands 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]

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.

High-deductible health plan

(R.C. 124.823)

The bill replaces the requirement that DAS establish a medical savings account pilot program with a requirement that DAS establish and offer a high-deductible health plan to state employees. Such a health plan would be accompanied by a health savings account and must provide all health benefits to which the employee is entitled. The bill authorizes DAS to require employees participating in such a plan to make contributions to the account.

DAS is not required to offer such an option to state employees covered by a collective bargaining agreement but the option may be included in a package of health care options offered pursuant to the agreement.

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

Staggered renewal process for electronic licensing

(R.C. 4745.01 and 4745.05)

The bill requires occupational licensing agencies, which utilize the electronic licensing system operated by DAS, to adopt rules under the Administrative Procedure Act to incorporate into the agency's license renewal process a minimum license duration of two years, and a staggered renewal schedule so that an approximately equal number licenses expire, and are subject to renewal, during each year of the duration of a particular license. These changes to the license renewal process must be incorporated by January 1, 2018. However, the requirement does not apply to temporary or initial licenses that the agency may otherwise be authorized to issue.

Further, the bill authorizes a licensing agency that adopts a rule establishing a new renewal expiration date, to prorate otherwise authorized license fees as appropriate.

Under certain criteria, a licensing agency may opt-out of conformance with the new requirements after a reasonable period of time. Under the bill, a licensing agency, after having conformed to the requirements of the bill for a reasonable period of time, may opt-out if conformance did not establish a more uniform funding stream for the agency and has had an adverse effect on both the agency staff and on the community regulated by the agency.

Legislative agency office space

(R.C. 123.01)

The bill allows agencies within the legislative branch of the state government to make purchases, leases, and repairs for the agencies' office spaces, and provides the agencies custody of the office spaces. Under current law, DAS generally controls buildings and office spaces of state agencies, except the Capitol Square Review and Advisory Board (CSRAB) controls its buildings and the Joint Legislative Ethics Commission (JLEC) controls its office space. As under current law applicable to JLEC, the bill allows an agency of the legislative branch (except CSRAB) to enter into a contract with DAS to have DAS perform services requested by the legislative agency.

Pay for Success Contracting Program

(R.C. 125.66 and 125.661; Section 207.60)

The bill establishes the Pay for Success Contracting Program. Under the Program, the DAS Director is permitted to enter into multi-year contracts with social service intermediaries to achieve certain social goals in Ohio. The bill defines a "social service intermediary" as a nonprofit organization exempt from federal income taxation,

or a wholly owned subsidiary of a nonprofit organization, that delivers or contracts for the delivery of social services, raises capital to finance the delivery of social services, and provides ongoing project management and investor relations for these activities.

A contract under the Program must include provisions that do all of the following:

--Require DAS, in consultation with a state agency that administers programs or services related to the contract's subject matter, to specify performance targets to be met by the social service intermediary;

--Specify the process or methodology that an independent evaluator contracted by DAS must use to evaluate the social service intermediary's progress toward meeting each performance target;

--Require DAS to pay the social service intermediary in installments at times determined by the DAS Director that are specified in the contract and are consistent with applicable state law;

--Require the installment payments to the social service intermediary to be based on the intermediary's progress toward achieving each performance target, as determined by the independent evaluator contracted by DAS;

--Specify the maximum amount a social service intermediary may earn for its progress toward achieving performance targets; and

--Require DAS to ensure, in accordance with applicable state and federal laws, that the social service intermediary has access to any data in the possession of a state agency, including historical data, that the social service intermediary requests for the purpose of performing contractual duties.

The bill requires the DAS Director, if he or she contracts with a social service intermediary, to contract with a person or government entity to evaluate the social service intermediary's progress toward meeting each performance target specified in a contract. The Director must choose an evaluator that is independent from the social service intermediary, ensuring that both parties do not have common owners or administrators, managers, or employees.

Pilot projects intended to reduce infant mortality

(Section 207.60)

The bill requires the DAS Director, not later than six months after the bill's effective date, in consultation with the Department of Health, and as part of the Pay for

Success Contracting Program, to contract with one or more social service intermediaries to administer one or two pilot projects intended to:

--Reduce the incidence of infant mortality, low-birthweight births, premature births, and stillbirths in infant mortality hot spots that have been specified by the Director of Health under existing law; and

--Promote equity in birth outcomes among infants of different races in Ohio.

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.

Long-term Care Consultation Program

- 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

- Prohibits the establishment of a new rate-setting methodology for the Assisted Living program during FYs 2018 and 2019.

- Provides that the Medicaid rates for the Assisted Living program during FYs 2018 and 2019 cannot exceed the rates in effect on June 30, 2017.

- Creates a workgroup to review the Assisted Living program.

PASSPORT program

- Prohibits during FYs 2018 and 2019 the restructuring of Medicaid rates for personal care aide services provided under the PASSPORT program.

- Provides that the Medicaid rates for personal care aide services provided under the PASSPORT program during FYs 2018 and 2019 cannot exceed the rates for the services in effect on June 30, 2017.

References to defunct programs

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

- Eliminates references to the defunct Choices Program.

Other provisions

- 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:

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

(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 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

Payment rates

(Section 209.60)

The bill prohibits a new rate-setting methodology from being established during FYs 2018 and 2019 for the Assisted Living program. It also provides that the Medicaid payment rates for the program during FYs 2018 and 2019 are not to exceed the rates for the program in effect on June 30, 2017.

Assisted Living program workgroup

(Section 209.50)

The bill establishes a workgroup to conduct a review of the Assisted Living program. The workgroup is to consist of the following:

(1) Two members of the House appointed by the Speaker from among the chairpersons of the Aging and Long-Term Care Committee, the Health Committee, and the Finance Subcommittee on Health and Human Services;

(2) One member of the House appointed by the Minority Leader from among the members of the minority party serving on any of those House committees;

(3) Two members of the Senate appointed by the Senate President from among the chairpersons of the Health, Human Services, and Medicaid Committee, the full Finance Committee, and the Finance – Health and Medicaid Subcommittee;

(4) One member of the Senate appointed by the Minority Leader from among members of the minority party serving on any of those Senate committees;

(5) The Executive Director of the Office of Health Transformation;

(6) The Medicaid Director;

(7) The Director of Aging;

(8) The Director of Health;

(9) One representative of each of the following organizations, appointed by the chief executive of the organization: Leadingage Ohio, the Ohio Assisted Living Association, the Ohio Association of Area Agencies on Aging, and the Ohio Health Care Association.

Appointments must be made to the workgroup within 60 days after the effective date of this provision. A member may designate another individual to serve in the member's place for one or more sessions. Members are to serve without compensation or reimbursement, except to the extent that serving on the workgroup is part of their usual job duties.

The Medicaid Director and Director of Aging are to serve as co-chairpersons. The Departments of Medicaid and Aging must provide any administrative assistance the workgroup needs.

The workgroup must do both of the following in reviewing the Assisted Living program:

(1) Identify potential barriers to enrollment and providers' participation, including barriers related to payment rates, the tier levels to which enrollees are assigned and their use in setting payment rates, the statutory and administrative requirements that providers must meet to participate, and other issues the workgroup determines are barriers; and

(2) Determine the feasibility and desirability of making community-based services that are similar to assisted living services available under other programs that the Department of Aging currently administers or under a new program.

Each state agency and advocacy organization represented on the workgroup is required to make available to the workgroup any relevant federal or state data concerning, or assessments of, providers of assisted living services that the agency or organization possesses and is needed for the workgroup to complete its review. The workgroup must use the data and assessments only for the purpose of its review.

The workgroup must complete a report of its review by July 1, 2018. The report must include recommendations regarding assisted living services. The workgroup is prohibited from recommending that different types of facilities be allowed to be providers under the Assisted Living program in addition to residential care facilities (i.e., assisted living facilities) licensed by the Department of Health. If the workgroup recommends that a new program be created, it must include (1) a name for the new program and its services that distinguishes them for the Assisted Living program and assisted living services, (2) potential sources of funding the new program that do not reduce any current or future federal or state funds for the Assisted Living program, and (3) a determination of whether a new Medicaid waiver would be needed for the new program. The report must be submitted to the Governor, General Assembly, and Joint Medicaid Oversight Committee. It also must be made available to the public. On submission of the report, the workgroup ceases to exist.

PASSPORT program

(Section 209.70)

The bill prohibits the Medicaid payment rates for personal care aide services provided under the PASSPORT program from being restructured during FYs 2018 and 2019. It also provides that the Medicaid payment rates for such services provided during those fiscal years is not to exceed the rates for the services in effect on June 30, 2017.

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

[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.

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 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

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

[5] R.C. 173.42.

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

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.

DEPARTMENT OF AGRICULTURE

Inflatable amusement rides

- Requires the Director of Agriculture to charge a prorated fee for an operating permit for an inflatable ride that has a term of less than one year.

- Eliminates the $105 statutory annual inspection and reinspection fee for inflatable amusement rides, and instead requires the Director of Agriculture to set the fee by rule following a review and recommendations by the Director of Administrative Services.

- Adds two members representing the inflatable amusement ride industry to the Advisory Council on Amusement Ride Safety.

Soybean Marketing Program

- Establishes the Soybean Marketing Program, and generally applies the procedures, requirements, and other provisions that are established for the existing Grain Marketing Program to the Soybean Marketing Program.

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 regulation

- 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.

- Exempts a processor of apple syrup or apple butter who directly harvests from trees at least 75% of the apples used to produce the apple syrup or butter from the Director's rules governing standards and good manufacturing practices for food processing establishments.

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.

- 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.

State matching funds for conservation districts

- Extends, through 2019, the cap on the money that the Department may provide to a soil and water conservation district to match the amount of money received by the

district pursuant to a contract to carry out Phase II of the federal Storm Water Program on behalf of a county sewer district.

Inflatable amusement rides

(R.C. 1711.51 and 1711.53; Section 709.10)

Operating permit fee

The bill requires the Director of Agriculture, if the Director issues a permit to operate an inflatable ride for a term of less than a year, to charge a prorated fee for the permit equal to one-twelfth of the annual permit fee multiplied by the number of full months for which the permit is issued. Under current law, if the Director issues an operating permit for a period of less than one year, the Director must charge the full annual permit fee of $150.

Inspection/reinspection fee

The bill revises the law governing the annual inspection and reinspection fee for an inflatable amusement ride as follows:

(1) Eliminates the $105 statutory fee, and instead requires the Director of Agriculture to establish a new fee by rule;

(2) Requires the Director of Administrative Services to review the costs associated with conducting an inspection and reinspection of an inflatable ride, and authorizes the Director to enter into an agreement with a private entity to perform the review;

(3) Based on the review, requires the Director of Administrative Services to make recommendations to the Director of Agriculture on the amount of the fee. The Director of Administrative Services must complete the review and submit the recommendations to the Director of Agriculture by October 15, 2017.

(4) Requires the Director of Agriculture to establish the new fee based on the recommendations of the Director of Administrative Services;

(5) Prohibits the Director of Agriculture from adopting rules establishing the fee until the review is complete. The Director must adopt the rules by January 31, 2018. The rules are not subject to business review by the Common Sense Initiative.

(6) Requires the existing $105 fee to remain in effect until the Director adopts rules establishing a new fee.

Advisory Council

The bill requires the Governor, not later than 30 days after the bill's effective date, to appoint two additional members to the existing Advisory Council on Amusement Ride Safety. They must be representatives of the inflatable amusement ride industry who are owners or operators of inflatable amusement rides or consultants from the industry. Under current law, the Council is tasked with studying topics pertaining to the amusement ride industry, and making recommendations to the Director of Agriculture regarding rules that address amusement ride safety.

Soybean Marketing Program

(R.C. 924.01, 924.09, and 924.211)

Overview

Existing law allows producers of various agricultural commodities (including pork, corn, and eggs) to establish marketing programs for those commodities. Although soybeans are a commodity for which a marketing program can be established under current law, a soybean marketing program has not been established. In addition, current law establishes the Grain Marketing Program for the purposes of marketing wheat, barley, rye, and oats. The bill establishes the Soybean Marketing Program in a similar manner to the Grain Marketing Program.

Soybean Marketing Program – establishment and operation

As mentioned above, the bill establishes the Soybean Marketing Program, and generally applies the procedures, requirements, and other provisions that are established for the existing Grain Marketing Program to the Soybean Marketing Program. However, the Soybean Marketing Program Operating Committee must consist of 18 members, 14 of whom must be elected by eligible soybean producers in accordance with the election procedures that apply to the Grain Marketing Program Operating Committee. The Director of Agriculture must appoint the remaining four members, who must be from the United Soybean Board from Ohio. The appointed members of the Board are voting members. Under current law, the Grain Marketing Program Operating Committee consists of nine members, who are elected by eligible grain producers. An operating committee is generally tasked with promoting a commodity and maintaining and expanding markets for that commodity.

With regard to the levying of assessments for purposes of providing funding for the Soybean Marketing Program, the bill requires an assessment on soybean producers to be assessed at the rate of 0.5% of the per-bushel price of soybeans at the first point of sale. This assessment is consistent with the assessments levied on grains under the Grain Marketing 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 regulation

Registration – civil penalties

(R.C. 3715.041)

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

(R.C. 3715.021 and 3715.041)

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.

The bill also exempts a processor of apple syrup or apple butter who directly harvests from trees at least 75% of the apples used to produce the apple syrup or butter from the Director's existing rules governing standards and good manufacturing practices for food processing establishments. Current law requires those rules to conform with or be equivalent to the standards for foods established by the U.S. Food and Drug Administration.

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.

State matching funds for conservation districts

(R.C. 940.15)

Under current law, the Department, within the limits of funds appropriated to the Department, must pay to a soil and water conservation district a matching amount of up to $1 for every $1 raised from any of the following local sources:

(1) Taxes levied by a board of county commissioners within the ten-mill limitation for construction and maintenance of improvements by the soil and water conservation district, and for other expenses incurred in carrying out the program of the district;

(2) Taxes levied in excess of the ten-mill levy limitation approved for the benefit of the district;

(3) Money received pursuant to a contract entered into between the district and a board of county commissioners operating a county sewer system to carry out projects and activities for the purpose of complying with the requirements of Phase II of the Storm Water Program under federal law (the Phase II program requires certain public storm water systems to obtain a permit governing the control of polluted stormwater); and

(4) Up to $8,000 appropriated by a municipal corporation or a township (the Ohio Soil and Water Conservation Commission may approve a higher amount in any calendar year if the district requests a higher amount and justification is made to the Commission).

Current law caps the money that the Department may provide to a soil and water conservation district to match the amount of money received by the district pursuant to a contract to carry out Phase II of the federal Storm Water Program on behalf of a county sewer district (see number (3) above). The cap is set at the amount the district received as a matching amount during 2013 for entering into that type of contract. Under current law, the cap applies through calendar year 2017. The bill extends the cap through calendar year 2019.

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.

ATTORNEY GENERAL

Monetary settlements for Ohio or state agencies

- Requires the Attorney General to notify the Director of Budget and Management 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 except pursuant to a previous appropriation and Controlling Board approval.

Credit for drug use prevention training

- Allows peace officers to earn continuing professional training hours by providing drug use prevention education in K-12 public schools.

Retained applicant fingerprint database – periodic criminal records checks

- Includes within the Retained Applicant Fingerprint Database individuals who are issued a license by a licensing agency and are subject to a criminal records check.

- Requires the Bureau of Criminal Identification and Investigation to periodically conduct criminal records checks on those individuals.

- Requires the Superintendent of the Bureau, if any of those individuals have been arrested for, convicted of, or pleaded guilty to any offense since the initial criminal records check, to compile the names of those individuals and annually report that information to the Inspector General.

Domestic violence programs

Domestic Violence Program Fund

- Creates in the state treasury the Domestic Violence Program Fund consisting of appropriated and donated moneys and administered by the Attorney General (AG) to provide funding to domestic violence programs, and requires the AG to adopt implementing rules.

- Provides that funding priority must be given to domestic violence programs in existence on and after July 1, 2017.

- Specifies the purposes for which the funds received by either type of domestic violence program must be used.

Domestic Violence Advisory Board

- Establishes in the Office of the Attorney General the Domestic Violence Advisory Board consisting of four members representing the above types of domestic violence programs and a survivor of domestic violence.

- Requires the Board to provide advice to the AG in determining the needs of domestic violence victims, developing a policy for administering the Domestic Violence Program Fund, and making recommendations for the distribution of the funds.

Removing sealed or expunged records from databases

- Enacts a procedure for the removal from databases, websites, and publications of sealed or expunged criminal records upon notice of court orders sealing or expunging the records sent to a qualified third party selected by the Attorney General.

Qualified third party to receive court notices of sealed or expunged records

- Requires the Attorney General (AG) to select a private entity as a qualified third party for the purpose of receiving notices of court orders sealing or expunging criminal case records under procedures provided in continuing law.

- Prescribes the qualifications of such qualified third party, including among others, specific expertise in the operation of the Fair Credit Reporting Act, experience in interacting with consumer reporting agencies, and experience in processing and sending notices of sealed or expunged records to identified data repositories.

- Requires the AG and the selected qualified third party to enter into a contract specifying the third party's duties and the amount of the fee to be paid by an applicant for the sealing or expungement of records who wishes to have the court send the third party notice of its record sealing or expunging order.

- Specifies that the AG has oversight of the functions and activities of the qualified third party.

Receipt of notice of court order

- Requires the qualified third party who receives notice of a court order sealing or expunging the records to send notice of such order to identified data repositories and to websites and publications that the third party knows utilize, display, publish, or disseminate any information from those records.

- Requires an identified data repository that receives such notice to remove from its database, and the websites and publications to remove from the website or publication, all of the records that are subject to the court order sealing or expunging the records and all references to, and information from, those records.

Procedure upon application to have records sealed or expunged

- Upon an application to have the records of the applicant's criminal case sealed or expunged, requires the clerk of court to notify the applicant in writing that the court will send notice of its order sealing or expunging the records to the qualified third party.

- Requires the applicant to notify the clerk if the applicant wishes to opt out of the benefits of the court sending such notice to the qualified third party and to have data repositories, websites, and publications remove those records from their database, website, or publication.

- If the applicant does not opt out as described in the preceding dot point, requires the applicant to pay the fee provided in the contract between the AG and the qualified third party, and requires the clerk of court to remit the fee to the qualified third party upon issuance of the court order sealing or expunging the records.

- If the application is denied by the court or the applicant opts out before the issuance of a court order, requires the clerk to remit the fee back to the applicant.

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 except pursuant to a previous appropriation by the General Assembly and approval by the Controlling Board.

Credit for drug use prevention training

(R.C. 109.803)

The bill requires the Attorney General to include, as part of the Attorney General's rules setting forth minimum standards for continuing professional training (CPT) for peace officers and troopers, specific rules that:

- Allow peace officers and troopers to earn credit for up to four hours of CPT for time spent on duty providing drug use prevention education training that utilizes evidence-based curricula to students in K-12 public schools;

- Allow peace officers to earn up to four CPT hours for other peace officers in the same law enforcement agency by providing that drug use prevention education in K-12 public schools;

- Prohibit the use of CPT hours earned under the bill from offsetting any mandatory hands-on training requirement.

Retained applicant fingerprint database-periodic criminal records checks

(R.C. 109.5721)

The bill includes within the Retained Applicant Fingerprint Database individuals who are issued a license by a licensing agency under R.C. Title 47 and are subject to a criminal records check (this includes optometrists, pharmacists, physicians, physician assistants, veterinarians, and social workers). The bill requires the Bureau of Criminal Identification and Investigation (BCII) to periodically conduct criminal records checks on individuals who are licensees and whose names are in the database to determine if

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

an individual has been arrested for, convicted of, or pleaded guilty to any offense since the individual's initial criminal records check. The bill also requires the BCII Superintendent to compile the names of those individuals and the offenses and report that information to the Inspector General by December 31, 2017, and December 31 of every year thereafter.

Domestic violence programs

(R.C. 109.46)

Domestic Violence Program Fund

The bill creates in the state treasury the Domestic Violence Program Fund consisting of money appropriated to it by the General Assembly or donated to it. The Attorney General must administer the Fund, may not use more than 5% of the moneys appropriated or deposited into the Fund to pay associated administering costs, and must use 95% of the moneys to provide funding to domestic violence programs. "Domestic violence program" means any of the following:

- The nonprofit state domestic violence coalition designated by the Family and Youth Services Bureau of the U.S. Department of Health and Human Services;

- A program operated by a nonprofit entity with the primary purpose of providing a broad range of services to domestic violence victims that may include hotlines, emergency shelters, victim advocacy and support, justice systems advocacy, individual and group counseling for adults and children, or transitional service and education to prevent domestic violence. This program may provide some or all of those services.

The AG must adopt rules establishing procedures for domestic violence programs to apply for funding and for the AG to distribute money to the programs. Priority must be given to the domestic violence programs in existence on and after July 1, 2017.

A domestic violence program must use the funds for the following purposes:

- To provide training and technical assistance to service providers, if the program that receives the funds is the nonprofit state domestic violence coalition;

- To provide services to domestic violence victims, including education to prevent domestic violence, if the program that receives the funds is a

nonprofit victim service entity. Such funds received may also be used for general operating support, including capital improvements and primary prevention and risk reduction programs for the general population.

Domestic Violence Advisory Board

The bill establishes in the AG's Office the Domestic Violence Advisory Board consisting of four members appointed by the AG as follows: one representative from the nonprofit state domestic violence coalition, one representative each from a rural and an urban nonprofit victim service entity, and one survivor of domestic violence. The Board's duties are to:

- Provide advice and counsel to the AG in determining the needs of domestic violence victims and developing a policy for the AG in the administration of the Domestic Violence Program Fund;
- Make recommendations to the AG in the distribution of domestic violence program funds.

The members of the Board serve without compensation, but must be reimbursed for travel and other necessary expenses incurred in the conduct of their official duties. The members serve at the pleasure of the AG.

Removing sealed or expunged records from databases

(R.C. 109.38, 109.381, 2953.32, 2953.37, 2953.38, and 2953.53)

Qualified third party to receive court notices of sealed or expunged records

Appointment and qualifications

The bill requires the Attorney General (AG) to select a private entity as a "qualified third party" in order to receive notices of court orders of sealed or expunged records as described below in "**Procedure upon application to have records sealed or expunged**." Such entity must have the following qualifications (see "**Definitions**" of terms in quotation marks):

- Specific knowledge and expertise regarding the operation of the Fair Credit Reporting Act (FCRA);[11]
- Prior experience in interacting and cooperating with "consumer reporting agencies" regarding their obligations for accuracy under section 1681e(b)

[11] 15 U.S.C. 1681 *et seq.*, as amended.

of the FCRA (requirement of maximum possible accuracy of the information concerning the individual about whom the consumer report relates) and reinvestigations of disputed information under section 1681i of the FCRA (procedures in case of disputed accuracy of any information in a consumer's file) to ensure the accomplishment of the goal of updating their records, files, or databases containing references to, or information on, convictions of crime (conviction of, or plea of guilty to, an offense).

- Relationships with data aggregators, public record vendors, and other companies that collect and compile data or information in conviction records to ensure their cooperation in maintaining the legitimacy, accuracy, completeness, and security of that data or information.

- At least two years' experience in processing and sending notices of sealed or expunged conviction records to "identified data repositories."

- Not an identified data repository or an entity that is owned or controlled by an identified data repository.

- Meet all security clearances and requirements imposed by the AG to ensure that the entity does not misuse any information received from the courts under the bill and that other persons do not have unauthorized access to that information.

Term of service

The selected qualified third party must serve as such for a minimum of three years. The AG may either select another qualified third party at the end of any three-year period or retain the existing qualified third party for another three-year period.

Attorney General's functions

Upon the selection or retention of a qualified third party, the AG and the party must enter into a contract that includes all of the following:

(1) The qualified third party's duties under the bill;

(2) The amount of the fee to be paid by an applicant for a court order to seal or expunge records who wishes to have the court send notice of the order to the qualified third party and to have the procedures described below in "**Receipt of notice of court order**" apply to the records;

(3) Any other provisions as determined by the AG in its rules.

The AG must determine the proportion of the fee described in (2) above that the qualified third party retains for its services and each proportion of the fee that the party must remit to the clerk of the court that sent the notice of the court order sealing or expunging the records, the AG, and the state treasury.

The AG has oversight of the functions and activities of the qualified third party described below, and must promulgate rules to implement the bill.

Receipt of notice of court order

Upon receiving a notice of a court order sealing or expunging the records subject to the order (see "**Procedure upon application to have records sealed or expunged**," below), the qualified third party must send a notice of that order to identified data repositories and to websites and publications that the qualified third party knows utilize, display, publish, or disseminate any information from those records.

Immediately upon receipt of such notice, an identified data repository must remove from its database, and the websites and publications must remove from the website or publication, all of the records that are subject to the court order sealing or expunging the records and all references to, and information from, those records.

Definitions

The bill defines the following additional terms:

"**Consumer reporting agency**" has the same meaning as in section 1681a(f) of the Fair Credit Reporting Act, that is, any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"**Identified data repository**" means either of the following:

- A person or entity that is a consumer reporting agency and is known to a qualified third party as having a database that includes publicly available records of convictions of crime and from which consumer reports are prepared pursuant to the FCRA;

- Any person or entity, other than a consumer reporting agency, that is known to a qualified third party as having a database that includes publicly available records of convictions of crime and registers with a qualified third party for the purpose of receiving notices of court orders of

sealed or expunged records and agreeing to remove those records and any references to and information from those records from the person's or entity's database.

"**Qualified third party**" means a private entity that is selected by the AG as described above.

Sealing or expunging criminal records

Continuing law permits any of the following to apply to have the records of the applicable case sealed:

- An "eligible offender" generally may apply to the sentencing court if convicted in Ohio or to the court of common pleas if convicted in another state or a federal court for the sealing of the record of the case that pertains to the conviction. "Eligible offender" generally means anyone who has been convicted of an offense in Ohio or any other jurisdiction and who has not more than one felony conviction, not more than two misdemeanor convictions, or not more than one felony conviction and one misdemeanor conviction in Ohio or any other jurisdiction.[12]

- Any person who has been arrested for any misdemeanor offense and who has effected a bail forfeiture for the offense charged may apply to the court in which the misdemeanor criminal case was pending when bail was forfeited for the sealing of the record of the case that pertains to the charge.

- Any person, who is found not guilty of an offense by a jury or a court or who is the defendant named in a dismissed complaint, indictment, or information, may apply to the court for an order to seal the person's official records in the case.[13]

- Any person, against whom a no bill is entered by a grand jury, may apply to the court for an order to seal the person's official records in the case.[14]

The following may apply for the expungement of the record of the case under continuing law:

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[12] R.C. 2953.31(A), not in the bill.

[13] R.C. 2953.52(A)(1), not in the bill.

[14] R.C. 2953.52(A)(2), not in the bill.

- Any person who is or was convicted of, or pleaded guilty to, certain specified violations under the offense of improperly handling firearms in a motor vehicle as they existed prior to September 30, 2011, and is specifically authorized by law to file an application may apply to the sentencing court for the expungement of the record of conviction.

- Any person who is or was convicted of any of the following offenses may apply to the sentencing court for the expungement of the record of conviction if the person's participation in the offense was a result of the person having been a victim of human trafficking: soliciting, solicitation after a positive HIV test, loitering to engage in solicitation, loitering to engage in solicitation after a positive HIV test, prostitution, or engaging in prostitution after a positive HIV test.

Continuing law provides the procedures, including a hearing, for the applicable court to make specified determinations regarding the circumstances of the applicant and issue an order based on its determinations.

Procedure upon application to have records sealed or expunged

Under the bill, at the time each of the above applicants files an application to have the records of the case sealed or expunged, the following apply:

- The clerk of court must notify the applicant in writing that the court will send notice of its order granting the application to the qualified third party and inform the applicant of the procedures described above in "**Receipt of notice of court order**."

- The applicant must then notify the clerk if the applicant wishes to opt out of receiving the benefits of having the court send notice of its order to the qualified third party and having those procedures apply to the records that are subject to the order.

- If the applicant does not opt out as described above, the applicant must pay to the clerk the fee provided in the contract between the AG and the qualified third party.

Upon the issuance of an order under continuing law granting the application to seal or expunge the applicable records, and unless the applicant opts out, the clerk must remit the fee paid by the applicant to the qualified third party, and the court must send notice of its order to the qualified third party. If the applicant's application is denied for any reason or if the applicant informs the clerk in writing, before the issuance of the

court order, that the applicant wishes to opt out, the clerk must remit the fee paid by the applicant that is intended for the qualified third party back to the applicant.

AUDITOR OF STATE

Website of public records

- Requires the Auditor of State, in consultation with the State Librarian, to establish and operate a website, data.Ohio.gov, that is to function as an online catalog of public records of public offices.

- Requires the Auditor of State to adopt rules specifying policies and procedures for the administration and operation of data.Ohio.gov.

Uniform accounting procedures and charts of accounts

- Requires the Auditor of State, by rule, to establish uniform accounting procedures and charts of accounts for use by all public offices; their use is not required.

- Awards public offices that use these accounting procedures and charts of accounts with a "DataOhio Transparency Award – Uniformity of Accounting."

Deputy Auditor of State to hold CPA

- Requires an individual to hold a CPA (certified public accountant) certificate in order to be appointed as Deputy Auditor of State.

Auditor of State removal of local government fiscal officers

- Increases the time period during which the Auditor of State must review a sworn affidavit and evidence against a local fiscal officer and must determine whether clear and convincing evidence supports the allegations.

Continuance of a law regarding fiscal watches

- Retains the fiscal watch law that changed the time period for filing a financial recovery plan and that added a condition for moving a municipal corporation, county, or township from a fiscal watch to a fiscal emergency.

Website of public records

(R.C. 117.58)

The bill requires the Auditor of State to establish, administer, and operate a website registered as data.Ohio.gov. The website is to function as the state's primary

online catalog of public records and data sets of public records shared for this purpose by any public office in Ohio. These public records and data sets of public records must be available online and in an open format, and may be cataloged through the use of links, uploaded data files, streaming data, or other technologies that allow convenient online public access. The website may catalog or store original data or processed data, including original public records and aggregated or summarized content of data sets. The Auditor of State must consult with the State Librarian regarding the collection, aggregation, presentation, and accessibility of data in relation to data.Ohio.gov.

The Auditor of State must adopt rules under the Administrative Procedure Act that specify policies and procedures for the administration and operation of data.Ohio.gov. The rules must include a requirement that the Auditor of State may not charge a fee for access to public records or data sets of public records on the website. The Auditor of State must make every effort to ensure that public records or data sets of public records cataloged online on the website are accessible online in an open format.

Uniform accounting procedures and charts of accounts

(R.C. 117.432)

The bill requires the Auditor of State, within two years after the bill's effective date, to adopt rules under the Administrative Procedure Act establishing appropriate uniform accounting procedures and charts of accounts[15] that may be used by all public offices. Public offices that maintain their financial records in accordance with the rules must be declared by the Auditor of State to have earned a "DataOhio Transparency Award – Uniformity of Accounting." The bill authorizes the Auditor of State to use existing uniform accounting procedures or charts of accounts, or to supplement or amend existing uniform accounting procedures or charts of accounts.

The bill states that the General Assembly recognizes that uniform accounting procedures and charts of accounts improve financial management while maintaining the principle of home rule over local matters. The bill states that it is the intent of the General Assembly to facilitate the ability of the public to easily compare public data generated by the state and other public offices using this common language.

[15] Generally, charts of accounts are used to standardize reporting requirements by using unique fund numbers and revenue codes that are based on the type of revenue.

Deputy Auditor of State to hold CPA

(R.C. 117.04)

The bill requires an individual to hold a CPA (certified public accountant) certificate to qualify to be appointed by the Auditor of State to serve as Deputy Auditor of State.

Auditor of State removal of local government fiscal officers

(R.C. 319.26, 321.37, 507.13, and 733.78)

The bill increases, from ten business days to 30 calendar days, the time period during which the Auditor of State must review a sworn affidavit and evidence against a local fiscal officer (i.e., county auditor, county treasurer, township fiscal officer, or fiscal officer of a city or village) and must determine whether clear and convincing evidence supports the allegations. Under continuing law, if the Auditor of State finds by clear and convincing evidence that an allegation is supported by the evidence, the Auditor of State must submit those findings in writing to the Attorney General, who must review the findings within ten business days.

Continuance of a law regarding fiscal watches

(Section 105.20 [repeal of a future version of R.C. 118.023])

In 2015, H.B. 64 of the 131st General Assembly made two changes to a law (R.C. 118.023) that specifies what a municipal corporation, county, or township must do when it has been declared to be under a fiscal watch. The changes were to be in effect only until September 29, 2017. The bill retains the two changes. In other words, the law continues to operate the way it does as amended by H.B. 64, and does not "expire" September 29, 2017.

The first change to be retained reduced, from 120 to 90 days, the amount of time a local government under a fiscal watch was given to submit its financial recovery plan to the Auditor of State. The other change to be retained added another condition under which the Auditor of State must move the local government from a fiscal watch to a fiscal emergency: when the Auditor of State finds that the local government has not made reasonable proposals or otherwise taken action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration of fiscal watch, and the Auditor determines a fiscal emergency declaration is necessary to prevent further decline. (The Auditor of State already must move a local government from a fiscal watch to a fiscal emergency if the local government does not submit a feasible financial recovery plan within a prescribed time period.)

- 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.[16]

[16] 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[17] 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.

[17] 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.

- Prohibits the charging of disclosure course fees to new students that enroll in a for-profit career college or school.
- Requires the State Board of Career Colleges and Schools to refund all student disclosure course fees collected since January 2017.
- Requires the Chancellor of Higher Education to establish criteria, policies, and procedures that enable students to transfer credits earned from a for-profit career college or school to a state institution of higher education without unnecessary duplication or institutional barriers.

Disclosure fees

(R.C. 3332.07 and 3332.071; Section 233.20)

The bill prohibits the State Board of Career Colleges and Schools from charging a disclosure course fee for new students that enroll in a career college or school. Further, the Board must refund all student disclosure course fees charged to schools that were collected since January 2017. The schools then must refund the respective amount received to each student who paid the fee.

Under rule of the Administrative Code, the Board assesses a student disclosure course fee for every new Ohio student who enrolls in a career college.[18] That fee is $25 per student, and the schools are permitted to include the fee on the student's enrollment agreement. According to the Board's website, the rule was effective January 4, 2016, and operation of the rule began on January 1, 2017. Also according to that site, the fee is for a computerized student consumer information course that used to be on paper.[19]

Transfer of credits

(R.C. 3333.166)

The bill requires the Chancellor of Higher Education to establish an articulation pathway for career colleges and schools. Specifically, the bill requires the Chancellor to

[18] Ohio Administrative Code 3332-1-22.1(B).

[19] http://scr.ohio.gov/Portals/0/PDFs/0103-school--memo.pdf and https://oh-student-course-info.edvera.com.

establish criteria, policies, and procedures that enable students to transfer agreed upon courses completed through a career college or school to a state institution of higher education without unnecessary duplication or institutional barriers. Where applicable, the bill requires the Chancellor to use the articulation agreement and transfer initiative course equivalency system for associate degrees already established under current law.[20]

[20] R.C. 3333.16, not in the bill.

- Abolishes the Permanent Joint Committee on Gaming and Wagering, consisting of three members of the House and three members of the Senate, that is to study and submit recommendations and reports on various items related to gaming, including reviewing license fees and penalties under the Casino Law.

Abolish Joint Committee on Gaming and Wagering

(Repealed R.C. 3772.032; conforming changes in R.C. 3772.03, 3772.17, 3772.99, and 5119.47)

The bill abolishes the Permanent Joint Committee on Gaming and Wagering. Under current law, the Committee consists of three members of the House and three members of the Senate, and is tasked with studying and submitting recommendations to the Governor and the General Assembly on various items related to gaming, including reviewing license fees and penalties under the Casino Law.

DEPARTMENT OF COMMERCE

New Banking Law

- Enacts a new Banking Law governing banks, savings and loan associations, and savings banks under the same statute.
- Provides for a single "bank" charter under which all three types of financial institutions may operate.
- Eliminates the separate laws regulating savings and loan associations and savings banks.
- Makes numerous conforming changes throughout the Revised Code.
- Specifies that the new Banking Law takes effect January 1, 2018.

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.
- Permits the Commission to hold meetings via interactive video conference or teleconference if certain requirements are met.

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.

Good Funds Law: disbursements from escrow accounts

- With respect to residential real property, increases – from $1,000 to $10,000 – the maximum amount that can be disbursed by an escrow or closing agent from an escrow account when the funds necessary for the disbursement are in the form of cash or check.

- Removes the requirement that certain electronically transferred funds be "via the real-time gross settlement system provided by the Federal Reserve Bank."

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 certain newly installed or operating power boilers, high pressure, high temperature water boilers, low pressure boilers, and process boilers.

- 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.

A-4 liquor permits

- Allows a person to manufacture and sell ice cream containing at least 0.5% and up to 6% alcohol by volume (ABV).

- Requires such a person to obtain an A-4 liquor permit, which, under current law, authorizes the manufacture and sale of mixed alcoholic beverages.

- Lowers the minimum allowable ABV that applies to all A-4 permit holders from 4% to 0.5% ABV.

Tasting samples of alcohol

- Allows casinos (D-5n liquor permit) and restaurants in casinos (D-5o liquor permit) to offer tasting samples of beer, wine, or spirituous liquor free of charge if certain conditions apply.

Reports by H liquor permit holders

- Requires a person who transports beer or intoxicating liquor into Ohio for delivery (H liquor permit holders) to an individual or entity that is not a liquor permit holder to submit a monthly report to the Division of Liquor Control.

- Requires the report to include specified information relating to the delivery, including the name and address of each consignor, the consignee of the beer or intoxicating liquor, and the date of delivery.

- Prohibits a person from violating the reporting requirements, and allows the Liquor Control Commission to suspend or revoke any liquor permit issued to the violator.

New Banking Law[21]

Overview

The bill enacts a new Banking Law that regulates banks, savings and loan associations, and savings banks under the same statute. That statute is a modification of the law governing banks (R.C. Chapters 1101. to 1127. and 1181.). The definition of "bank" is expanded to include savings and loan associations and savings banks, and a single "bank" charter is created under which all of the financial institutions are to operate. The separate statutes regulating savings and loan associations (R.C. Chapters 1151. to 1157.) and savings banks (R.C. Chapters 1161. to 1165.) are repealed by the bill.

Because, unlike banks, the ownership structure of a savings and loan association or savings bank may *not* be represented by shares of stock, the bill enacts new provisions in the Banking Law to specifically address these mutually owned institutions. For mutual institutions, the depositors are voting members and have an ownership interest in the institution. And an institution's code of regulations may provide that all borrowers from the institution are members. As such, some of the bill's provisions expressly apply to "stock state banks" and their "shareholders," while others apply to "mutual state banks" and their "members." In those provisions applicable to both types of state banks, a reference to "or members" is added wherever "shareholders" are addressed. Other language to recognize the differences between stock state banks and mutual state banks is added, such as what constitutes "capital."

[21] The Revised Code sections of which the New Banking Law is comprised can be found in Section 130.21 of the bill.

The bill modifies a number of provisions of existing law to make them expressly applicable only to *state* banks. Many of those provisions are noted in this portion of the analysis, but, due to the extensive nature of the bill's changes, a complete list is not included.

Among other changes made in the Banking Law, the bill:

- Acknowledges electronic banking;
- References provisions of the General Corporation Law (R.C. Chapter 1701.) that are applicable to the operation of banks;
- Requires the Superintendent of Financial Institutions' *pre*-approval of amendments to a bank's articles of incorporation or amended articles of incorporation;
- Expands what is deemed privileged and confidential to include information obtained as a result of the *supervision* of a bank;
- Provides for a capital restoration plan in the event a bank is undercapitalized;
- Eliminates the law governing Societies for Savings (R.C. Chapter 1133.).

In recognition of the repeal of the laws governing savings and loan associations and savings banks, the bill also makes numerous conforming changes throughout the Revised Code.

The new Banking Law is scheduled to take effect January 1, 2018. There are, however, a few provisions of the bill that have a 90-day effective date.[22]

Organization of the analysis

This portion of the analysis provides a chapter by chapter discussion of the new Banking Law. For each chapter, the analysis summarizes the *major substantive changes* being proposed by the bill in the order in which they are found in that chapter. If any section of the existing law regulating banks (R.C. Chapters 1101. to 1127. and 1181.) remains unchanged, it is not included in the bill and, therefore, not mentioned in this analysis.

[22] Section 130.26.

Following that is a discussion of other related changes made by the bill, including updates, corrections, and conforming changes. The discussion concludes with a chart indicating the sections of current law that have been renumbered and where they are located in the new Banking Law.

The bill

Chapter 1101. – General Provisions

Definitions added or modified by the bill

(R.C. 1101.01)

"**Bank**" or "**banking corporation**" means an entity that solicits, receives, or accepts money or its equivalent for deposit as a business, and includes (1) a state bank or (2) any entity doing business as a bank, savings bank, or savings association under authority granted by the Office of the Comptroller of the Currency or the former Office of Thrift Supervision, the appropriate bank regulatory authority of another state, or the appropriate bank regulatory authority of another country. "Bank" or "banking corporation" does not include a credit union.

"**Bank holding company**" has the same meaning as in the federal Bank Holding Company Act of 1956.

"**Code of regulations**" includes a constitution adopted by a state bank for similar purposes.

"**Capital**":

--With respect to a **stock state bank**, "capital" means the sum of the bank's (1) paid-in capital and surplus relating to common stock, (2) paid-in capital and surplus relating to preferred stock (to the extent permitted by the Superintendent of Financial Institutions), (3) undivided profits, and (4) the proceeds of the sale of debt securities and other assets and reserves (to the extent permitted by the Superintendent).

--With respect to a **mutual state bank**, "capital" means (1) retained earnings or (2) at the discretion of the Superintendent, any other form of capital, subject to any applicable federal and state laws.

"**Deposit**" has the same meaning as in 12 Code of Federal Regulations (C.F.R.) 204.2.

"**Entity**" has the same meaning as in the General Corporation Law.[23]

"**Mutual holding company**" means (1) a mutual state bank or an affiliate of a mutual state bank reorganized in accordance with the bill to hold all or part of the shares of the capital stock of a subsidiary state bank or (2) a mutual holding company organized in accordance with 12 United States Code (U.S.C.) 1467a(o) that has converted to a mutual holding company under the bill.

"**Mutual state bank**" means a state bank without stock that has governing documents consisting of articles of incorporation and code of regulations adopted by its members and bylaws adopted by its board of directors.

"**Person**" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, limited liability company, corporation, or any similar entity or organization.

"**Remote service unit**" means an automated facility, operated by a customer of a bank, that conducts banking functions, such as receiving deposits, paying withdrawals, or lending money.

"**Savings and loan holding company**" has the same meaning as in 12 U.S.C. 1467a.

"**Savings association**" means a savings and loan association doing business under authority granted by the regulatory authority of another state or a federal savings association. The term also includes a state bank that, in accordance with the bill, elects to operate as a savings and loan association.[24]

"**Savings bank**" means a savings bank doing business under authority granted by the regulatory authority of another state.

"**Shares**" means any equity interest, including a limited partnership interest and any other equity interest in which liability is limited to the amount of the investment. The term does not include a general partnership interest or any other interest involving general liability.

[23] See R.C. 1707.01, not in the bill.

[24] See also R.C. 1109.021.

"**State bank**" means a bank doing business under authority granted by the Superintendent. The term also includes a state bank that, in accordance with the bill, elects to operate as a savings and loan association.[25]

"**Stock state bank**" means a state bank that has an ownership structure represented by shares of stock.

"**Trust company**" means an entity licensed under Ohio law to engage in trust business in Ohio or a person that is required to be an entity licensed under Ohio law to engage in trust business in Ohio.

Purposes of the Banking Law

(R.C. 1101.02)

Expanding the purposes set forth in current law for the enactment of the laws regulating banks, the bill adds the purpose of providing "state banks with competitive parity with other types of financial institutions doing business in this state."

Transition

(R.C. 1101.03(E) and (F) and 1109.021)

The bill states that both of the following apply to every savings bank and savings and loan association that is organized under Ohio law and is in existence as of January 1, 2018 (the date the new Banking Law takes effect):

(1) The powers, privileges, duties, and restrictions conferred and imposed in the charter or act of incorporation of such an institution are modified so that each charter or act of incorporation conforms to the new Banking Law.

(2) Notwithstanding any contrary provision in its charter or act of incorporation, every such institution possesses the powers, rights, and privileges and is subject to the duties, restrictions, and liabilities conferred and imposed by the new Banking Law.

Additionally, the bill permits any state bank that wishes to become or remain an affiliate of a savings and loan holding company to do so by complying with the applicable procedures set forth in the bill.

[25] See also R.C. 1109.021.

Enforceability

(R.C. 1101.05)

The bill generally provides that the new Banking Law (1) is enforceable only by the Superintendent, the Superintendent's designee, the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve, or, with respect to the laws governing crimes and prohibited activities (R.C. Chapter 1127.), a prosecuting attorney, and (2) does not create or provide a private right of action or defense for or on behalf of any party other than the Superintendent or the Superintendent's designee.

Designation or name of business

(R.C. 1101.15(A) and (C))

Under current law, only a bank doing business under authority granted by the Superintendent, the bank chartering authority of another state, the Office of the Comptroller of the Currency, or the bank chartering authority of a foreign county can:

(1) Use "bank," "banker," or "banking" in a designation or name under which the bank conducts business in Ohio; or

(2) Represent itself as a bank.

The bill amends (1), above, to allow the use of the words "savings association," "savings and loan," "building and loan," or "savings bank" in a designation or name.

Current law also prohibits a bank from using "state" as part of a designation or name unless it is doing business under authority granted by the Superintendent or the bank chartering authority of another state. The bill extends that prohibition to trust companies.

Authority to accept deposits or transact banking business in Ohio

(R.C. 1101.16)

Current law prohibits any person from soliciting, receiving, or accepting deposits in Ohio, except:

- A bank;
- A "domestic association," which is defined as an Ohio chartered savings and loan or a federally chartered savings association that has its home office in Ohio;

- A "savings bank," which is defined as a corporation that has its home office in Ohio, is organized for the purposes of receiving deposits and raising money to be loaned to its member or others, and maintains at least 60% of its total assets in certain housing-related and other investments;

- A credit union organized under Ohio law; and

- As otherwise permitted under current law, including by means of interstate acquisitions, the establishment or acquisition of banking offices or branches in Ohio, and mergers.

The bill instead prohibits any person from soliciting, receiving, or accepting money or its equivalent for deposit as a business in Ohio, except:

- A state bank;

- An entity doing business as a bank, savings bank, or savings association under authority granted by a bank regulatory authority of the United States, another state, or another country, which institution is authorized to accept deposits in Ohio;

- A credit union organized under Ohio law.

A bank or bank holding company incorporated under the laws of another state or having its principal place of business in another state is prohibited under existing law from (1) soliciting, receiving, or accepting deposits in Ohio unless it has established or acquired a banking office in accordance with Ohio law or (2) transacting any banking business of any kind in Ohio other than lending money, trust business in accordance with Ohio law, or through or as an agent pursuant to current law. The bill removes this prohibition.

Additionally, a depository institution outside Ohio is currently prohibited from establishing a deposit account with or for a person in Ohio by means of an ATM or other money transmission device in Ohio. The bill removes this prohibition.

Chapter 1103. – General Governance

Application

This chapter of current law is amended to clarify that it applies to *state* banks.

Name of bank; misleading use of name

(R.C. 1103.07(A) and (E) and 1103.99)

Under the bill, the name of a state bank must include (1) "bank," "banking," "company," or "co." or (2) "savings," "loan," "savings and loan," "building and loan," or "thrift." It also may include the word "state," "federal," or "association," or, if approved by the Superintendent of Financial Institutions, another term.

The bill prohibits any person from using the name of a state bank in an advertisement, solicitation, promotional, or other material in a way that may mislead another person or cause another person to be misled into believing that the person issuing the advertisement, solicitation, promotional, or other material is associated or affiliated with the state bank, *unless* the person has obtained the express written permission of the bank. A bank injured by a violation of this prohibition may sue for damages, a temporary restraining order, an injunction, or any other available remedy. Additionally, a person who violates the prohibition is subject to a civil penalty of up to $10,000 for each day the violation is committed, repeated, or continued.

Requirement of signatures

(R.C. 1103.19)

When the signatures of two authorized representatives of a state bank are required, one must be the chairperson of the board of directors, the president, or a vice-president, as determined by the board, and the other must be the secretary or an assistant secretary, also as determined by the board.

Chapter 1105. – Board of Directors

Application

This chapter of current law is amended to indicate the provisions that apply only to *state* banks.

Classes of directors

(R.C. 1105.01(C))

Existing law permits the classification of directors into either two or three classes consisting of at least three directors each. The bill reduces the minimum number of directors to two.

Residency requirement

(R.C. 1105.02(A)(1)(b))

The bill eliminates the requirement that a majority of the directors be residents of Ohio or live within 100 miles of Ohio.

Outside directors

(R.C. 1105.02(A)(1)(b))

Current law generally requires that a majority of the directors be outside directors. The bill provides that anyone who is not an employee of the state bank or the bank holding company is to be considered an outside director.

Disqualification

(R.C. 1105.02(B))

Under existing law, no person who has been convicted of, or has pleaded guilty to, a felony involving dishonesty or breach of trust can take office as a director. The bill expands the basis for disqualification to "a felony or any crime involving an act of fraud, dishonesty, breach of trust, theft, or money laundering." Additionally, under the bill, it applies not only to the directors of a bank, but also to the directors of a subsidiary or affiliate of a bank. The Superintendent of Financial Institutions may waive this restriction if the crime was a misdemeanor or minor misdemeanor or the equivalent of either.

Meetings

(R.C. 1105.08)

Law modified by the bill permits meetings of the board or a committee of the board to be held through any communications equipment, and "in any [other] manner permitted by the laws of this state," if all persons participating can communicate with each of the others.

Removal of directors; vacancies

(R.C. 1105.10)

In addition to the reasons stated in current law, the bill provides that a director can be removed:

- By the board or the Superintendent if the director has been removed in accordance with federal law;

- By the board for any of the grounds set forth in the state bank's code of regulations or bylaws; and

- By a majority of the disinterested directors if they determine the director has a conflict of interest.

The bill adds that a vacancy occurs if a director is removed, as well as if the director dies or resigns, as is provided in existing law. The bill also provides that, if a vacancy created on the board causes the number of directors to be less than that fixed by the articles of incorporation or code of regulations, the vacancy does not have to be filled until an appropriate candidate is identified and duly appointed or elected.

Further, the bill states that the requirement for a quorum set forth in the General Corporation Law applies to a state bank's board of directors despite anything to the contrary in this statute.[26]

Personal liability

(R.C. 1105.11)

Under existing law, a director of a bank who knowingly violates or permits any of the officers, agents, or employees of the bank to violate any provision of the Banking Law is liable personally and individually for all damages the bank, its shareholders, or any other person sustains because of the violation. The bill removes this provision and, instead, provides that a director, officer, employee, or other institution-affiliated party of a bank is *not* personally and individually liable for direct or indirect damages the bank, its shareholders or members, or any other person sustains in consequence of a violation of or failure to comply with any provision of the Banking Law, or the rules adopted under the Law, including any civil money penalties, *unless* it can be shown (1) that the director, officer, employee, or other party knowingly violated or failed to comply with that provision of law or (2) with respect to a director's liability, that the director knowingly permitted any of the officers, employees, or other parties to violate or fail to comply with any such provision. However, this does not deprive a director of the defenses set forth in the General Corporation Law.[27]

[26] See R.C. 1701.62, not in the bill.

[27] See R.C. 1701.59, not in the bill.

Chapter 1107. – Capital and Securities

Definition of "treasury shares"

(R.C. 1107.01)

The bill eliminates the definition of "treasury shares."

Application

This chapter of current law is amended to clarify that it applies to *state* banks.

Issuance of debt securities

(R.C. 1107.05(C))

Currently, the terms of any option granted in connection with the issuance of debt securities, or any right to convert debt securities to shares, cannot permit or require the holders of the securities to be held individually responsible for assessments for restoration of the banks' paid-in capital, on the basis of their status as holders of the securities. The bill removes this provision.

Bank shares: retired and canceled; assessments

(R.C. 1107.07)

The bill eliminates the provisions of current law stating that:

--In general, bank shares held as treasury shares one year after being acquired are deemed retired and to be authorized and unissued shares;

--Authorized and unissued bank shares that are not issued or reissued and fully paid in one year after being authorized or otherwise becoming authorized and unissued shares are deemed canceled;

--Preferred shares retired by a bank are to be canceled and not reissued;

--Both common and preferred shares are to be assessable for restoration of the bank's paid-in capital.

Employee stock options

(R.C. 1107.09)

Current law permits a bank, under certain circumstances, to carry out plans for the offering or sale of, or the grant of options on, the bank's shares to any or all

employees of the bank or the bank's subsidiaries or to a trustee on their behalf. The bill clarifies that this provision applies to stock state banks, additionally authorizes "the grant of" these shares, and adds to the list of those eligible to receive the shares. Under the bill, those eligible include "any or all employees, officers, or directors of the bank or any of the bank's subsidiaries or affiliates, or to other parties, or to a trustee on their behalf." "Other parties" is defined as any person that has provided or will provide a service or a benefit to the bank, as determined by the board of directors.

Pre-emptive rights

(R.C. 1107.11(C))

The bill specifies that pre-emptive rights with respect to shares issued by a stock state bank chartered on or after January 1, 2018 (the date the new Banking Law takes effect), are to be governed by the General Corporation Law.[28]

Bank's purchase of its own shares

(R.C. 1107.13)

Existing law lists the circumstances under which a bank can purchase its own shares. The bill eliminates that list and, instead, permits a stock state bank to purchase its own shares (1) with the prior written approval of the Superintendent of Financial Institutions and (2) in accordance with the General Corporation Law.[29]

Dividends and distributions

(R.C. 1107.15)

The bill generally permits the payment of a dividend or distribution funded from a special reserve created from proceeds from the sale of a stock state bank's stock, subject to the approval of the Superintendent.

Chapter 1109. – Bank Powers

Application

This chapter of existing law is amended to clarify the provisions that apply only to *state* banks.

[28] See R.C. 1701.15, not in the bill.

[29] See R.C. 1701.35, not in the bill.

General powers

(R.C. 1109.02)

The bill specifies that, in addition to what is otherwise authorized under the Banking Law, a state bank has and may exercise all powers, perform all acts, and provide all services that are permitted for national banks and federal savings associations, other than those dealing with interest rates, regardless of the date the corresponding parity rule adopted by the Superintendent takes effect. If a state bank intends to take any such action before the adoption of the corresponding parity rule, the bank must provide the Superintendent with prior written notice of the action and the basis for the action. Within 90 days after receipt of that notice, the Superintendent may prohibit the bank from taking the action if the Superintendent determines it would be unsafe or unsound for the bank.

Election to operate as a savings and loan association

(R.C. 1109.021)

Under the bill, a state bank may elect to operate as a savings and loan association by filing a written notice of that election with the Superintendent of Financial Institutions. Upon filing the notice, the bank is to be considered a savings and loan if its qualified thrift investments (1) equal or exceed 65% of its portfolio assets *and* (2) continue to equal or exceed 65% of its assets on a monthly average basis in nine out of every twelve months. A state bank may revoke its election at any time by submitting written notice to the Superintendent.[30]

Good faith reliance

(R.C. 1109.04(A))

The bill provides that a bank may, in good faith, rely (1) on any information, agreements, documents, and signatures provided by its customers as being true, accurate, complete, and authentic and (2) that the persons signing have full capacity and complete authority to execute and deliver any such documents and agreements and to act in such capacity as may be represented to the bank. For this purpose, "good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

[30] As used in this provision, "portfolio assets" and "qualified thrift investments" have the same meanings as in 12 U.S.C. 1467a, as amended.

Electronic statements and notices

(R.C. 1109.04(B) and (C))

Under the bill, a bank may – with the customer's consent – provide electronically any statement, notice, or report required to be provided customers under this chapter. A customer's consent may be obtained electronically or in writing. Likewise, a bank customer may – with the bank's consent – provide electronically any notice required to be provided to the bank under this chapter. A bank's consent may be obtained electronically or in writing.

Deposit contracts and accounts

(R.C. 1109.05(B) and (C))

Banks are currently required to provide a customer, at the time of opening a deposit account, a statement containing the terms and conditions of the deposit contract. The statement may be set forth on the depositor's signature card. The bill provides that the signature card may be electronic or in writing.

Before changing the terms and conditions of the contract, a bank is currently required to send written notice of the change to the depositor. The bill instead requires a bank to "provide notice, in written or electronic form."

Current law also requires a bank, for each deposit account, to send to the customer a written report of the customer's account. Under the bill, the bank is to "make available" to each deposit customer "a report, in written or electronic form, of the customer's deposit account activity since the last report was provided, unless the account is a certificate of deposit with no activity except for compounding interest."

Public deposits

(R.C. 1109.05(E)(2))

The bill states that depositors of public funds that are collateralized by securities pledged by a bank in accordance with the Uniform Depository Act (R.C. Chapter 135.) and any applicable federal law have and maintain a first and best lien and security interest in and to the securities, any substitute securities, and the proceeds of those securities, in favor of the depositors.

Safes, vaults, and night depositories

(R.C. 1109.08)

Current law governs a bank's provision of safes, vaults, safe deposit boxes, night depositories, and other secure receptacles for the use of its customers. The bill adds that, unless agreed to in writing by the bank, nothing in this statute creates a bailment between a customer and the bank.

Relationship between bank and its obligor/customer

(R.C. 1109.15(E) and 1109.151)

Current law specifies that, unless otherwise agreed in writing, the relationship between a bank and its obligor, with respect to any extension of credit, is that of a creditor and debtor, and creates no fiduciary or other relationship between the parties. The bill alters this provision, as follows: "Unless otherwise expressly agreed to in writing *by the bank,* the relationship between a bank and its obligor, *or a bank and its customer*, creates no fiduciary or other relationship between the parties *or any special duty on the part of the bank to the customer or any other party*."

Extensions of credit

Standards for extensions of credit involving real estate

(R.C. 1109.16)

Under current law, the Superintendent is required to prescribe standards for extensions of credit that are secured by liens on real estate or are made to finance the construction of a building or improvements to real estate. In prescribing those standards, the Superintendent is to consider certain factors, such as the risk the extensions of credit pose to the federal deposit insurance funds. The bill adds "or any other factors the Superintendent considers appropriate."

Limitations on extensions of credit to one person

(R.C. 1109.22)

The bill adds that, despite the limitations set forth in current law relative to the total loans and extension of credit that can be made to one person, a state bank may grant one or more loans in an aggregate amount of up to $500,000 to one person, subject to any applicable restrictions under federal law.

Extensions of credit to executive officers, directors, and principal shareholders

(R.C. 1109.23 and 1109.24)

Existing law authorizes a bank – under certain conditions – to extend credit to any of its executive officers, directors, or principal shareholders, or to any of their related interests. It also specifies that, whenever an executive officer of a bank becomes indebted to any bank or banks, *other than the bank served as an executive officer*, on account of certain categories of extensions of credit in a total amount greater than the total amount of credit of the same category that could lawfully be extended to the executive officer by the bank served as an executive officer, the executive officer must submit a report to the board of directors of the bank providing the date and amount of each extension of credit, the security for each, and the purpose for which the proceeds are to be used. The bill removes this reporting requirement.

Holding of real estate or stock acquired as satisfaction of debt

(R.C. 1109.26)

Existing law limits the time in which a bank may own or hold (1) real estate it acquires by foreclosure or otherwise in satisfaction of a previously contracted debt and (2) stock of companies acquired in satisfaction of a previously contracted debt or taken on a refinancing plan involving an investment. The bill replaces the word "stock" with "shares" and specifies that these limitations do not apply to real estate or shares owned or held by a state bank affiliate, except for a company that is a subsidiary of the state bank.

Investments

Real estate

(R.C. 1109.31)

Existing law authorizes a bank to purchase or otherwise invest in real estate the board of directors considers necessary for transaction of the bank's business, including by ownership of stock of a wholly owned subsidiary corporation having as its exclusive authority the ownership and management of the bank's real estate interests. The bill replaces "by ownership of stock of a wholly owned subsidiary corporation" with "by ownership of an entity."

Debt securities

(R.C. 1109.32)

Banks are currently authorized to invest in specified bonds, debentures, and other debt securities. Additionally, the Superintendent may approve banks' investment in other debt securities and obligations in which national banks are permitted to invest. The bill eliminates the Superintendent's authority to approve those investments and, instead, allows state banks to invest in debt securities and obligations in which national banks, savings banks, and savings associations insured by the FDIC are permitted to invest.

Stock of federally chartered banks engage in foreign banking

(R.C. 1109.33)

Existing law permits a bank to apply to the Superintendent for permission to invest a total amount not exceeding 10% of the bank's paid-in capital and surplus in the stock of certain banks or corporations chartered or incorporated under federal law and principally engaged in international or foreign banking. The bill clarifies that the limitation on paid-in capital and surplus refers to a *stock* state bank, and it adds – for mutual state banks – a limitation of 10% of the bank's retained earnings.

Venture capital firms and small businesses

(R.C. 1109.35(A))

A bank is currently authorized to invest, in the aggregate, 5% of its paid-in capital and surplus in shares of certain venture capital firms and small businesses. The bill specifies that this limitation applies to *stock* state banks and adds – for mutual state banks – a limitation of 5% of its retained earnings.

Banker's bank or holding company

(R.C. 1109.43)

The bill eliminates the prohibition against a bank or affiliate of a bank owning or controlling or having the power to vote shares of: (1) more than one bankers' bank, (2) more than one bankers' bank holding company, or (3) both a bankers' bank and a bankers' bank holding company, unless the bankers' bank is an affiliate of that bankers' bank holding company.

Bank subsidiary corporations and service corporations

(R.C. 1109.44 and 1109.441)

Under existing law, a bank may invest, in the aggregate, 25% of its assets in the securities of bank subsidiary corporations and bank service corporations. Prior to investing in, acquiring, or establishing a bank subsidiary corporation or bank service corporation, or performing new activities in such a corporation, a bank must obtain the approval of the Superintendent. For these purposes, the bill makes the following changes:

--It clarifies that only a bank subsidiary corporation *that is a wholly owned subsidiary of the state bank* that may engage in any activities, except taking deposits, that are a part of the business of banking.

--Rather than requiring that a bank service corporation be owned solely by one or more depository institutions, as in current law, the bill requires that it be owned solely by one or more banks.

--The bill authorizes a bank subsidiary corporation or a bank service corporation to invest in a lower-tier bank subsidiary corporation or bank service corporation, subject to certain requirements.

--The bill moves the provisions relative to a state bank's additional investment authority under R.C. 1109.39 and 1109.40 to a new section.

In a single issuer

(R.C. 1109.47)

Under current law, a bank cannot invest more than 15% of its capital in the stock, obligations, or other securities of one issuer, subject to certain exceptions. The bill replaces the term "stock" with "shares."

One of the current exceptions is investment in the obligations or securities of the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation. The bill clarifies that this applies to obligations or securities *other than stock.* It also adds another exception for the shares, obligations, securities, or other interests of any other issuer with the written approval of the Superintendent.

Transactions with affiliates

(R.C. 1109.53, 1109.54, and 1109.55)

The bill specifies that the existing law governing transactions with affiliates applies to *state* banks and their subsidiaries. It also expands the definition of "company" used in that law to include a limited liability company.

Sale of insurance

(R.C. 1109.62)

The bill permits a state bank to engage in the business of selling insurance through a subsidiary insurance agency subject to licensing under Ohio law and the law of every other state in which services are provided by the bank or its subsidiary.

Retention of records

(R.C. 1109.69)

Existing law requires that each bank retain or preserve bank records and supporting documents for only a specified period of time, based on the type of record or document involved. The bill adds "unless a longer record retention period is required by applicable federal law or regulation."

Chapter 1111. – Trust Companies

The only revisions made in this chapter are conforming changes in recognition of the single "bank" charter, an update of the definition of "investment company," and corrections required by the elimination of the Office of Thrift Supervision and the resulting transfer of regulatory authority over federal savings associations to the Office of the Comptroller of the Currency.

Chapter 1113. – Stock State Banks: Corporate Governance/Formation

General Corporation Law applicable

(R.C. 1113.01)

The bill specifies that a stock state banking corporation is to be created, organized, and governed, its business is to be conducted, and its directors are to be chosen, in the same manner as is provided under the General Corporation Law, to the extent it is not inconsistent with the Banking Law.

Application for incorporation

(R.C. 1113.02(B))

Existing law requires any persons proposing to incorporate a stock state bank to submit an application to the Superintendent of Financial Institutions for approval of the bank. Certain information must be included in the application, including the proposed articles of incorporation, application for reservation of a name, and the location of the proposed initial banking office. The bill adds that an application must also include the proposed code of regulations and any other information required by the Superintendent.

Incorporators adoption of amendments to articles of incorporation

(R.C. 1113.05(C) to (F))

Existing law sets forth procedures under which the incorporators, before any subscription to shares has been received, may adopt amendments to the bank's articles of incorporation or amended articles of incorporation. (For purposes of this discussion, they are collectively referred to as "amendments.") Generally, upon their adoption of an amendment, the incorporators must send to the Superintendent a copy of the resolution adopting the amendment and a statement of the manner of and basis for its adoption. The Superintendent is required to conduct an examination to determine if (1) the amendment and the manner and basis for its adoption comply with the applicable statutory requirements and (2) it will not adversely affect the interests of the bank's depositors and creditors and the convenience and needs of the public. Within 60 days after receiving the amendment, the Superintendent must approve or disapprove it.

The bill revises these procedures to require the Superintendent's *prior* approval of a *proposed* amendment. Under the bill, if the incorporators propose the adoption of an amendment to a stock state bank's articles of incorporation or amended articles of incorporation, the bank must send the Superintendent a copy of the proposed amendment for review and approval *prior* to adoption by the incorporators. Upon receiving the proposed amendment, the Superintendent is to conduct an examination to determine if (1) the proposed amendment complies with the applicable statutory requirements and (2) it will not adversely affect the interests of the bank's depositors and creditors and the convenience and needs of the public. Within 45 days after receiving the proposed amendment, the Superintendent must notify the bank of the Superintendent's approval or disapproval *unless* the Superintendent determines additional information is required. In that event, the Superintendent is to request the information in writing within 20 days after the date the proposed amendment was received. The bank has 30 days to submit the information. Within 45 days after the date

the additional information is received, the Superintendent must notify the bank of the Superintendent's approval or disapproval. If the proposed amendment is disapproved, the Superintendent is required to notify the bank of the reasons for the disapproval. If the Superintendent fails to approve or disapprove the amendment within the time period required, the proposed amendment is to be considered approved. The approval of a proposed amendment cannot, however, be construed or represented as an affirmative endorsement of the amendment by the Superintendent.

After the incorporators adopt the approved amendment, they must send the Superintendent a certificate containing a copy of the resolution adopting the amendment and a statement of the manner of and basis for its adoption. The Superintendent must then conduct an examination to determine if the manner of and basis for the adoption comply with the applicable statutory requirements. Within 30 days after receiving the certificate, the Superintendent is to approve or disapprove the amendment. If the amendment is approved, the Superintendent is to send a copy to the Secretary of State for filing. Upon filing, the amendment is considered effective. If the Superintendent fails to approve or disapprove the amendment within that 30-day period, the bank is to forward a copy to the Secretary of State for filing.

Code of regulations

(R.C. 1113.11)

Current law requires each bank to have a code of regulations for its governance as a corporation, the conduct of its affairs, and the management of its property. The code of regulations must be consistent with Ohio law and the bank's articles of incorporation. The bill repeals provisions that specify:

(1) How the original code is to be adopted;

(2) How the shareholders may amend the code or adopt a new one;

(3) How notice of a shareholders' meeting to adopt an amendment to the code is to be given;

(4) What provisions may be included in the code; and

(5) The procedures to be followed if the code is to be amended without a shareholders' meeting.

Shareholder adoption of amendments to articles of incorporation

Procedure

(R.C. 1113.12(F) to (I))

Existing law sets forth the procedures under which the shareholders, after subscriptions to shares have been received by the incorporators, may adopt amendments to the bank's articles of incorporation or amended articles of incorporation. (For purposes of this discussion, they are collectively referred to as "amendments.") Generally, upon their adoption of an amendment, the bank must send to the Superintendent a copy of the resolution adopting the amendment and a statement of the manner of its adoption. The Superintendent is required to conduct an examination to determine if (1) the manner of its adoption complies with the applicable statutory requirements and (2) it will not adversely affect the interests of the bank's depositors and creditors and the convenience and needs of the public. Within 60 days after receiving the amendment, the Superintendent must approve or disapprove it.

The bill revises these procedures to require the Superintendent's *prior* approval of a *proposed* amendment. Under the bill, if the shareholders propose the adoption of an amendment to a stock state bank's articles of incorporation or amended articles of incorporation, the bank must send the Superintendent a copy of the proposed amendment for review and approval *prior* to adoption by the shareholders.

Upon receiving the proposed amendment, the Superintendent is to conduct an examination to determine if (1) the proposed amendment complies with the applicable statutory requirements and (2) it will not adversely affect the interests of the bank's depositors and creditors and the convenience and needs of the public. Within 45 days after receiving the proposed amendment, the Superintendent must notify the bank of the Superintendent's approval or disapproval *unless* the Superintendent determines additional information is required.

In that event, the Superintendent is to request the information in writing within 20 days after the date the proposed amendment was received. The bank has 30 days to submit the information. Within 45 days after the date the additional information is received, the Superintendent must notify the bank of the Superintendent's approval or disapproval.

If the proposed amendment is disapproved, the Superintendent is required to notify the bank of the reasons for the disapproval. If the Superintendent fails to approve or disapprove the proposed amendment within the required time period, it is to be considered approved. The approval of a proposed amendment cannot, however, be

construed or represented as an affirmative endorsement of the amendment by the Superintendent.

After the shareholders adopt the approved amendment, the bank must send the Superintendent a certificate containing a copy of the resolution adopting the amendment and a statement of the manner of its adoption. The Superintendent must then conduct an examination to determine if the manner of adoption complies with the applicable statutory requirements. Within 30 days after receiving the certificate, the Superintendent is to approve or disapprove the amendment. If the amendment is approved, the Superintendent is to send a copy to the Secretary of State for filing. Upon filing, the amendment is considered effective. If the Superintendent fails to approve or disapprove the amendment within that 30-day period, the bank is to forward a copy to the Secretary of State for filing.

Signature of authorized representatives

(R.C. 1113.12(G))

Currently, if the *directors* proposed the amendment to the bank's articles of incorporation, the certificate sent to the Superintendent must be signed by "bank officers." The bill instead requires that it be signed by "the bank's authorized representatives."[31]

Amendment to permit certain shares

(R.C. 1113.12(D))

The law currently permits the shareholders to adopt an amendment to the bank's articles of incorporation to permit the bank to have authorized and unissued shares or treasury shares for a specific purpose. The bill eliminates the requirement that there be a specific purpose for the shares.

Directors adoption of amendments to articles of incorporation

Procedure

(R.C. 1113.13(D) to (G))

Existing law sets forth the procedures under which the board of directors, after subscriptions to shares have been received by the incorporators, may adopt amendments to the bank's articles of incorporation for certain purposes or adopt amended articles of incorporation. (For purposes of this discussion, they are collectively

[31] See also R.C. 1103.19.

referred to as "amendments.") Generally, upon the directors' adoption of an amendment, the bank must send the Superintendent a copy of the resolution adopting the amendment and a statement of the manner of and basis for its adoption. The Superintendent is required to conduct an examination to determine if (1) the amendment and the manner of and basis for its adoption comply with the applicable statutory requirements and (2) it will not adversely affect the interests of the bank's depositors and creditors and the convenience and needs of the public. Within 60 days after receiving the amendment, the Superintendent must approve or disapprove it.

The bill revises these procedures to require the Superintendent's *prior* approval of a *proposed* amendment. Under the bill, if the directors propose the adoption of an amendment to a stock state bank's articles of incorporation or amended articles of incorporation, the bank must send the Superintendent a copy of the proposed amendment for review and approval *prior* to adoption by the directors.

Upon receiving the proposed amendment, the Superintendent is to conduct an examination to determine if (1) the proposed amendment complies with the applicable statutory requirements and (2) it will not adversely affect the interests of the bank's depositors and creditors. Within 45 days after receiving the proposed amendment, the Superintendent must notify the bank of the Superintendent's approval or disapproval *unless* the Superintendent determines additional information is required.

In that event, the Superintendent is to request the information in writing within 20 days after the date the proposed amendment was received. The bank has 30 days to submit the information. Within 45 days after the date the additional information is received, the Superintendent must notify the bank of the Superintendent's approval or disapproval.

If the proposed amendment is disapproved, the Superintendent is required to notify the bank of the reasons for the disapproval. If the Superintendent fails to approve or disapprove the amendment within the required time period, it is to be considered approved. The approval of a proposed amendment cannot, however, be construed or represented as an affirmative endorsement of the amendment by the Superintendent.

After the directors adopt the approved amendment, the bank must send the Superintendent a certificate containing a copy of the resolution adopting the amendment and a statement of the manner of and basis for its adoption. The Superintendent must then conduct an examination to determine if the manner of and basis for the adoption complies with the applicable statutory requirements. Within 30 days after receiving the certificate, the Superintendent is to approve or disapprove the amendment. If the amendment is approved, the Superintendent is to send a copy to the Secretary of State for filing. Upon filing, the amendment is considered effective. If the

Superintendent fails to approve or disapprove the amendment within that 30-day period, the bank is to forward a copy to the Secretary of State for filing.

Signature of authorized representatives

(R.C. 1113.13(E))

Currently, upon the directors' adoption of an amendment to the article of incorporation, the certificate sent to the Superintendent must be signed by "bank officers." The bill instead requires that it be signed by *the bank's authorized representatives*.[32]

Annual meeting of shareholders

(R.C. 1113.14(A) to (D))

A bank's shareholders are currently required to hold an annual meeting for purposes including the election of directors and the presentation of financial statements. The law specifies the manner in which written notice of the meeting is to be provided and the period of time for giving the notice. The bill eliminates those specific requirements and, instead, provides that the meeting may be called for any of the reasons and in the manner set forth in the General Corporation Law. Notice of the meeting is also to be provided in accordance with that Law.[33]

Additionally, the bill states that the requirements of this provision do not apply with respect to annual or special meetings of shareholders of a stock state bank that is wholly owned, except for directors' qualifying shares, if any, by a bank holding company or savings and loan holding company.

Voting by shareholders

(R.C. 1113.16)

Current law states that, in elections of directors and in deciding other questions at shareholder meetings, each holder of a bank's voting shares is entitled to one vote for each share held and cannot accumulate the votes unless otherwise provided in the articles of incorporation. Under the bill, this applies "except as otherwise expressly provided in the terms of any class of shares issued by a stock state bank."

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[32] See also R.C. 1103.19.

[33] See R.C. 1701.40 and 1701.41, not in the bill.

Current law also permits any shareholder to vote by proxy authorized in writing. The bill limits this right to vote by proxy to those shareholders *eligible to vote*. And it specifies that an appointment of a proxy expires in accordance with the General Corporation Law.[34]

Shareholder lists; right to examine records

(R.C. 1113.17)

Under existing law, the board of directors – upon request of any shareholder at any meeting of shareholders – must produce a list of the shareholders of record. The bill clarifies that the request can only be made by any shareholder "eligible to attend and vote" at any meeting of "the bank's" shareholders.

Lastly, the bill states that the authority granted under the Banking Law to inspect the books and records of a stock state bank applies solely to the Superintendent and to the bank's shareholders of record.

Chapter 1114. – Mutual State Banks: Corporate Governance/Formation

Governance

(R.C. 1114.01)

The bill specifies that a mutual state bank and the rights and liabilities of its members are to be governed by its articles of incorporation, code of regulations, and bylaws and by R.C. Chapter 1114.

Incorporating a mutual state bank

Application

(R.C. 1114.02)

Five or more individuals, at least one of whom is a resident of Ohio, may incorporate a mutual state bank with the approval of the Superintendent of Financial Institutions. To apply for approval, the individuals must submit an application that includes:

- The proposed articles of incorporation and code of regulations;
- An application for reservation of a name, if reservation is desired by the incorporators and has not been previously filed;

[34] See R.C. 1701.48, not in the bill.

- The location and a description of the proposed initial banking office;
- Information to demonstrate the proposed bank will satisfy the requirements of this chapter; and
- Any other information the Superintendent requires.[35]

Publication of the proposed incorporation; comments

(R.C. 1114.03(A) and (B))

Within ten days after receipt of the Superintendent's notice of acceptance of an application for approval to incorporate a mutual state bank, the incorporators must publish notice of the proposed incorporation in a newspaper of general circulation in the county where the bank's initial banking office is to be located. The notice must be published once a week for two weeks and a certified copy of it is to be furnished to the Superintendent. Any comments on the application must be filed with the Superintendent within 30 days of the first publication of the notice. If any comments are received, the Superintendent must determine whether the comments are relevant to the incorporation requirements and, if so, investigate the comments in a manner that Superintendent considers appropriate.

Approval of the application

(R.C. 1114.03(C) to (E))

After examining all of the facts connected with the application, the Superintendent is to determine if the following requirements are met:

--The proposed articles of incorporation and code of regulations, application for reservation of name, applicable fees, and other items required meet the requirements of the Revised Code.

--The population and economic characteristics of the area primarily to be served afford reasonable promise of adequate support for the proposed bank.

--The competence, experience, and integrity of the proposed directors and officers are such as to command the confidence of the community and warrant the belief that the business of the proposed bank will be honestly and efficiently conducted.

[35] The articles of incorporation also must contain the purpose or purposes for which the bank is formed. The articles may set forth any other lawful provision regulating the exercise of authority of the bank and certain persons and any provision that could be set forth in the code of regulations. (R.C. 1114.04.)

--The capital of the proposed bank is adequate in relation to the amount and character of the anticipated business of the bank and the safety of prospective depositors.

Within 180 days after acceptance of the application, the Superintendent must approve or disapprove the incorporation based on the examination. In giving approval, the Superintendent may impose conditions that must be met prior to issuing a certificate of authority to commence business. If the application is approved, the Superintendent must make a certificate to that effect and forward the certificate and the articles of incorporation to the Secretary of State for filing.

Authorized capital

(R.C. 1114.05)

The initial funding required to organize a mutual state bank, known as the "authorized capital," must be of such amount as the Superintendent determines based on the amount and character of the bank's anticipated business and the safety of prospective depositors. Additionally, the Superintendent may fix the amount of the expense fund for operating losses to be created by nonrefundable contributions.

The bank's organization may be completed when a sum equal to 5% of the authorized capital is paid in, and the names and addresses of its officers, its code of regulations, and its bylaws have been filed with and approved by the Superintendent. Five years after the bank commences business, any remaining balance in the expense fund must be transferred to retained earnings if the bank is on a profitable operating basis as determined by the Superintendent.

Certificate of authority to commence business

(R.C. 1114.06 and 1114.07)

Until a mutual state bank organized under this chapter has received a certificate of authority to commence business issued by the Superintendent, it cannot accept deposits, incur indebtedness, or transact any business other than business incidental to its organization. The bank must file a report with the Superintendent when it has completed everything required by the Superintendent before it can be authorized to commence business. Upon receipt of that report, the Superintendent is to examine the affairs of the bank and determine if the bank has complied with all of the requirements necessary to entitle it to engage in business.

The bill requires the Superintendent to issue a certificate of authority to commence business if the Superintendent (1) is satisfied that the bank is entitled to

commence business and (2) has received written confirmation from the FDIC that the bank's application to become an insured bank was approved. The bank must cause the certificate to be published once a week for two consecutive weeks in a newspaper of general circulation in the county where the bank's initial banking office is located.

Members of a mutual state bank; proxies

(R.C. 1114.08)

A depositor of a mutual state bank is a voting member and has such ownership interest in the bank as may be provided in the terms and conditions set forth in the articles of incorporation, code of regulations, and bylaws of the bank. The code of regulations may provide that all borrowers from the bank are members and if so, must provide for their rights and privileges.

Unless otherwise provided in the articles of incorporation or code of regulations, a proxy granted by a depositor to officers and directors of a mutual state bank expires on the date specified in the proxy. If no date is specified, the authority granted by the proxy is perpetual. On and after January 1, 2018, the writing or verifiable communication appointing a proxy must be separate and distinct from any deposit or loan agreement or any other document or disclosure provided by the bank to a depositor.

Incorporators' adoption of amendments to articles of incorporation

(R.C. 1114.09(A) to (C)(1))

Before any member deposits have been received, the incorporators may, by unanimous written action, adopt amendments to the bank's articles of incorporation or amended articles of incorporation. (For purposes of this discussion, they are collectively referred to as "amendments.") Any *proposed* amendment must be provided to the Superintendent for review and approval *prior* to adoption by the incorporators.

Prior approval

(R.C. 1114.09(C)(2) to (5))

Upon receiving a proposed amendment, the Superintendent is to conduct an examination to determine if the amendment (1) complies with the applicable statutory requirements and (2) will not adversely affect the interests of the bank's depositors and creditors. Within 45 days after receiving the amendment, the Superintendent must notify the bank of the Superintendent's approval or disapproval *unless* the Superintendent determines additional information is required.

In that event, the Superintendent is to request the information in writing within 20 days after the date the amendment was received. The bank has 30 days to submit the information. The Superintendent must notify the bank of the approval or disapproval within 45 days after receiving the additional information and, if the proposed amendment is disapproved, provide the reasons for the disapproval. If the Superintendent fails to take action on an amendment within the required time period, it is to be considered approved. The approval of a proposed amendment cannot, however, be construed or represented as an affirmative endorsement of the amendment by the Superintendent.

Final approval

(R.C. 1114.09(D) to (F))

After the incorporators adopt the approved amendment, they must send the Superintendent a certificate containing a copy of the resolution adopting the amendment and a statement of the manner of and basis for its adoption. The Superintendent is to conduct an examination to determine if the manner of and basis for the amendment's adoption comply with the applicable statutory requirements and, within 30 days after receiving the certificate, approve or disapprove the amendment. If the amendment is approved, the Superintendent must send a copy to the Secretary of State for filing. If the Superintendent fails to approve or disapprove the amendment within that 30-day period, the bank is to forward a copy to the Secretary of State for filing. The amendment is effective when so filed.

Code of regulations

(R.C. 1114.10)

Each mutual state bank must have a code of regulations for its governance as a corporation, the conduct of its affairs, and the management of its property. The code of regulations must be consistent with Ohio law and the bank's articles of incorporation.

Notice of meetings

(R.C. 1114.12(A) and (B))

Whenever members of a mutual state bank are required or authorized to elect directors or take any other action at a meeting, annual or special, a notice of the meeting must be given in either of the following ways:

(1) By publication, once each week on the same day of the week for three consecutive weeks immediately preceding the date of the meeting in a newspaper published in and of general circulation in the county in which the principal office of the

bank is located, of a notice containing the name of the bank and the purpose, place, date, and hour of the meeting;

(2) By notice served upon or mailed to members in accordance with the General Corporation Law.[36]

The notice must include a statement that, if a member granted a proxy to the officers and directors of the bank, the proxy is revocable at any time before the meeting or by attending the meeting and voting in person.

Member or director adoption of amendment to articles of incorporation

(R.C. 1114.11(A))

A mutual state bank's code of regulations may provide for the amendment of the articles of incorporation or code of regulations, or the adoption of amended articles of incorporation or code of regulations, at any meeting of the members for which proper notice has been given. (For purposes of this discussion, the amendment of the articles of incorporation or code of regulations, or the adoption of amended articles of incorporation or code of regulations, are collectively referred to as "amendments.") These amendments must be adopted by a two-thirds vote of votes cast in person or by proxy at the meeting or, if the articles of incorporation or code of regulations provide or permit, by the affirmative vote of a greater or lesser proportion, but not less than a majority, of the voting members represented at the meeting. The number of votes that each member may cast is to be determined by the code of regulations.

Unless precluded by its articles of incorporation or code of regulations, a mutual state bank may adopt amendments at any meeting authorized in writing by majority of its members of record if:

--Proper written notice of the meeting is given;

--The notice of the proposed action to be taken at the meeting is in a form approved by the Superintendent;

--The proposed action is approved by a two-thirds vote of the votes cast authorizing the meeting; and

--A majority of the members of record are present in person or by proxy at the meeting.

[36] See R.C. 1701.41, not in the bill.

Prior approval

(R.C. 1114.11(D))

If the members or board of directors propose the adoption of an amendment, the mutual state bank must send the Superintendent a copy of the proposed amendment for review and approval *prior* to the adoption by the members or directors. Upon receiving the proposed amendment, the Superintendent is to conduct an examination to determine if (1) the proposed amendment complies with the applicable statutory requirements and (2) it will not adversely affect the interests of the bank's depositors and creditors.

Within 45 days after receiving the proposed amendment, the Superintendent must notify the bank of the Superintendent's approval or disapproval *unless* the Superintendent determines additional information is required. In that event, the Superintendent must request the information in writing within 20 days after the proposed amendment was received. The bank has 30 days to submit the information. The Superintendent must notify the bank of the Superintendent's approval or disapproval within 45 days after receiving the additional information and, if the proposed amendment is disapproved, provide the reasons for the disapproval. If the Superintendent fails to take action on an amendment within the required time period, it is to be considered approved. The approval of a proposed amendment cannot, however, be construed or represented as an affirmative endorsement of the amendment by the Superintendent.

Final approval

(R.C. 1114.11(E) to (G))

If the members adopt the approved amendment, the bank must provide to the Superintendent a certificate containing a copy of the members' resolution adopting the amendment and a statement of the manner of and basis for its adoption. (If the board of directors proposed the amendment, the certificate must include a copy of the resolution adopted by the directors to propose the amendment to the members.) These certificates must be signed by the bank's authorized representatives.

If the board of directors adopts the approved amendment, the bank must provide to the Superintendent a copy of the amendment along with a certificate containing a copy of the directors' resolution adopting the amendment and a statement of the manner of and basis for its adoption. The certificate must be signed by the bank's authorized representatives.

The Superintendent is to then conduct an examination to determine if the manner of and basis for adoption of the amendment comply with the applicable statutory requirements and, within 30 days after receiving the certificate, approve or disapprove the amendment. If the amendment is approved, the Superintendent must forward a copy of the amendment and certificate to the Secretary of State for filing. If the Superintendent fails to approve or disapprove the amendment within that 30-day period, the bank is to forward the copies to the Secretary of State for filing. The amendment is effective when so filed.

Liquidations and dissolutions

(R.C. 1114.16)

In the event of a liquidation or dissolution of a mutual state bank, the priority claims are to be established in accordance with the Banking Law.[37]

Chapter 1115. – Conversions/Acquisitions/Mergers

Conversions

Ohio bank into national or other state institution

(R.C. 1115.01)

Under the bill, a *stock* state bank may:

(1) Convert into a national bank or federal savings association if the conversion is approved by the Office of the Comptroller of the Currency and the affirmative vote or written consent of the holders of two-thirds, or other proportion not less than a majority as the bank's articles of incorporation require, of the outstanding shares of each class of the bank's stock;

(2) Convert into a bank, savings bank, or savings association pursuant to the laws of another state if the conversion is approved by the regulatory authority of the other state and the affirmative vote or written consent of the holders of two-thirds, or other proportion not less than a majority as the bank's articles of incorporation require, of the outstanding shares of each class of the bank's stock.

A *mutual* state bank may:

(1) Convert into a national bank or federal savings association if the conversion is approved by the Office of the Comptroller of the Currency, the affirmative vote of two-

[37] See R.C. 1125.24.

thirds of the bank's board of directors, and the affirmative vote of two-thirds of the total outstanding votes eligible to be cast at the meeting at which the plan of conversion is presented to the members for adoption;

(2) Convert into bank, savings bank, or savings association pursuant to the laws of another state if the conversion is approved by the regulatory authority of the other state, the affirmative vote of two-thirds of the bank's board of directors, and the affirmative vote of two-thirds of the total outstanding votes eligible to be cast at the meeting at which the plan of conversion is presented to the members for adoption.

As soon as the conversion is effective, a state bank must file with the Superintendent of Financial Institutions all information the Superintendent determines is necessary to reflect in the state's records that the bank is no longer a corporation organized and doing business under Ohio law.

National or other state institution into Ohio bank

(R.C. 1115.02)

The bill provides that a national bank, a bank doing business under authority granted by the bank regulatory authority of another state, a savings association, a savings bank, or a state or federally chartered credit union may, with the approval of the Superintendent, convert into a stock state bank or mutual state bank by submitting an application in accordance with rules adopted by the Superintendent.

Mutual state bank into stock state bank and vice versa

(R.C. 1115.03)

The bill authorizes a mutual state bank to convert into a stock state bank if the conversion is approved by the Superintendent, the affirmative vote of two-thirds of the bank's board of directors, and the affirmative vote of two-thirds of the total outstanding votes eligible to be cast at the meeting at which the plan of conversion is presented to the members for adoption.

A stock state may convert into a mutual state bank if the conversion is approved by the Superintendent and the affirmative vote or written consent of two-thirds, or any other proportion not less than a majority as the bank's articles of incorporation require, of the outstanding shares of each class of the bank's stock.

Any such conversion is effective on the date indicated in the materials filed with the Secretary of State by the converting bank. The bank resulting from the conversion has all the property, rights, interests, and powers of its predecessor bank within the

limits of the charter of the resulting bank, and all duties, trust, obligations, and liabilities of the predecessor bank continue in the bank resulting from the conversion.

Acquisitions

(R.C. 1115.06(B) and (C))

Existing law prohibits any person from acquiring control of a state bank through a purchase, transfer, or other disposition of voting securities of a state bank unless the Superintendent has been given 60 days' prior written notice of the proposed acquisition and, within that time period, the Superintendent has not disapproved the acquisition or extended the time during which the Superintendent may disapprove it. The notice provided to the Superintendent must include specific information, such as the identity and business background of each person on whose behalf the acquisition is to be made, that person's assets and liabilities, the terms and conditions of the acquisition, and the source and amount of the funds to be used in making the acquisition. The bill eliminates the list of specific information that is required and, instead, requires that the notice contain any information the Superintendent may require by rule.

Consolidations/Mergers

With another financial institution

(R.C. 1115.11(A), (B), and (I))

The bill modifies current law to permit a state bank to consolidate or merge with another state bank, a bank, savings bank, or savings association doing business under authority granted by the bank regulatory of another state, a national bank, or a federal savings association, regardless of where it maintains its principal place of business, with the approval of:

- The directors of both constituent corporations:

  (1) The shareholders of each constituent state bank that is a *stock state bank*, by the affirmative vote or written consent of the holders of two-thirds, or other proportion not less than a majority as the bank's articles of incorporation or code of regulations provide, of the outstanding shares of each class of the bank's stock; or

  (2) The members of each constituent state bank that is a *mutual state bank*, by the affirmative vote of two-thirds, or other proportion not less than a majority as the bank's articles of incorporation or code of regulations provide, of the voting members.

- The shareholders or members of the other constituent bank, savings bank, or savings association as required by the applicable state or federal law, articles of incorporation, or code of regulations; and

- If the resulting corporation will be:

  (1) A state bank, the Superintendent;

  (2) A national bank or federal savings association, the Office of the Comptroller of the Currency;

  (3) A bank, savings bank, or savings association doing business under authority granted by the regulatory authority of another state, the state regulatory authority under which the bank, savings bank, or savings association is doing business.

Currently, for a merger or consolidation in which the resulting or surviving corporation will be a state bank, an application that includes an officers' certification regarding the transaction, a copy of the consolidation or merger agreement, and any other information the Superintendent requires, must be filed with the Superintendent for the Superintendent's approval. The bill eliminates the officers' certification.

The bill states that the shareholders of the no surviving stock state bank have a right to dissent and are entitled to relief as dissenting shareholders under the General Corporation Law for those transactions requiring prior shareholder approval.[38]

With an affiliate

(R.C. 1115.27)

The bill modifies current law to authorize a state bank to merge with any of its affiliates with the approval of:

- The directors of all constituent corporations to the merger;

  (1) The shareholders of each constituent *stock state bank,* by the affirmative vote or written consent of the holders of two-thirds, or other proportion not less than a majority as the bank's articles of incorporation provide, of the outstanding shares of each class of the bank's stock; or

  (2) The members of each constituent *mutual state bank*, the affirmative vote of two-thirds, or other proportion not less than a majority as the bank's

[38] See R.C. 1701.85, not in the bill.

articles of incorporation or code of regulations provide, of the voting members.

- The shareholders or members of each other constituent to the merger as required by the applicable state or federal law, articles of incorporation, or code of regulations; and

- The Superintendent.

Currently, the bank that will be the surviving bank in the merger must file, for the Superintendent's approval, an application including an officers' certification regarding the transaction, a copy of the merger agreement and any other information the Superintendent requires. The bill eliminates the officers' certification.

Transfers or acquisitions of assets and liabilities

(R.C. 1115.14(A) and (H) and 1115.15)

Under existing law, a state bank may transfer assets and liabilities to, and acquire assets and liabilities from, another state bank, a bank doing business under authority granted by the bank regulatory of another state, or a national bank, savings bank, or savings association, regardless of where it maintains its principal place of business, with the approval of certain parties.

The bill clarifies that, if the assets to be transferred equal more than 50% of the assets of a transferring or acquiring state bank at the time of the transfer and the institution is a *stock state bank*, the shareholders of the state bank must approve of the transaction by the affirmative vote or written consent of the holders of two-thirds, or other proportion not less than a majority as the bank's articles of incorporation provide, of the outstanding shares of each class of the bank's stock. If the assets to be transferred equal more than 50% of the assets of a transferring or acquiring state bank at the time of the transfer and the institution is a *mutual state bank*, the members of the state bank must approve by the affirmative vote of two-thirds, or other proportion not less than a majority as the bank's articles of incorporation or code of regulations provide, of the voting members.

The bill states that the shareholders of a stock state bank whose assets have been transferred have a right to dissent and are entitled to relief as dissenting shareholders under the General Corporation Law for those transactions requiring prior shareholder approval.[39]

[39] See R.C. 1701.85, not in the bill.

Lastly, current law authorizes the immediate transfer of assets and liabilities whenever an emergency exists with regard to a state bank, national bank, savings bank, or savings association. However, a transfer involving a state bank cannot be made without the consent of the Superintendent. The bill adds that the consent must be given in writing.

Rights of creditors protected

(R.C. 1115.20)

Existing law provides that, in any transfer, consolidation, or merger, the rights of creditors is preserved unimpaired and the constituent corporations are deemed to continue their separate existence if the continuation is necessary to preserve any creditor's right. Under the bill, this provision applies only to transfers. With respect to consolidations or mergers, the bill adds that the rights and obligations of the surviving or new bank are to be governed by the General Corporation Law.[40]

Shelf charter

(R.C. 1115.24)

The bill authorizes the Superintendent, at the Superintendent's sole discretion, to grant a "shelf charter" (that is, the preliminary conditional approval of a charter) to an applicant that intends or desires to enter into a transaction resulting in any of the following:

--Formation of an interim bank under this chapter;

--Acquisition of control of a designated or undesignated state bank;

--Acquisition of control of a designated or undesignated bank chartered by the banking authority of any other state or the United States that the person intends to convert to a state bank;

--Acquisition of assets from and assumption of liabilities, pursuant to this chapter, of a bank or from the FDIC as receiver of a designated or undesignated bank headquartered in Ohio or any other state that the person intends to convert to a state bank; or

--Formation of a de novo (new) bank pursuant to the Banking Law.

[40] See R.C. 1701.82, not in the bill.

In determining whether to grant a shelf charter, the Superintendent must consider (1) the availability of adequate capital for the transaction, (2) the existence of acceptable business plans, (3) whether acceptable management, directors, and control persons are identified, and (4) whether all necessary approvals from state and federal agencies have been secured.

A shelf charter granted by the Superintendent, and any final approval for one of the transactions described above, are subject to any conditions and ongoing requirements the Superintendent considers appropriate. An applicant granted a shelf charter is prohibited from exercising control over the bank or consummating the transaction authorized by the charter until the Superintendent gives final approval of the transaction.

A shelf charter expires 24 months after the date it is granted; however:

--The Superintendent may voluntarily extend the expiration date at any time or may approve a written request for an extension submitted by the person who was granted the shelf charter.

--The person granted the shelf charter may withdraw it at any time.

--The Superintendent may modify, suspend, or revoke a shelf charter.

The bill authorizes the Superintendent to adopt rules and issue interpretive guidelines the Superintendent considers necessary and appropriate for the implementation of this provision.

Chapter 1116. – Mutual Holding Companies

Definitions

(R.C. 1116.01)

"**Acquiree mutual bank**" means any state bank, savings association, or savings bank that (1) is acquired by a mutual holding company as part of, and concurrently with, mutual holding company reorganization and (2) is in the mutual form immediately prior to the acquisition.

"**Reorganization plan**" means the plan to reorganize into a mutual holding company structure as described under this chapter.

"**Reorganizing mutual state bank**" means a mutual state bank that proposes to reorganize into a mutual holding company structure in accordance with this chapter.

"**Resulting mutual holding company**" means a bank holding company organized in mutual form under this chapter and, unless otherwise indicated, a subsidiary holding company controlled by a mutual holding company organized under this chapter.

"**Resulting stock state bank**" means a stock state bank that is organized as a subsidiary of a reorganizing mutual state bank to receive a substantial part of the assets and liabilities, including all deposit accounts, of the reorganizing mutual state bank upon consummation of the reorganization.

"**Stock bank**" means a bank that has an ownership structure in the form of shares of stock and is doing business under authority granted by the Superintendent of Financial Institutions or the bank regulatory authority of another state or the United States.

"**Subsidiary holding company**" means a stock company that is controlled by a mutual holding company and that owns the stock of a stock state bank whose depositors have membership rights in the parent mutual holding company.

General Corporation Law applicable

(R.C. 1116.02(A) to (C))

Under the bill, a mutual holding company and any subsidiary of a mutual holding company must be created, organized, and governed, and its business must be conducted, in all respects in the same manner as is provided under the General Corporation Law, to the extent that it is not inconsistent with the Banking Law or the rules adopted under the Banking Law. However, a nonbank subsidiary of a mutual holding company may be organized under the general corporate laws of another state of the United States.

A mutual holding company and any subsidiary of a mutual holding company organized under this chapter are subject to all powers, remedies, and sanctions provided to the Superintendent and the Division of Financial Institutions under the Banking Law.

Mutual state bank reorganization as mutual holding company

(R.C. 1116.05(A) and (B))

The bill permits a mutual state bank to reorganize to become a mutual holding company with approval from the Superintendent and in one of the following manners:

--By organizing one or more subsidiary stock state banks, one or more of which may be an interim stock state bank, the ownership of which must be evidenced by shares of stock to be owned by the reorganizing mutual state bank and by transferring a substantial portion of its assets, all of its insured deposits, and part or all of its other liabilities to one or more subsidiary stock state banks;

--By organizing a first tier subsidiary stock state bank, causing that subsidiary to organize a second tier subsidiary stock state bank, and transferring, by merger of the reorganizing mutual state bank with the second tier subsidiary, a substantial portion of its assets, all of its insured deposits, and part or all of its other liabilities to the resulting stock state bank at which time the first tier subsidiary stock state bank becomes a mutual holding company;

--In any other manner approved by the Superintendent.

As part of its reorganization, a mutual state bank may organize as a subsidiary holding company of the mutual holding company, which subsidiary holding company owns all of the outstanding voting stock of the resulting stock state bank.

Board and member approval of reorganization; application

(R.C. 1116.05(C))

Before reorganizing into a mutual holding company, a reorganizing mutual state bank must do all of the following:

(1) Obtain approval of a reorganization plan by a two-thirds vote of the board of directors of the reorganizing mutual state bank and any acquiree mutual bank;

(2) Obtain approval of the reorganization plan by a two-thirds vote, or such other proportion not less than a majority as the reorganizing mutual state bank's or any acquiree mutual bank's articles of incorporation or code of regulations provide, of the members' votes cast in person or by proxy at the annual meeting or at a special meeting of members called by the board of directors for the purpose of approving the reorganization plan;

(3) File a reorganization application in the form prescribed by the Superintendent that includes (a) an officers' certification that the reorganization plan has been approved by the directors and members in accordance with applicable state law, articles of incorporation, code of regulations, or bylaws, (b) a copy of the plan, and (c) any other information the Superintendent requires.

Reorganization plan

(R.C. 1116.07)

The bill requires that each reorganization plan contain a description of all significant terms of the proposed reorganization and include all of the following:

- Any proposed stock issuance plan;
- An opinion of counsel, or a ruling from the U.S. Internal Revenue Service and the Ohio Department of Taxation, as to the federal and state tax treatment of the proposed reorganization;
- A copy of the articles of incorporation and code of regulations of the proposed mutual holding company, the resulting stock state bank, and any affiliate organizations in the holding company structure;
- A description of the method of reorganization under the bill;
- A statement that, upon consummation of the reorganization, certain assets and liabilities, including all deposit accounts of the reorganizing mutual state bank, will be transferred to the resulting stock state bank, which bank will immediately become a stock state bank subsidiary of the mutual holding company or subsidiary holding company;
- A summary of the expenses to be incurred in connection with the reorganization;
- Any other information required by the Superintendent.

Approval of application

(R.C. 1116.06 and 1116.08)

Within ten business days after receipt of an application for a mutual holding company reorganization, the Superintendent must either accept the application for processing, request additional information to complete the application, or return the application if it is substantially incomplete.

Within 180 days after an application is accepted for processing, the Superintendent must approve or disapprove the application and, if approved, impose any conditions the Superintendent determines appropriate. In approving or disapproving an application, the Superintendent, after conducting an appropriate examination or investigation, must consider whether:

(1) The reorganizing mutual state bank and any acquiree mutual bank will operate in a safe, sound, and prudent manner;

(2) The applicant has demonstrated that the reorganization plan is fair to the members of the reorganizing mutual state bank and any acquiree mutual bank;

(3) The interests of the reorganizing mutual state bank's depositors and creditors and the general public will not be jeopardized by the proposed reorganization into a mutual holding company;

(4) The proposed reorganization will result in a reorganizing mutual state bank or any acquiree state bank that has adequate capital, satisfactory management, and good earnings prospects;

(5) A stock issuance proposed in connection with the mutual holding company reorganization plan meets the standards established by the Superintendent and any applicable state and federal securities laws; and

(6) The reorganizing mutual state bank or any acquiree mutual bank has furnished all information required in the reorganization plan and any other information requested by the Superintendent regarding the proposed reorganization.

If the application is approved, the Superintendent must – to effect the reorganization – forward the articles of incorporation to the Secretary of State for filing.

Membership rights

(R.C. 1116.09(A) and (B))

A mutual holding company is required to confer:

--Upon existing and future depositors of the resulting stock state bank the same membership rights in the mutual holding company that were granted to depositors by the articles of incorporation or code of regulations of the reorganizing mutual state bank in effect immediately prior to the reorganization;

--Upon existing and future depositors of any acquiree mutual bank or any bank that is in the mutual form when acquired by the mutual holding company, the same membership rights in the mutual holding company that were granted to depositors by the articles of incorporation or code of regulations of the acquired mutual bank in effect immediately prior to the acquisition, provided that if the acquired mutual bank is merged into another subsidiary state bank from which the mutual holding company draws members, the depositors of the acquired mutual bank must receive the same

membership rights as the depositors of the subsidiary state bank into which the acquired mutual bank is merged;

--Upon the borrowers of the resulting stock state bank who are borrowers at the time of reorganization the same membership rights in the mutual holding company that were granted to them by the articles of incorporation or code of regulations of the reorganizing mutual state bank in effect immediately prior to the reorganization, but not any membership rights in connection with any borrowings made after the reorganization;

--Upon the borrowers of any acquiree mutual bank or any bank that is in the mutual form when acquired by the mutual holding company who are borrowers at the time of the acquisition, the same membership rights in the mutual holding company that were granted to them by the articles of incorporation or code of regulations of the acquired mutual bank in effect immediately prior to the acquisition, but not any membership rights in connection with any borrowings made after the acquisition. However, if the acquired mutual bank is merged into another bank from which the mutual holding company draws members, the borrowers of the acquired mutual bank must instead receive the same grandfathered membership rights as the borrowers of the subsidiary state bank into which the acquired mutual bank is merged.

The bill prohibits a mutual holding company that acquires a bank in the stock form, other than a resulting stock state bank or an acquiree mutual bank, from granting any membership rights to the depositors and borrowers of the stock bank *unless* the stock bank is merged into a subsidiary stock state bank from which the mutual holding company draws its members. In that case, the depositors of the stock bank are to receive the same membership rights as other depositors of the subsidiary stock state bank into which the stock bank is merged.

Governance by board of directors

(R.C. 1116.10)

A mutual holding company and any subsidiary holding company are to be governed by a board of directors and in accordance with the articles of incorporation and code of regulations adopted in connection with the reorganization, or as amended in accordance with law or rule after the reorganization. The board of the mutual holding company and any subsidiary holding company must have at least five members who, initially, are to consist of the board of directors of the reorganizing mutual state bank. These members, after the formation of the mutual holding company and any subsidiary holding company, are to continue to serve as directors for the balance of the terms to which they were elected.

Reorganization plan: amendment or termination

(R.C. 1116.13)

A reorganization plan adopted by the board of directors of the reorganizing mutual state bank or any acquiree mutual bank may be amended by those boards as a result of any regulator's comments before any solicitation of proxies from the members to vote on the reorganization plan or, with the written consent of the Superintendent, at any later time. Additionally, it may be terminated by either board at any time before the meeting at which the members vote on the reorganization plan or, with the written consent of the Superintendent, at any later time.

Transfer of assets and liabilities

(R.C. 1116.11)

The bill states that all assets, rights, obligations, and liabilities of a reorganizing mutual state bank that are not expressly retained by the mutual holding company are to be transferred to the resulting stock state bank.

Deposit accounts

(R.C. 1116.12)

Under the bill, each person who holds a deposit account in a reorganizing mutual state bank or any acquiree mutual state bank immediately before the reorganization must receive, upon consummation of the reorganization, without payment, an identical deposit account in the resulting stock state bank or acquiree mutual state bank.

Conversion of mutual holding companies

(R.C. 1116.16)

The bill permits a mutual holding company organized under federal law or the laws of another state to convert to a mutual holding company organized under this chapter by submitting an application to, and obtaining the approval of, the Superintendent. State banks existing as of January 1, 2018, that are affiliates of a mutual holding company organized under federal law or the laws of another state and that submit an application within one year after that date are eligible for an expedited review process.

Powers and duties

(R.C. 1116.18)

Subject to all necessary regulatory notices or approvals, a mutual holding company organized under this chapter may:

--Acquire a bank organized in mutual or stock form by merger of such bank with the subsidiary stock state bank, interim subsidiary stock bank, or subsidiary stock holding company of the mutual holding company;

--Merge with or acquire another holding company provided that holding company has, as one of its subsidiaries, a subsidiary banking corporation;

--Exercise any power of, or engage in any activity permitted for, a mutual state bank;

--Engage directly or indirectly only in such activities as are permissible activities for bank holding companies under applicable state and federal law or regulations;

--Invest in the stock of a bank;

--Exercise any rights, waive any rights, or take or waive any other action with respect to any securities of any subsidiary stock state bank or subsidiary stock holding company that are held by the mutual holding company.

Surplus distribution

(R.C. 1116.19)

The bill permits the board of directors of a mutual holding company, by a majority vote of the directors, to divide equitably any surplus that is in excess of the amount required for the operations of the mutual holding company or to maintain the safety and soundness of the mutual holding company, and to distribute that surplus to the respective depositors of its subsidiary stock state banks in accordance with their membership rights. In addition, if the Superintendent determines that the surplus held by a mutual holding company is excessive, the Superintendent may order the board of directors to make such a distribution.

Subsidiary holding company; issuance of securities

(R.C. 1116.20)

A mutual holding company may establish a subsidiary holding company as a direct subsidiary to hold 100% of the stock of its subsidiary stock state bank, provided

the subsidiary holding company is not formed and operated as a means of evading or frustrating the purposes of this chapter. Subject to the approval of the Superintendent, the subsidiary holding company may be established either at the time of the initial mutual holding company reorganization or at a subsequent date.

Any subsidiary stock state bank or subsidiary holding company may, with the prior approval of the Superintendent and subject to any rules the Superintendent may prescribe, issue one or more classes of securities, including one or more classes of common stock or preferred stock, and take any action with respect to the securities. However, the mutual holding company must hold at least 25% of the combined voting power of all classes of securities of the subsidiary stock holding company or stock state bank that have voting power in the election of directors of such stock state bank.

A subsidiary stock state bank or subsidiary stock holding company may issue, in connection with an employee stock option or other employee benefit plan or with the mutual holding company reorganization or subsequent to the reorganization, different classes of common stock to the mutual holding company and subsidiary stock state bank or subsidiary stock holding company. An issuance of securities may be made at the time of the mutual holding company reorganization or after it, and may be made in connection with the merger or acquisition of another bank whether organized in mutual or stock form.

Converting to a stock holding company

(R.C. 1116.21)

The bill permits a mutual holding company organized under this chapter to convert to a stock holding company by submitting an application to, and obtaining the approval of, the Superintendent.

Chapter 1117. – Bank Offices

Notice of proposed banking office

(R.C. 1117.02)

Under existing law, a bank having its principal place of business in Ohio that proposes to establish a banking office must submit an application to the Superintendent of Financial Institutions. The Superintendent is required to consider certain factors in determining whether to approve a proposed banking office. The bill eliminates "the adequacy of the bank's paid-in capital" as one of those factors.

Relocation procedures

(R.C. 1117.04)

In the case of a bank proposing to relocate a banking office, current law provides the following:

(1) If the banking office is to be relocated *within the banking office's current service area*, the bank must notify the Superintendent and comply with the relocation procedures the Superintendent establishes.

(2) If the banking office is to be relocated *outside the banking office's current service area*, the bank must obtain the Superintendent's approval and comply with the banking office closing procedures established by the Superintendent.

The bill modifies (1), above, by replacing the italicized language with "within a one-mile radius of the banking office's current location." It modifies (2), above, by replacing the italicized language with "outside a one-mile radius of the banking office's current location."

Providing services to the bank's customers at another institution

(R.C. 1117.05)

Currently, a bank may, with the Superintendent's approval, contract with one or more other banks, savings banks, and savings associations to provide services to the contracting bank's customers at any of the offices of the other institutions as if those offices were offices of the contracting bank. In determining whether to approve such a contract, the Superintendent must consider certain factors. The bill eliminates "the adequacy of the paid-in capital" of both the contracting bank and the other institutions as one of those factors.

Nonobservance of banking hours

(R.C. 1117.07)

Existing law generally permits the closing of a bank's banking office in the event of natural disaster, power failure, fire, strike, robbery, or any other reason the Superintendent approves, or in the event of the declaration of an emergency by the Governor. A banking office cannot remain closed for more than *48 consecutive hours, excluding legal holidays,* without obtaining the approval of the Superintendent or, in the case of a national bank, the Comptroller of the Currency.

Under the bill, a banking office cannot remain closed for more than "two consecutive days, excluding weekends and legal holidays," without the approval of the Superintendent. The approval of the Comptroller of the Currency is no longer required.

Chapter 1119. – Foreign Banks

The only revisions made in this chapter are conforming changes.

Chapter 1121. – Superintendent's Powers

Definitions

(R.C. 1121.01(B))

For purposes of this chapter, the definition of "**regulated person**" currently includes a director, officer, or employee of or agent for a bank or trust company or a controlling shareholder of a state bank, foreign bank, or trust company. The bill replaces *controlling shareholder of* with *person who controls a* state bank, foreign bank, or trust company. And it defines "**control**" as (1) power, directly or indirectly to direct the management or policies of a bank or (2) ownership or control of or power to vote 25% or more of any class of the bank's voting securities.

Parity rules

(R.C. 1121.05)

Under existing law, the Superintendent must adopt rules granting state banks any right, power, privilege, or benefit possessed, by virtue of statute, rule, regulation, interpretation, or judicial decision, by certain entities, including (1) banks, savings associations, and savings banks doing business under authority granted by federal regulators or the regulatory authority of another state and (2) any other person having an office or other place of business in Ohio and engaging in the business of lending money, or buying or selling bullion, bills of exchange, notes, bonds, or other evidences of indebtedness with a view to profit.

The bill provides that, in addition to granting these rights and power to state banks, they also must be granted to trust companies. The bill also expands the list of entities described in (1), above, to include trust companies and the persons described in (2), above, to include the following: any other persons *engaging in the business of banking, offering financial products and services, soliciting or accepting deposits,* lending money, or buying or selling bullion, bills of exchange, notes, bonds, or other evidences of indebtedness *whether through an office or other place of business in Ohio or via the Internet, advertising, or other form of solicitation*.

The Superintendent is permitted by the bill to require a state bank or trust company that has acted in reliance on a rule adopted and later revoked or lapsed in accordance with the parity rules to bring its affected activities in compliance with the law. Unless the activities will or may result in harm to the bank or trust company as determined by the Superintendent, the bank or trust company must be granted a reasonable period of time of not less than one year nor more than two years from the date the rule is revoked or lapsed, to bring its affected activities in compliance with the law. Upon the written request of a bank or trust company, the Superintendent may grant a longer period of time.

Reduction of disadvantage to a state bank or trust company

(R.C. 1121.06)

If any regulation, interpretation, or guideline of the Office of the Comptroller of the Currency, FDIC, Federal Reserve Board, or the bank regulatory authority of another state puts an Ohio bank or trust company at a disadvantage to a national bank, the Superintendent is authorized under current law to adopt a rule to reduce or eliminate the disadvantage. The bill expands this provision to include any regulation, interpretation, or guideline of the Consumer Financial Protection Bureau, National Credit Union Administration, or any other bank regulatory authority of the United States that puts an Ohio bank or trust company at a disadvantage to *any other type of financial institution.*

Pursuant to current law, any such rule is to be adopted under R.C. 111.15. If the rule is not revoked by the Superintendent, it lapses and has no effect 30 months after its effective date. The bill permits the Superintendent to adopt the rule under R.C. 111.15 for an additional 30-month period. It also permits the Superintendent to require a bank or trust company that has acted in reliance on a rule adopted and later revoked or lapsed to bring its affected activities in compliance with the law. Unless the activities will or may result in harm to the bank or trust company as determined by the Superintendent, the bank or trust company must be granted a reasonable period of time of not less than one year nor more than two years from the date the rule is revoked or lapsed, to bring its affected activities in compliance with the law. Upon the written request of a bank or trust company, the Superintendent may grant a longer period of time.

Examination authority

Examination of bank records

(R.C. 1121.10)

Existing law requires the Superintendent, or any deputy or examiner appointed by the Superintendent, to examine the records and affairs of each bank at least once every 24-month cycle. The examination is to include a review of compliance with the law and other matters the Superintendent determines.

The bill clarifies that this examination authority applies to *state* banks and specifies that the examination is to also include a review of a bank's safety and soundness. It also 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.

Examination of controlling shareholder

(R.C. 1121.12 and 1121.13)

Current law also provides that an examination of a bank may include the examination of a controlling shareholder of the bank that is a bank holding company registered with the Federal Reserve. The bill replaces the term "controlling shareholder" with "person who, directly or indirectly, controls," and includes the examination of such a person that is (1) a savings and loan holding company or (2) a corporation that is not a savings and loan holding company, as its affairs relate to the bank.

In addition to the reasons specified under current law for conducting such an examination, the bill adds that an examination can be made if the Superintendent has reasonable cause to believe there is a significant risk of imminent material harm to any subsidiary or nonbank affiliate as its affairs relate to the bank and the examination is necessary to fully determine the risk to the bank.

Prohibited acts; remedies

(R.C. 1121.16(A) and (B))

Current law prohibits a regulated person from: (1) refusing to allow an authorized examination, (2) refusing to give information required by the Division of Financial Institutions in relation to an examination, or (3) providing false or misleading information in relation to an examination. Under the bill, state banks and trust companies are also prohibited from taking any of these actions. In addition, (3), above,

is modified to require that the regulated person, bank, or trust company providing the false or misleading information *knows* that it is false or misleading.

In the event of a violation of this prohibition, the Superintendent is currently authorized to:

- Issue a cease and desist order, a removal or prohibition order, or a suspension or temporary prohibition order. The bill also permits the Superintendent to assess a civil penalty.
- Appoint a conservator. Under the bill, this applies only to a *state* bank.
- Initiate civil or criminal proceedings.

Execution of documents

(R.C. 1121.17)

Currently, documents that are required by the Superintendent may be signed and sworn to on behalf of a bank by any officer authorized by the bank to do so. The bill applies this as well to trust companies, and specifies that the persons signing the documents are to be any officer *or director* authorized to do so by *the bank's or trust company's board of directors.*

Assessments and examination fees

(R.C. 1121.10(C), 1121.24, and 1121.29)[41]

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.[42]

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.

[41] Both R.C. 1121.24 and 1121.29 have a 90-day effective date.

[42] 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 visitations 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.

Confidentiality of information; disclosure

(R.C. 1121.18(A) to (C) and (E))

Under current law, information leading to, arising from, or obtained in the course of an authorized examination is privileged and confidential. The bill, instead, requires the Superintendent and the Superintendent's agents and employees to keep privileged and confidential all information obtained by the Superintendent, agent, or employee as a result of or arising out of the examination or supervision of a bank or another authorized examination, from required reports, or because of their official position. The bill prohibits any person, including any person to whom the information is disclosed under the authority of this provision, from disclosing the information, except as specifically provided in this provision.

The bill modifies current law with respect to the circumstances under which this information may be disclosed by the Superintendent or the Superintendent's agents and employees, as follows:

--The information may also be released to auditors, attorneys, or similar professionals retained by the bank or trust company to assist in conducting the business of the bank or trust company, or other person examined, in a safe and sound manner and in compliance with the law.

--The information may be released to law enforcement authorities *in connection with* criminal investigations *or referrals made by the Superintendent.*

--The information may also be released to other state and federal agencies or, in the case of a state bank, to the federal home loan bank to which the bank belongs, as the Superintendent determines necessary and appropriate, but only under such conditions and limitations as the Superintendent, in the Superintendent's sole discretion, may require.

The bill adds – as an additional circumstance under which such information may be introduced into evidence – "when penalties or an enforcement action has been initiated by the Superintendent." And it permits the Superintendent to adopt rules, in accordance with the Administrative Procedure Act, to permit a bank, trust company, or other person to disclose the information in limited circumstances other than as otherwise specified by law.

Self-assessment privilege

(R.C. 1121.19)

The bill provides that a self-assessment report of a bank, any contents of the report, and any data, analyses, or other information generated, created, produced, developed, or prepared as part of the self-assessment process, are privileged and not admissible or subject to discovery in any civil or administrative litigation, proceeding, or investigation. A "self-assessment report" includes (1) an evaluation of the bank's loan underwriting standards, asset quality, financial reporting to federal or state regulatory agencies, and compliance with its policies and with federal or state statutory or regulatory requirements, and (2) any communication related to the report, including emails or telephone logs.

This self-assessment privilege granted to a bank and its affiliates applies regardless of whether a bank regulator or any other governmental authority in possession of a self-assessment report or any contents of it subsequently discloses it or any contents of it to a third party as required or permitted by state or federal law. A bank regulator or any other governmental authority in possession of a self-assessment report or any content of it is prohibited from disclosing the report or contents to any person in response to a public records request.

Report of condition and income

(R.C. 1121.21)

Each bank and trust company is currently required to report its condition and income to the Division of Financial Institutions at the times, in the form, and including the information prescribed by the Superintendent. The bill eliminates the penalty for failure to comply with this requirement.

The bill also eliminates the requirement that a bank or trust company maintain a summary of its most recent report of condition and income in each of its offices, post notice of the availability of the summary in each office, and make the summary available to the public without charge.

Criminal records checks: conditional approval

(R.C. 1121.23)

Existing law requires the Superintendent to request a criminal records check whenever the Superintendent's approval is required for a person to serve as an organizer, incorporator, director, executive officer, or controlling shareholder of a bank, or to otherwise have a substantial interest in or participate in the management of a bank. The bill allows the Superintendent to conditionally approve such a person, subject to receiving satisfactory results of the criminal records check. If the Superintendent does not receive the results within 90 days after the criminal records check was requested, the Superintendent may extend the conditional approval for not more than 90 days.

Banks Fund

(R.C. 1121.30)[43]

Current law creates the Banks Fund in the state treasury. Money in the Fund is used to defray the operational costs of the Division. The bill states that the money cannot be used for any other purpose.

Orders relative to a regulated person

(R.C. 1121.33(D) and 1121.34(B) and (D))

Currently, a regulated person who has been suspended, removed from office, or temporarily or otherwise prohibited from further participation in the affairs of a bank or trust company by order of the Superintendent cannot continue to hold any office or

[43] This section has a 90-day effective date.

participate in any manner in the affairs of the bank or trust company, except as specifically permitted by the Superintendent pursuant to a modification of the order. Under the bill, this prohibition applies also in situations in which the suspension, removal, or prohibition order is issued by the bank regulatory authority of another state or the United States.

If a regulated person is charged in any indictment or complaint authorized by a prosecuting attorney or a U.S. attorney with the commission of a felony involving dishonesty or breach of trust or involving a depository institution, the Superintendent is permitted by existing law to suspend the regulated person from office or temporarily prohibit the person's further participation in the conduct of the affairs of a bank or trust company, or both. The bill expands the crimes for which the Superintendent can take such actions. Under the bill, those crimes are "a felony or a crime involving an act of fraud, dishonest, breach of trust, theft, or money laundering involving a depository institution."

Administrative hearings; appeals

(R.C. 1121.38)

The bill specifies that administrative hearings authorized under current law, *other than those regarding regulated persons*, are confidential, unless the Superintendent determines that holding an open hearing would be in the public interest. Within 20 days after service of the notice of a hearing, a respondent may file with the Superintendent a written request for a public hearing. A respondent's failure to file the request constitutes a waiver of any objections to a confidential hearing.

Administrative hearings regarding a regulated person are to be open. Within 20 days after service of the notice of a hearing, the respondent may file with the Superintendent a written request for a confidential hearing. If such a request is made, the hearing is to be confidential unless the Superintendent determines it would be in the public interest to have an open hearing.

The bill also provides that, at certain administrative hearings the records of which may be the basis of an appeal to court, a stenographic record of the testimony and other evidence submitted is to be taken at the Division's expense. The record must include all of the testimony and other evidence, and any rulings on the admissibility of the evidence, that is presented at the hearing.

Under current law, a bank, trust company, or regulated person against whom the Superintendent issues an order upon the record of an administrative hearing may file a notice of appeal in the court of common pleas. The clerk of court must transmit a copy of the notice to the Superintendent, who must then file the record of the hearing. The

bill instead requires the Superintendent, within 30 days after receiving the notice of appeal, to file a certified copy of the record with the clerk of court. In the event of a private hearing, the record of the hearing must be filed under seal.

Supervision order

(R.C. 1121.41)

Currently, if the Superintendent issues an order placing a bank or trust company under supervision and appointing a supervisor, the order may prohibit the bank or trust company from taking certain actions during the period of supervision without the prior approval of either the Superintendent or the supervisor. Those actions include disposing of assets, lending any of its funds, and incurring debt. The bill authorizes the Superintendent to specify other prohibited actions in the order.

Publication of orders and agreements

(R.C. 1121.43)

Existing law requires the Superintendent to "publish and make available" to the public on a monthly basis:

(1) Any written agreement or other writing for which a violation may be enforced by the Superintendent;

(2) Any final (a) cease and desist order, (b) order removing or suspending a regulated person from office or prohibiting or temporarily prohibiting further participation in the affairs of a bank or trust company, (c) assessment of a civil penalty, or (d) supervision order;

(3) Any modification or termination of an agreement, other writing, or order made public in accordance with this provision.

This requirement does not apply, however, if the Superintendent determines that publishing a written agreement and making it available to the public would be contrary to the public interest. If the Superintendent determines that publishing a final order and making it available to the public would seriously threaten the safety and soundness of a bank or trust company, the Superintendent may delay the publication for a reasonable period of time.

The bill eliminates the requirement that any of this information be *published*.

Order and subpoena powers

(R.C. 1121.47)

Under existing law, the Superintendent may summon and compel, by order or subpoena, witnesses to appear before the Superintendent, deputy superintendent, examiner, or attorney examiner, and testify under oath regarding the affairs of a bank or trust company or, in relation to matters concerning a state bank, foreign bank, or trust company, a regulated person.

The bill replaces the term "attorney examiner" with "attorney," and authorizes the Superintendent to designate other persons to whom the witnesses may be required to appear before and testify.

Suits and court proceedings

(R.C. 1121.48)

Current law requires that all suits and court proceedings brought by the Superintendent be conducted by the Attorney General. Under the bill, they also may be conducted by a designee of the Attorney General.

Audit by independent auditor

(R.C. 1121.50)

The Superintendent is authorized under existing law to require a bank, when circumstances warrant, to have an independent auditor conduct agreed upon procedures prescribed by the Superintendent. The bill authorizes the Superintendent to do the same with respect to a trust company. It also defines "independent auditor" as an external, unaffiliated auditor who has a certified public accounting designation that qualifies the person to provide an auditor's report.

Proceedings when capital of bank is impaired

(R.C. 1121.52)

Current law sets forth the procedures that must be followed when the capital of a bank is impaired, including the assessment of shareholders. The bill repeals those provisions and, instead, provides for the following if a state bank is undercapitalized:

--The Superintendent must notify the bank of the undercapitalization, and may require the bank to submit a written capital restoration plan within 45 days after the bank receives that notice, unless the Superintendent authorizes a longer period of time.

--A capital restoration plan is to specify:

- The steps the bank will take to become adequately capitalized;
- The levels of capital to be attained during the timeframe in which the plan will be in effect;
- The types and levels of activities in which the bank will engage; and
- Any other information the Superintendent may require.

--The Superintendent is required to approve a capital restoration plan if the Superintendent determines that the plan (1) is based on realistic assumptions and is likely to succeed in restoring the bank's capital and (2) would not appreciably increase the risk (including credit risk and interest-rate risk) to which the bank is exposed. If the plan is not approved, the Superintendent must notify the bank and require it to submit a revised plan within a specified time period. Upon serving that notice, the Superintendent may immediately appoint a conservator for the bank or take any other action authorized by law or rule.

--If a state bank has submitted and is operating under an approved capital restoration plan:

- It is not to be required to submit an additional capital restoration plan based on a revised calculation of its capital measures unless specifically required by the Superintendent to do so. A bank that is notified it must submit a new or revised plan must file a written plan within 30 days after receiving the notice, unless the Superintendent authorizes a different period of time.
- It may, after prior written notice to and approval by the Superintendent, amend the plan to reflect a change in circumstance. Until a proposed amendment is approved by the Superintendent, the bank must implement the plan in its current form.

--If an undercapitalized bank fails to submit a capital restoration plan within the designated period of time, upon the expiration of that period, the Superintendent may immediately appoint a conservator for the bank or take any other action authorized by law or rule.

--If an undercapitalized bank fails, in any material respect, to implement a capital restoration plan, the Superintendent may immediately appoint a conservator for the bank or take any other action authorized by law or rule.

--Lastly, the bill does not prohibit the Superintendent from requiring a state bank to submit a capital restoration plan at any other time the Superintendent considers necessary.

Immunity of Superintendent and employees

(R.C. 1121.56)

Under current law, neither the Superintendent nor any employee of the Division is liable in any civil, criminal, or administrative proceeding for any mistake of judgment or discretion in any action taken, or omission made in good faith. The bill extends this immunity to any agent or contractor of the Division and any supervisor appointed by the Superintendent under this chapter. It also clarifies that the action taken or omission made must be "within the scope of the person's official capacity as assigned by the Superintendent."

Chapter 1123. – Banking Commission

Overview

(R.C. 1181.16 and 1181.17)

In connection with the repeal of the chapters governing Savings and Loan Associations and Savings Banks, the bill eliminates the Savings and Loan Associations and Savings Banks Board. It provides, however, for a transition period in which the memberships of the Board and the Banking Commission are combined. Thereafter, the membership of the Banking Commission is increased from seven to nine members.

Transition period

(Section 130.24)

On January 1, 2018 – the date the new Banking Law becomes effective – 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 that member was appointed.

The bill's changes to the terms of office of the Banking Commission, and the qualifications for membership, first apply to the members appointed on or after January 1, 2018.

Commission membership and qualifications

(R.C. 1123.01)

The bill increases the membership of the Banking Commission from seven to nine members. One of the members is 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 serve four-year terms commencing on February 1 and ending on January 31. No appointee may serve more than two consecutive full terms.

At least six of the eight appointed members must be, at the time of appointment, executive officers of state banks 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 of Financial Institutions. No one who has been convicted of, or has pleaded guilty to, a felony involving an act of fraud, dishonesty, breach of trust, theft, or money laundering can hold office as a member.

The members do not receive a salary but do receive 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.

Duties; meetings

(R.C. 1123.02 and 1123.03)[44]

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

[44] R.C. 1123.03 has a 90-day effective date.

Chapter 1125. – Liquidations and Conservatorships

Application

The bill clarifies that this chapter applies to *state* banks.

Conservatorships: powers

(R.C. 1125.12(A)(9))

Existing law sets forth the powers of a conservator while under the supervision of the Superintendent. One of those powers is to sell assets, compromise any debt or claim due the bank, discontinue any pending action, and implement a restructuring of the bank, if done within the ordinary course of business of the bank and according to ordinary business terms. The bill adds that is also must be done *in good faith*.

Involuntary liquidations

Payment of claims

(R.C. 1125.24)

Existing law sets forth the order in which claims against a bank's estate and expenses are to be paid. Included are wages and salaries of officers and employees earned during the one-month period preceding the date of the bank's closing in an amount not exceeding $1,000 per person. The bill adds "commissions, including vacation, severance, and sick leave pay," of those officers and employees.

Destruction of records

(R.C. 1125.30)

Under current law, a receiver may destroy the records of the bank, subject to the approval of the court, after the receiver determines there is no further need for them. The bill adds that the records are to be destroyed in the manner authorized for banks to destroy their records.[45]

Chapter 1133. – Societies for Savings

The bill repeals this chapter.

Chapters 1151. to 1157. – Savings and Loan Associations

The bill repeals these chapters.

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[45] See R.C. 1109.69.

Chapters 1161. to 1165. – Savings Banks

The bill repeals these chapters.

Chapter 1181. – Division of Financial Institutions

Deputy superintendents

(R.C. 1181.01)

The bill eliminates the requirement that the Superintendent of Financial Institutions appoint a Deputy Superintendent for Savings and Loan Associations and Savings Banks.

With respect to the Deputy Superintendent for Banks and the Deputy Superintendent for Credit Unions, current law requires each one to have at least five years of experience in that particular industry or at least five years of experience in the examination or regulation of banks, savings and loan associations, savings banks, or credit unions.

Under the bill, the ***Deputy Superintendent for Banks*** must possess at least one of the following qualifications prior to the Deputy Superintendent's appointment:

(1) Not less than five years of experience as (a) a senior level officer in a bank, savings and loan association, or a savings bank, a bank holding company, or a savings and loan holding company or (b) a senior level manager or senior professional with a primary business of, or professional focus on, auditing or providing professional advice to such institutions;

(2) Not less than five years of experience as a senior level supervisor in the examination or regulation of banks, savings and loan associations, or savings banks; or

(3) Not less than a total of five years of experience in any combination of the positions described in (1) and (2), above.

Additionally, the ***Deputy Superintendent for Credit Unions*** must possess at least one of the following qualifications prior to the Deputy Superintendent's appointment:

(1) Not less than five years of experience as (a) a senior level officer in a credit union or (b) a senior level manager or senior professional with a primary business of, or professional focus on, auditing or providing professional advice to credit unions;

(2) Not less than five years of experience as a senior level supervisor in the examination or regulation of credit unions; or

(3) Not less than a total of five years of experience in any combination of the positions described in (1) and (2), above.

With respect to the ***Deputy Superintendent for Consumer Finance***, current law requires the Deputy Superintendent to have at least five years of experience in one or more of the consumer finance companies regulated by the Division of Financial Institutions or in the examination or regulation of banks, savings and loan associations, savings banks, credit unions, or consumer finance companies. Under the bill, the Deputy Superintendent must possess at least one of the following qualifications prior to the Deputy Superintendent's appointment:

(1) Not less than five years of experience as (a) an owner, officer, or senior level manager of one or more consumer finance companies, (b) a senior level manager of a mortgage banking affiliate of a bank, savings and loan association, savings bank, bank holding company, or savings and loan holding company, or (c) a senior level manager or senior professional with a primary business of, or professional focus on, auditing or providing professional advice to consumer finance companies;

(2) Not less than five years of experience as a senior level supervisor in the examination or regulation of consumer finance companies; or

(3) Not less than a total of five years of experience in any combination of the positions described in (1) and (2), above.

Employees; bonds

(R.C. 1181.02 and 1181.03)

In addition to the employees authorized under current law, the bill permits the Superintendent to appoint and employ such professionals and agents as the prompt execution of the duties of the Superintendent's office requires.

Currently, the Superintendent must require a bond of each employee of the Division, conditioned on the faithful performance of each employee's duties, in an amount not less than $5,000 that the Superintendent determines to be acceptable. The bill extends this bonding requirement to each agent of the Division.

Immunity of Superintendent and employees

(R.C. 1181.04)

Under existing law, neither the Superintendent nor any employee of the Division is liable in any civil, criminal, or administrative proceeding for any mistake of judgment or discretion in any action taken, or any omission made by the Superintendent or

employee in good faith. The bill extends this immunity to agents and contractors of the Division. It also limits it to actions taken or omissions made in good faith *within the scope of the person's official capacity as assigned by the Superintendent*.

Conflicts of interest

(R.C. 1181.05)

Current law prohibits the Superintendent and any other employee of the Division from having certain connections to, or affiliations with, banks, savings and loan associations, savings banks, credit unions, or consumer finance companies under the supervision of the Superintendent, including: (1) being interested, directly or indirectly, in any such financial institution or company and (2) owning an equity interest in any such financial institution or company. The bill does the following:

--It clarifies that the prohibition applies with respect to *state* banks.

--It removes the reference to savings and loan associations and savings banks and adds trust companies.

--With respect to (1), above, it replaces "being interested" in with *having a business or investment interest* in;

--In (1) and (2), above, it adds *or any affiliate of* any such financial institution or company;

--It amends the definition of "consumer finance company" to include only those persons who are licensed or registered under the relevant statutes administered by the Superintendent, rather than any person *required to be* licensed or registered under those statutes, as provided in current law.

Current law permits, under certain circumstances, an employee to retain the ownership of or beneficial interest in the securities of a financial institution or consumer finance company under the supervision of the Division. The employee must provide written notice of the retention and, thereafter, is disqualified from participating in any decision or examination that may affect the issuer of the securities. If the disqualification impairs the employee's ability to perform the employee's duties, the employee may be ordered to divest himself or herself of the ownership or beneficial interest. The bill adds that, as an alternative, the employee may be ordered to resign.

Current law specifies that, for purposes of this provision, the interest of an employee's spouse or dependent child arising through the ownership or control of securities is considered the interest of the employee, unless certain conditions are met.

Under the bill, the employee *must demonstrate to the satisfaction of the Superintendent* that the conditions are met.

Financial Institutions Fund

(R.C. 1181.06)

The existing Financial Institutions Fund receives assessments on the Banks Fund, the Savings Institutions Fund, the Credit Unions Fund, and the Consumer Finance Fund in accordance with procedures prescribed by the Superintendent and approved by the Director of Budget and Management. All operating expenses of the Division are to be paid from the Financial Institutions Fund.

The bill specifies that money in the Fund can be used *only* for that purpose. It also eliminates the reference to the Savings Institutions Fund (see below).

Office space for the Superintendent

(R.C. 1181.07)

The state is currently required to furnish the Superintendent suitable facilities for conducting business at the seat of government and in any other city of the state where it is necessary to keep a resident examiner. The bill replaces "in any other city of the state" with *in any other location within the state*.

Seal of the Superintendent

(R.C. 1181.10)

The bill eliminates the requirement that the seal of the Superintendent be one and three-fourths inches in diameter.

Copies of records as evidence

(R.C. 1181.11)

Existing law provides that copies of certificates or records in the office of the Superintendent that are duly certified by the Superintendent and authenticated by the Superintendent's seal of office constitute evidence in any state court of every matter that could be proved by producing the original. Under the bill, those certificates and records may, in the absence of the Superintendent, be certified by a deputy superintendent having jurisdiction over the records.

Savings and Loan and Savings Banks Board; Savings Institutions Fund

(R.C. 1181.16, 1181.17, 1181.18; Section 130.25)

The bill repeals the sections that establish the Savings and Loan Associations and Savings Banks Board and set forth the Board's powers and duties. It also terminates the Savings Institutions Fund and transfers the Fund's cash balance to the Banks Fund.

Regulation of consumer finance companies

(R.C. 1181.21)

Under existing law, the Deputy Superintendent for Consumer Finance is the principal supervisor of consumer finance companies. In that position, the Deputy is responsible for conducting examinations under the specific statutes regulating consumer finance companies. The bill expressly includes the Ohio Credit Services Organization Act (R.C. Chapter 4712.) as one of those statutes.

Introduction into evidence or disclosure of nonpublic information

(R.C. 1181.25)

The Superintendent is currently permitted to introduce into evidence or disclose information that otherwise is deemed privileged, confidential, or not a public record, provided the Superintendent does so as permitted under the relevant statute or in specified circumstances. Under the bill, those circumstances are as follows:

(1) In connection with any civil, criminal, or administrative investigation or examination conducted by the Superintendent or by any other financial institution regulatory authority, any state or federal attorney general or prosecuting attorney, or any local, state, or federal law enforcement agency;

(2) In connection with any civil or criminal litigation or administrative enforcement action initiated or to be initiated by the Superintendent in furtherance of the powers and duties imposed upon the Superintendent;

(3) To administer licensing and registration through the Nationwide Mortgage Licensing System and Registry.[46]

If the Superintendent has reason to believe that any privileged, confidential, or other nonpublic information provided may be disclosed by the intended recipient, the

[46] For the definition of "Nationwide Mortgage Licensing System and Registry," see R.C. 1322.01, not in the bill.

bill requires the Superintendent to seek a protective order or enter into an agreement to protect that information.

The bill also states that all reports and other information made available under this chapter remain the property of the Superintendent. Except as otherwise provided, a person, agency, or other authority to whom the information is made available, or any officer, director, or employee of that person, agency, or other authority, cannot disclose the information except in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any individual or entity.

Lastly, the bill states that the Superintendent is not to be considered as having waived any privilege applicable to any information by transferring that information to, or permitting it to be used by, any federal or state agency or any other person as permitted by this chapter or R.C. Chapter 1121. (Superintendent's Powers).

Other related changes made by the bill

Authority to govern in the absence of the Superintendent

(R.C. 121.07)

Current law provides that, in the absence of the Superintendent of Financial Institutions, the Director of Commerce may perform the duties vested by law in the Superintendent. The bill instead requires that the Director either perform those duties **or** authorize the Deputy Superintendent for Banks to perform the duties under the laws governing banking and the Deputy Superintendent for Credit Unions to perform the duties under the laws governing credit unions.

Uniform Depository Law

Public depository eligibility

(R.C. 135.032 and 135.321)

Currently, a bank or savings and loan association is not eligible to receive public deposits if the institution, or any of its directors, officers, employees, or controlling persons, is currently a party to an active final or temporary cease-and-desist order issued by the Superintendent. The bill expands this restriction to any national bank, federal savings association, or bank, savings bank, or savings and loan association doing business under the authority granted by the regulatory authority of another state, if the institution or any of its directors, officers, employees, or controlling persons is currently a party to an active final or temporary cease-and-desist order issued to ensure the safety and soundness of the institution.

Pooled Collateral Program: confidentiality of information

(R.C. 135.182)[47]

Existing law requires the Treasurer of State to create the Ohio Pooled Collateral Program not later than July 1, 2017. Under the Program, a public depository may pledge to the Treasurer a single pool of securities to secure the repayment of all uninsured public deposits at that public depository. The total market value of the pledged securities must equal at least:

(1) 102% of the total amount of uninsured public deposits; or

(2) An amount determined by rules adopted by the Treasurer that set forth criteria for determining the necessary aggregate market value, such as prudent capital and liquidity management by the public depository and its safety and soundness.

The bill states that the following information is confidential and not a public record:

- All reports or other information obtained or created about a public depository for purposes of the determination made under (2), above;
- The identity of a public depositor's public depository;
- The identity of a public depository's public depositors.

The bill does not, however, prevent the Treasurer from releasing or exchanging such confidential information as required by law or for the operation of the Pooled Collateral Program.

Corrections and updates

The bill removes outdated references (such as references to "Federal Savings and Loan Insurance"), eliminates provisions that are no longer applicable, and makes corrections required by the termination of the Office of Thrift Supervision and the resulting transfer of regulatory authority over federal savings associations to the Office of the Comptroller of the Currency, as well as other corrections.

[47] This section has a 90-day effective date. This amendment duplicates the amendment to R.C. 135.182 in section 101.01 of the bill.

Conforming changes in the Revised Code

The bill makes numerous conforming changes in other statutes, such as the Uniform Depository Law (R.C. Chapter 135.), due primarily to the elimination of "savings and loan associations" and "savings banks" as well as the laws governing those institutions.

Chart locating renumbered sections

UNDER CURRENT LAW	UNDER THE BILL
1103.01	1113.01
1103.06	1113.04
1103.08	1113.12
1103.09	1113.13
1103.11	1113.11
1103.13	1113.14
1103.14	1113.15
1103.15	1113.16
1103.16	1113.17
1103.21	1117.07
1113.01	1113.02
1109.44(E)	1109.441

Financial institutions[48]

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

[48] The provisions discussed under this heading overlap some of the provisions discussed under "**New Banking Law**," above. Consequently, they will need to be harmonized.

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.

Duties

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).

Meetings

The bill permits the Commission to hold meetings by interactive video conference or by teleconference if all of the following requirements are met:

- The Commission establishes a primary meeting location that is open and accessible to the public.
- Meeting-related materials that are available before the meeting are sent to every Commission member via email, facsimile, hand-delivery, or U.S. mail.
- If an interactive video conference is used, the Commission causes a clear video and audio connection to be established that enables all meeting participants at the primary meeting location to see and hear each member.
- If a teleconference is used, the Commission causes a clear audio connection to be established that enables all meeting participants at the primary meeting location to hear each member.
- All members have the capability to receive meeting-related materials that are distributed during a Commission meeting.
- A roll call vote is recorded for each vote taken.
- The meeting minutes identify which members remotely attended.

The Commission is to adopt rules to implement this provision, including rules that (1) establish a minimum number of members that must be physically present at the primary meeting location, (2) require that not more than one member remotely attending a meeting by teleconference be permitted to be physically present at the same remote location, (3) establish geographic restrictions for participation in meetings via interactive video conference or teleconference, and (4) establish a method for verifying the identity of a member who remotely attends a meeting by teleconference.

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.[49]

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.

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.

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

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.

Good Funds Law: disbursement from escrow accounts

(R.C. 1349.21)

The Ohio "Good Funds Law" regulates disbursements made in residential real estate escrow transactions. An escrow or closing agent may not knowingly disburse funds from an escrow account on behalf of another person unless certain conditions are satisfied relating to the receipt of good funds.

Under current law, before disbursing the funds, the escrow or closing agent must determine the funds (1) have been transferred electronically or deposited into the escrow account of the agent and are immediately available for withdrawal, (2) are in an aggregate amount not exceeding $1,000, have been physically received by the agent prior to disbursement, and are intended for deposit no later than the next banking day after the date of disbursement, or (3) are funds drawn on a special or trust bank account. The bill increases the dollar amount in (2), above, from $1,000 to $10,000.

Existing law also requires that the funds transferred or deposited as described above be of certain types. If the funds are in the form of cash, personal checks, certified checks, cashier's checks, or money orders, they cannot exceed – in the aggregate – $1,000. The bill increases that amount to $10,000.

Current law also permits (1) electronically transferred funds via the automated clearing house system initiated by, or a check issued by, the federal government, the state, or a political subdivision of the state, and (2) electronically transferred funds via the real-time gross settlement system provided by the Federal Reserve Bank. The bill eliminates the specific method described in (2), above, and instead permits "any other electronically transferred funds."

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.[50]

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.

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

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.[51] 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 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.

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

A-4 liquor permits

(R.C. 4303.05 and 4301.01, not in the bill)

Manufacture and sale of alcoholic ice cream

The bill allows a person to manufacture and sell ice cream containing at least 0.5% and up to 6% alcohol by volume (ABV). It requires such a person to obtain an A-4 liquor permit, which, under current law, authorizes the manufacture and sale of mixed beverages. Mixed beverages include bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained by mixing any type of distilled spirits with, or over, water, pure juices from flowers and plants, and other flavoring materials.

A manufacturer may sell alcoholic ice cream either for consumption on the premises where manufactured or in sealed containers for consumption off the premises where manufactured. For off-premises consumption purposes, a manufacturer cannot knowingly sell more than four pints of such ice cream to a customer in any day. No A-4 permit may be issued to a manufacturer to sell ice cream unless the sale of mixed beverages for both on- and off-premises consumption is authorized in the election precinct in which the A-4 permit is proposed to be located.

Minimum required alcohol content for A-4 permit holders

The bill lowers the minimum allowable ABV that applies to all A-4 permit holders from 4% to 0.5% ABV. The maximum ABV applicable to A-4 permit holders under current law is 21%. Thus, the bill allows an A-4 permit holder to manufacture and sell mixed beverages containing at least 0.5% and up to 21% ABV.

Tasting samples of alcohol

(R.C. 4301.22)

The bill allows a casino (D-5n liquor permit) and a restaurant in a casino (D-5o liquor permit) to offer tasting samples of beer, wine, or spirituous liquor free of charge. The permit holder may provide a paying customer with up to four free tasting samples of beer, wine, or spirituous liquor in any 24-hour period, provided that:

(1) The permit holder's permit authorizes the sale of the particular alcoholic beverage;

(2) The tasting samples are limited to two ounces of beer or wine or ¼ ounce of spirituous liquor per sample and are provided at the permit holder's expense; and

(3) The customer is 21 or older and consumes the tasting samples on the premises of the permit holder.

Current law restricts the offering of tasting samples of beer, wine, or spirituous liquor free of charge to only A-1c, certain A-1-A, and certain D liquor permit holders.

Reports by H liquor permit holders

(R.C. 4303.22)

The bill requires every person who transports beer or intoxicating liquor into Ohio for delivery (H liquor permit holders) to an individual or entity, other than to a liquor permit holder in Ohio, to prepare and submit a monthly report to the Division of Liquor Control. The report must contain all of the following:

(1) The name of the person preparing and submitting the report;

(2) The period of time covered by the report;

(3) The name and business address of each consignor of the beer or intoxicating liquor;

(4) The name and address of each consignee of the beer or intoxicating liquor;

(5) The weight of, and unique tracking number assigned for, each delivery of beer or intoxicating liquor to each consignee; and

(6) The date of delivery.

The Division must make a report available to the public upon request.

Upon the Division's request and not later than 30 days after the request, a person who submits a report must provide the documents used to prepare the report to the Division. The person must maintain the documents for two years after the submission of the report, unless the Division, in writing, authorizes the destruction of the documents at an earlier date. The person must allow the Division, any other state regulatory body, or any law enforcement agency to inspect the documents at any time during regular business hours.

The bill prohibits a person from violating the reporting requirements. If a person willfully violates the reporting requirements, the Liquor Control Commission may suspend or revoke any liquor permit issued to the person by the Division.

- Requires that any state agency purchase of automatic data processing, computer services, electronic publishing services, or electronic information services, or any consulting services related to information technology, the aggregate cost of which would amount to more than $50,000 over the succeeding five-year period, be made by competitive selection and with the approval of the Controlling Board.

- Requires Controlling Board approval of any advertising purchased by a state governmental entity for the same purpose that, in the aggregate, exceeds $50,000 during the fiscal year.

- Limits the Controlling Board's authority to approve the expenditure of certain federal and nonfederal funds that (1) are received in excess of the amount appropriated or (2) are not anticipated in the current biennial appropriations act.

Approval of purchases

ADP, computer, and electronic services

(R.C. 125.03)

Under the bill, any state agency wanting to purchase automatic data processing, computer services,[52] electronic publishing services, or electronic information services, or any consulting services related to information technology, the aggregate cost of which would amount to more than $50,000 over the next succeeding five-year period, must make the purchase by competitive selection *and* with Controlling Board approval. In its request for approval, the agency is to provide the Board with a comparative analysis of the cost of similar systems utilized by other states and a description of the measures it took to find the most cost-effective system. The comparative analysis is not a public record unless the request is approved by the Board and the agency made the purchase.

Advertising

(R.C. 125.051)

The bill subjects any advertising purchased by a state governmental entity for the same purpose to Controlling Board approval *if* the advertising, in the aggregate, exceeds $50,000 during the fiscal year. For this purpose, "advertising" includes

[52] For the definition of "computer services" see R.C. 2913.01, not in the bill.

advertising in print or electronic newspapers, journals, or magazines and advertising broadcast over radio or television or placed on the Internet.

Authority regarding unanticipated revenue

(R.C. 131.35)

The bill imposes a limitation on the Controlling Board's authority to approve the expenditure of certain federal and nonfederal funds.

Federal funds

The federal funds to which the bill applies are those received into any state fund from which transfers may be made by the Controlling Board under continuing law. Currently:

(1) If the federal funds received are greater than the amount of such funds appropriated by the General Assembly for a specific purpose, the Controlling Board may authorize the expenditure of those excess funds.

(2) If the federal funds received are not anticipated in an appropriations act for the biennium in which the new revenues are received, the Controlling Board may create additional funds to receive those revenues and authorize expenditures from those additional funds during that biennium.

The bill stipulates that the amount of any expenditure authorized by the Controlling Board under (1) or (2), above, for a specific or related purpose or item in any fiscal year cannot exceed 10% of the amount appropriated by the General Assembly for that purpose or item for that fiscal year, or $10 million, whichever is less. The bill also provides that the Controlling Board may not create any additional funds under (2) above, if the unanticipated revenue received exceeds $10 million.

Nonfederal funds

The nonfederal funds to which the bill applies are those received into any state fund from which transfers may be made by the Controlling Board, as well as the Waterways Safety Fund and the Wildlife Fund. Currently:

(1) If the nonfederal funds received are greater than the amount of such funds appropriated, the Board may authorize the expenditure of those excess funds.

(2) If the nonfederal funds received are not anticipated in an appropriations act for the biennium in which the new revenues are received, the Controlling Board may

create additional funds to receive those revenues and authorize expenditures from those additional funds during that biennium.

The bill stipulates that the amount of any expenditure authorized by the Controlling Board under (1) or (2), above, for a specific or related purpose or item in any fiscal year cannot exceed 10% of the amount appropriated by the General Assembly for that purpose or item for that fiscal year or $10 million, whichever amount is less. The bill also provides that the Controlling Board may not create any additional funds under (2) above if the unanticipated revenue exceeds $10 million.

STATE COSMETOLOGY AND BARBER BOARD

- Combines the State Board of Cosmetology and the Barber Board into the State Cosmetology and Barber Board.
- 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, and 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.

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

Type of fee	Cap
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.

DATAOHIO BOARD

- Creates the DataOhio Board, which is required to make recommendations regarding online access to public records and standards for open data use in a report that must be delivered to the General Assembly and Auditor of State not later than March 31 each year.
- Requires a public office that posts public records on its website or a state website to make its best efforts to post the records in an open format, to state in its public records policy which public records the public office posts online, and to submit this statement to the DataOhio Board.
- Specifies that a public office is not required to post public records to a website.

DataOhio Board

(R.C. 149.60)

Board's duties

The bill creates the DataOhio Board, which is required to make recommendations to the General Assembly regarding online access to public records. The bill states that the General Assembly recognizes that public-use data from public offices offers an avenue toward open and transparent government, stimulates business innovation, and can help public offices become more effective. The bill indicates that it is the General Assembly's intent to facilitate the ability of the public easily to find, download, and use public records and data sets of public records that are generated and held by public offices. With these goals in mind, the General Assembly creates the DataOhio Board to do all of the following:

(1) Recommend categories of public records that public offices should make available to the public online in an open format;

(2) Recommend technology standards for open data use in Ohio that reflect the most current standards used nationally and in other states;

(3) Recommend accounting standards for financial data of public offices to facilitate comparison across public offices and services;

(4) Recommend metadata definitional standards for nonfinancial data of public offices to facilitate comparison and use of this data across public offices; and

(5) Consider the participation and affiliation of data.Ohio.gov (see "**Website of public records**," below) with data.gov, the official federal online data catalog, and make a recommendation regarding this consideration.

The DataOhio Board must deliver a report of its findings and recommendations to the General Assembly and to the Auditor of State not later than one year after the bill's effective date, and by March 31 each year after that.

Board membership and organization

The DataOhio Board consists of the following members or their designees: the Governor, Attorney General, Auditor of State, Secretary of State, Treasurer of State, Speaker of the House, President of the Senate, Chancellor of Higher Education, and State Librarian. In addition, the Board must have one member who represents newspapers, to be appointed by the Ohio Newspaper Association; one member who is an officer of a municipal corporation, to be appointed by the Ohio Municipal League; one member who is an officer of a township, to be appointed by the Ohio Township Association; and one member who is an officer of a county, to be appointed by the County Commissioners Association of Ohio. And the Board must have the following four members who are to be appointed by the chairperson after the chairperson is selected: one member who represents data consumers, one member who represents businesses that use data sets of public records, one member who represents nonprofit think tanks that use data sets of public records, and one member who represents national organizations that encourage open government records. The Board also must consist of one or more ex officio, nonvoting members or their designees appointed by the chairperson.

The State Library must provide necessary meeting facilities to the Board. The Board's initial meeting is at the call of the State Librarian and must be held not later than 30 days after the bill's effective date. At this initial meeting, the Board must select a chairperson from among its members. The chairperson must select a Board member to serve as the Board's secretary.

The Board must meet at least ten times per year at the call of the chairperson and must provide reasonable notice to the public before each meeting. The Board must designate a portion of each meeting to be devoted to inviting suggestions from the public about the provision of data sets of public records by state agencies and local governments. The bill defines "local government" as bodies corporate and politic responsible for governmental activities only in geographical areas smaller than that of the state.

The presence of a majority of the Board's members constitutes a quorum for the conduct of its business. The concurrence of at least a majority of the members is necessary for any action to be taken by the Board. Board members serve without compensation but must be reimbursed for the actual and necessary expenses they incur in the performance of their duties.

Online public record access

(R.C. 149.61 and 149.43(E))

The bill requires a public office that posts a public record on its website, or on a public website maintained or authorized by the state, to make its best efforts to post the public record in an open format. The bill specifies that a public office is not required to post public records to a website; a public office's decision regarding which public records to post, if any, is solely within the public office's discretion, and its decision is final and may not be modified except by action of the public office.

Under continuing law, the Public Records Act requires a public office to adopt a public records policy for responding to public records requests. The bill requires a public office that opts in to posting public records online in an open format to include in its public records policy a statement indicating which public records the public office posts online in an open format, and to make its best effort to continue to post those records online in an open format in accordance with its public records policy. A public office must submit to the DataOhio Board, not later than 30 days after amending its public records policy, the portion of its public records policy that states which public records are posted online in an open format. A public office is not prohibited from opting out of posting public records online after opting in.

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.

- Relaxes an eligibility criterion for the Lakes in Economic Distress Loan Program and specifies that any materials submitted by a loan applicant are confidential and not a public record.

- Renames the Office of Small Business within the Development Services Agency the "Office of Small Business and Entrepreneurship" (OSBE) and requires the OSBE to inform the public about job placement resources available from OhioMeansJobs.

- Creates a statutory definition of "microbusiness."

- Permits the Director of Development Services to waive the cooperating contribution requirement for a project to receive a grant under the Thomas Alva Edison grant program if the project will enable Ohio companies to access new technology applications.

- Defines "Edison Center Network" for purposes of the administration of the Thomas Alva Edison grant program (though the term is not used in the bill, current statutory law, or the Ohio Administrative Code).

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.

Lakes in Economic Distress Loan Program

(R.C. 122.641)

The bill alters an eligibility criterion for the Lakes in Economic Distress Program. Under continuing law, the program provides loans for working capital or facility improvement for businesses adversely affected by circumstances that have resulted in a lake community being declared in economic distress by DNR and a disaster area by the U.S. Small Business Administration (i.e., Buckeye Lake). The loans are awarded in accordance with administrative guidelines established by the Director of Development Services and are financed through the Lakes in Economic Distress Revolving Loan Fund.

The administrative guidelines for the program currently limit eligibility for the loans to businesses and other entities that have incurred a 40% reduction in gross revenue measured between 2014 and 2015, 2015 and 2016, or 2014 and 2016. The bill requires the Director to relax this criterion and extend eligibility to businesses and entities that have incurred a reduction in gross revenue of at least 10% over one or more of those periods. The bill also expressly states that any materials a loan applicant submits are confidential and not a public record.

Office of Small Business and Entrepreneurship

(R.C. 122.08)

The bill renames the Office of Small Business within the Development Services Agency the "Office of Small Business and Entrepreneurship." The bill also 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. 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.

Definition of "microbusiness"

(R.C. 166.50)

The bill creates a statutory definition of "microbusiness." Under the bill, a "microbusiness" is an independently owned and operated for-profit business entity, including any affiliates, that is located in Ohio and has fewer than 20 full-time employees or full-time equivalent employees.

For purposes of the bill, a "full-time employee" is an employee who, with respect to a calendar month, is employed an average of at least 30 hours of service per week. And the number of full-time equivalent employees for a calendar month is to be determined by calculating the aggregate number of hours of service for that calendar month for employees who were not full-time employees, and dividing that number by 120.[53]

Edison grant program changes

(R.C. 122.01 and 122.33)

The bill permits the Director of Development Services to waive the cooperating contribution requirement for a project to receive a grant under the Thomas Alva Edison grant program if the project will enable Ohio companies to access new technology applications. Under current law, grants under the program must be made in conjunction with a contribution from a cooperating Ohio enterprise which maintains or proposes to maintain a relevant research, development, or manufacturing facility in Ohio.

"New technology applications" means providing existing technology proven in at least one commercial environment to companies that have not: (1) used the technology, or (2) used the technology for the purpose it was originally created. "Ohio companies" means companies in which the principal place of business is in Ohio or that propose to be engaged in research and development, manufacturing, or provisioning of products or services in Ohio.

The bill defines "Edison Center Network" to mean the six cooperative, industry-connected, nonprofit organizations that have met all of the following criteria:

- Historically received funding under the Thomas Alva Edison grant program;
- Been in existence at least 15 years as of the bill's effective date;
- Experience delivering technical and networking services to Ohio manufacturers.

The Network appears to be defined for purposes of the administration of the Edison grant program (but the term, once defined, is not used in the bill, current statutory law, or the Ohio Administrative Code).

[53] The term "microbusiness" does not appear to be used in any statutes.

DEPARTMENT OF DEVELOPMENTAL DISABILITIES

Supported living certification and quality incentive program

- Requires that a survey of an applicant for an initial or renewed supported living certificate be conducted by a county board of developmental disabilities unless the county board provides supported living.

- Requires the Director of Developmental Disabilities (DD Director) to suspend a supported living certificate if the survey report issued by a county board recommends the suspension.

- Extends the period of time for which a supported living certificate is valid by up to 90 days if certain conditions are satisfied.

- Permits the DD Director to temporarily restore an expired certificate.

- Makes retroactive changes regarding the renewal of certain supported living certificates that expired before the bill's effective date.

- Permits a county board to establish and operate a quality incentive program to increase the number of providers of Medicaid-funded supported living and to improve the quality of such supported living.

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 payment rates

- Provides for the FYs 2018 and 2019 Medicaid rates for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in peer groups 1 and 2 to be determined, with certain modifications, in accordance with a formula in current law.

- Provides for the FY 2018 or 2019 Medicaid rate for all ICFs/IID in peer groups 1 and 2 to be adjusted if the mean total per Medicaid day rate for all such ICFs/IID is other than a certain amount which cannot be less than $290.10.

- Provides for the Medicaid rate for each 15 minutes of routine homemaker/personal care services provided to a qualifying enrollee of the Individual Options 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

- Modifies a county department of developmental disabilities' responsibility to pay the nonfederal share of Medicaid expenditures for residents of ICFs/IID.

- 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.

County boards' waiting lists

- Requires a county board of developmental disabilities to establish a waiting list for Medicaid-funded home and community-based services if resources are insufficient to enroll all individuals assessed as needing the services.

- Replaces statutory criteria for emergency or priority placement on a county board waiting list with a requirement that the DD Director adopt rules regarding how individuals are placed on or removed from a waiting list or enrolled in an ODDD-administered Medicaid waiver.

Updating authorizing 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.

County boards of developmental disabilities – restriction on employment

- Modifies a provision in current law to prohibit a county commissioner's spouse, son, or daughter (rather than an "immediate family member") from being employed by the county board of developmental disabilities for the county the commissioner serves.

Supported living certification

Continuing law prohibits any person or government entity from providing supported living without a valid certificate issued by the Director of Developmental Disabilities (DD Director). Supported living is a service provided for as long as 24 hours a day to an individual with a developmental disability through any public or private resources, including money from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by (1) providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with developmental disabilities unless the individuals are related by blood or marriage, (2) encouraging the individual's participation in the community, (3) promoting the individual's rights and autonomy, and (4) assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

Surveys for initial or renewed certificate

(R.C. 5123.162 and 5123.166)

Persons and government entities seeking an initial or renewed certificate to provide supported living undergo a survey to determine whether they meet or continue

to meet the certification standards. Under current law, the DD Director may conduct the surveys or assign a county board of developmental disabilities the responsibility to conduct a survey. The bill requires that the county board serving the county in which the provider is located conduct the survey unless the county board provides supported living, in which case the Director is to conduct the survey.

The bill requires that a county board's survey report include actions the county board recommends be taken against the provider. The county board must provide a copy of the report to the provider and the DD Director.

Continuing law requires the DD Director to do both of the following in conjunction with a survey report: (1) specify a date by which the provider may appeal any citations listed in the report and (2) specify, when appropriate, a timetable within which the provider must submit a plan of correction describing how the problems specified in the citations will be corrected and the date by which the provider anticipates the problems will be corrected. The bill adds a third duty for the Director and specifies that all three duties must be done not later than five business days after the Director issues or receives the report. The Director's new third duty is to suspend a provider's authority to continue or begin to provide supported living to one or more individuals from one or more counties if a county board issues the survey report and recommends that the provider's certification be suspended because of (1) problems with the quality, appropriateness, or integrated setting of the provider's supported living, (2) a substantial risk to the health or safety of an individual who receives or would receive supported living from the provider, or (3) a major unusual incident involving the provider.

The DD Director continues to be required to approve or disapprove a provider's plan of correction. If the plan is approved, a copy must be provided to any person or government entity that requests it and be made available on ODDD's website. If the plan is disapproved and the Director begins to revoke the provider's certification, a copy of the survey report must be made available to any person or government on request and be made available on ODDD's website. The bill requires that an approved plan or survey report also be made available to the county board that serves the county in which the provider is located.

Delayed expiration

(R.C. 5123.163 (primary), 5123.033, 5123.1611)

Under current law, the DD Director establishes the period for which a supported living certificate is valid, and the certificate expires at the end of that period. Under the bill, if a certificate holder submits an application to renew a supported living certificate

before it expires, but the Director neither approves nor denies the application before the expiration date, the certificate's expiration is automatically delayed, and the certificate remains valid for an additional period of time.

Such a supported living certificate is valid for an additional 90 days, unless either of the following occurs before that time: (1) the Director either approves or denies the renewal application or (2) the certificate ceases to be valid due to disciplinary action taken by the Director, an order from the Director terminating the certificate, or voluntary surrender of the certificate. The bill permits the Director to delay a certificate's expiration by an additional 90 days if the Director determines the additional delay is appropriate.

The Director may charge a supported living certificate holder a fee of $150 if the certificate's expiration was delayed and the certificate holder submitted the renewal application less than 45 days before the certificate's original expiration date. All fees must be deposited in the Program Fee Fund, which is used by the Department to perform its duties and provide continuing education and professional training to providers of services for individuals with developmental disabilities.

Temporary restoration

(R.C. 5123.164 and 5123.1611)

The bill permits the DD Director to temporarily restore a supported living certificate that has expired. To be eligible to have a certificate restored, the certificate holder must submit an application to renew the expired certificate and pay a $250 restoration fee, if the Director has established such a fee.

A temporarily restored certificate is valid for 90 days, unless either of the following occurs before that time: (1) the Director either approves or denies the renewal application, or (2) the Director takes disciplinary action against the certificate holder, the Director issues an order terminating the certificate, or the certificate holder voluntarily surrenders the certificate. The bill permits the Director to extend the period of time for which a temporarily restored certificate is valid by an additional 90 days if the Director determines the extension is appropriate.

The bill permits the Director to make the temporary restoration effective retroactively to the date on which the certificate originally expired. If the Director does so, the certificate holder's authority to provide Medicaid-funded supported living, and to bill Medicaid for those services, is also made effective retroactively to that date.

Retroactive certificate renewal

(R.C. 5123.1612)

The bill makes retroactive changes regarding the renewal of certain supported living certificates that expired before the bill's effective date. Those changes apply to supported living certificate holders to which all of the following apply:

(1) The certificate holder's certificate was expired for any period of time before the bill's effective date;

(2) The certificate holder submitted an application to renew the certificate before the certificate expired, but the Director neither approved nor denied the application before the certificate expired;

(3) The Director approved the renewal application after the certificate had already expired;

(4) On the day the renewal became effective, the certificate holder had the authority to provide Medicaid-funded supported living.

For certificate holders that satisfy these conditions, the bill states that the supported living certificate renewal and the certificate's holder authority to provide and bill for Medicaid-funded supported living are deemed to have been effective on the date the certificate expired.

Continuing law requires the DD Director to adopt certain rules regarding the certification of supported living providers. This includes rules that establish the application process and the certification standards. The bill requires the Director to consult with all of the following when adopting the rules:

(1) Individuals with developmental disabilities;

(2) Family members and other representatives of such individuals;

(3) Representatives of county boards of developmental disabilities and providers of Medicaid-funded supported living.

Supported living quality incentive program

(R.C. 5126.48)

The bill permits a county board of developmental disabilities to establish and operate a quality incentive program under which the county board contracts with

providers of Medicaid-funded supported living to (1) increase the number of such providers in the county the county board serves through recruitment and retention processes, including enhanced payment rates and (2) improve the quality of Medicaid-funded supported living in the county by helping providers comply with applicable federal and state requirements and reduce the occurrence of major unusual incidents. The DD Director is required to adopt rules governing such programs. When adopting the rules, the Director must consult with (1) individuals with developmental disabilities, (2) family members and other representatives of such individuals, and (3) representatives of county boards and providers of Medicaid-funded supported living.

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.[54] 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.[55]

Medicaid rates for ICF/IID services

(Section 261.165)

The bill provides for the Medicaid payment rates for services provided during the 2018-2019 fiscal biennium by intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) in peer groups 1 and 2 to be determined in accordance with a formula established in current law with certain modifications. The bill establishes separate modifications for existing nursing facilities and for new nursing facilities that begin to participate in Medicaid during the fiscal biennium.

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, except for ICFs/IID in peer group 3. Peer group 3 consists of ICFs/IID that (1) are certified as an ICF/IID after July 1, 2014, (2) have a Medicaid-certified capacity not exceeding six, (3) have a contract with ODDD that is for 15 years and includes a provision for ODDD to approve all admissions to, and discharges from, the ICF/IID, and (4) have residents who are admitted directly from a developmental center or have been determined by ODDD to be at risk of admission to a developmental center.[56] These provisions do not apply to ICFs/IID in peer group 3.

Modifications for existing ICFs/IID

The following are the modifications that are to be made in determining the Medicaid payment rates for each existing ICF/IID in peer group 1 or 2:

(1) The ICF/IID's efficiency incentive for capital costs is to be reduced by 50%.

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

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

[56] R.C. 5124.01(MM), (NN), and (OO), not in the bill.

(2) In place of the maximum cost per case-mix unit otherwise established for the ICF/IID's peer group, the ICF/IID's maximum cost per case-mix score is to be the amount ODDD determined for the ICF/IID's peer group for FY 2016.

(3) In place of the inflation adjustment otherwise calculated as part of the process of determining the ICF/IID's rate for direct care costs, an inflation adjustment of 1.014 is to be used.

(4) In place of the efficiency incentive otherwise calculated as part of the process of determining the ICF/IID's rate for indirect care costs, the ICF/IID's efficiency incentive for indirect care costs is to be $3.69 if the ICF/IID is in peer group 1 or $3.19 if the ICF/IID is in peer group 2.

(5) In place of the maximum rate for indirect care costs otherwise established for the ICF/IID's peer group, the maximum rate for indirect care costs for the ICF/IID's peer group is to be an amount ODDD is to determine. In determining the maximum rate, ODDD is required to strive to the greatest extent possible to (a) avoid rate reductions under the bill's provision concerning maximum and minimum rates (see "**Maximum and minimum rate adjustment**," below) and (b) have the amount so determined result in payment of all desk-reviewed, actual, allowable indirect care costs for the same percentage of Medicaid days for ICFs/IID in peer group 1 as for ICFs/IID in peer group 2 as of July 1, 2017, based on Medicaid days for May 2017 in the case of the fiscal year 2018 rate and as of July 1, 2018, based on Medicaid days for May 2018 in the case of the FY 2019 rate. Medicaid days are all days (1) during which an ICF/IID resident who is a Medicaid recipient occupies a bed in an ICF/IID that is part of the ICF/IID's Medicaid-certified capacity and (2) for which a Medicaid payment is made to reserve an ICF/IID bed for a Medicaid recipient temporarily absent from the ICF/IID.[57]

(6) In place of the inflation adjustment otherwise calculated as part of the process of determining the ICF/IID's rate for indirect care costs, an inflation adjustment of 1.014 is to be used.

(7) In place of the inflation adjustment otherwise made as part of the process of determining the ICF/IID's rate for other protected costs, the ICF/IID's desk-reviewed, actual, allowable, per Medicaid day other protected costs, excluding the cost of the ICF/IID franchise permit fee, from the following calendar year is to be multiplied by 1.014:

(a) For the FY 2018 rate, calendar year 2016;

[57] R.C. 5124.01(FF), not in the bill.

(b) For the FY 2019 rate, calendar year 2017.

(8) After all of the modifications discussed above are made, the ICF/IID's total per Medicaid day rate is to be increased by 3.04% to reflect direct support personnel costs.

Modifications for new ICFs/IID

The following are the modifications that are to be made in determining the Medicaid payment rates for each new ICF/IID in peer group 1 or 2:

(1) The new ICF/IID's initial per Medicaid day rate for capital costs is to be the median rate for all existing ICFs/IID determined using the modifications discussed above.

(2) If there is no cost or resident assessment data for the new ICF/IID, its initial per Medicaid day rate for direct care costs is to be determined as follows:

(a) Determine the median of the costs per case-mix units of each peer group;

(b) Multiply that median by the median annual average case-mix score for the new ICF/IID's peer group for calendar year 2016 in the case of the FY 2018 rate and calendar year 2017 in the case of the FY 2019 rate;

(c) Multiply that product by 1.014.

(3) The new ICF/IID's initial per Medicaid day rate for indirect care costs is to be the amount of the maximum rate for indirect care costs that ODDD determines for its peer group. The maximum rate is to be determined in the same manner such a maximum rate is to be determined under the bill for existing ICFs/IID. (See above.)

(4) The new ICF/IID's initial per Medicaid day rate for other protected costs is to be 115% of the median rate for all existing ICFs/IID determined using the modifications discussed above.

(5) After all of the modifications discussed above are made, the new ICF/IID's initial total per Medicaid day rate is to be increased by 3.04% to reflect direct support personnel costs.

The bill provides that a new ICF/IID's initial rate for FY 2018 or 2019 is to be adjusted in accordance with continuing law governing the adjustment of initial rates. If the adjustment affects the new ICF/IID's FY 2018 or 2019 rate, the modifications made under the bill to the rates of existing ICFs/IID are to apply to the new ICF/IID's adjusted rate.

Maximum and minimum rate adjustment

The bill provides for all ICFs/IID in peer groups 1 and 2 to have their total per Medicaid day rate for FY 2018 or 2019 adjusted up or down if the mean total per Medicaid day rate for all such ICFs/IID as determined under the bill as of the first day of the fiscal year for which the rate is being determined and weighted by Medicaid days for May of the fiscal year immediately preceding the fiscal year for which the rate is being determined is other than a certain amount. The adjustment is to be the percentage by which the mean total per Medicaid day rate is greater or less than the amount. The amount to be used for this adjustment may not be less than $290.10 but ODDD is permitted, in its sole discretion, to use a larger amount. In determining whether to use a larger amount, ODDD may consider any of the following:

(1) The reduction in the total Medicaid-certified capacity of all ICFs/IID that occurs in the fiscal year immediately preceding the fiscal year for which the rate is being determined, and the reduction that is projected to occur in the fiscal year for which the rate is being determined, as a result of (a) a downsizing in an ICF/IID's Medicaid-certified capacity pursuant to an ODDD-approved plan or (b) a conversion of ICF/IID beds to providing home and community-based services under the Individual Options Medicaid waiver;

(2) The increase in Medicaid payments made for ICF/IID services provided during the fiscal year immediately preceding the fiscal year for which the rate is being determined, and the increase that is projected to occur in the fiscal year for which the rate is being determined, as a result of the modifications made to Medicaid payments under continuing law that encourages ICFs/IID to downsize or partially convert to providing home and community-based services;

(3) The total reduction in the number of ICF/IID beds that occurs pursuant to continuing law that requires ODDD to strive to achieve a statewide reduction in such beds by July 1, 2018;

(4) Other factors ODDD determines to be relevant.

Rate reduction if franchise permit fee is reduced or eliminated

The bill requires ODDD, if the Centers for Medicare & 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 FYs 2018 and 2019 as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

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:

(1) The enrollee resided in a developmental center, converted ICF/IID,[58] 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.

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

[58] 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.

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.

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 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.

County boards' waiting lists

(R.C. 5126.042, 5126.054, and 5166.22)

When a waiting list is required

The bill revises the law governing waiting lists that county boards of developmental disabilities establish for home and community-based services available

under ODDD-administered Medicaid waivers. Under current law, a county board must establish a waiting list for the services if it determines that available resources are insufficient to meet the needs of all individuals who request the services. The bill requires instead that a county board establish a waiting list for the services if it determines that available resources are insufficient to enroll all individuals who are assessed as needing the services.

Waiting list policies to be established in rules

Current law specifies (1) that an individual's date of placement on a waiting list is the date a request is made to a county board for the services and (2) when an individual is to receive priority when placed on a waiting list, which includes when an individual is at risk of substantial self-harm or substantial harm to others if action is not taken within 30 days. The bill eliminates these provisions and instead requires county boards to establish waiting lists in accordance with rules the DD Director is required to adopt. The rules must establish all of the following:

(1) Procedures a county board is to follow to transition individuals from the county board's current waiting list to the new waiting list;

(2) Procedures by which a county board is to ensure that due process rights of individuals placed on the waiting list are observed;[59]

(3) Criteria a county board is to use to determine (a) an individual's eligibility to be placed on the waiting list, (b) the date an individual was assessed as needing the services, (c) the order in which individuals on the waiting list are to be offered enrollment, and (d) the Medicaid waiver in which an individual on the waiting list is to be offered enrollment;

(4) Grounds for removing an individual from the waiting list.

The bill requires the DD Director to consult with all of the following when adopting the rules:

(1) Individuals with developmental disabilities;

(2) Associations representing individuals with developmental disabilities and the families of such individuals;

(3) Associations representing providers;

[59] Current law requires that rules governing the waiting lists include procedures to ensure that the due process rights of individuals placed on waiting lists are not violated.

(4) The Ohio Association of County Boards Serving People with Developmental Disabilities.

County board plans regarding home and community-based services

Continuing law requires each county board to develop a three-calendar year plan regarding home and community-based services available under ODDD-administered Medicaid waivers. The plan must include the following three components: an assessment component, a preliminary implementation component, and implementation component for new recipients.

The assessment component must contain certain information. Under current law, the information includes the number of individuals with developmental disabilities residing in the county who are given priority on a waiting list for home and community-based services. The bill instead requires that the information include the number of such individuals who are placed on a county board's waiting list.

The preliminary implementation component must specify the number of individuals to be provided home and community-based services pursuant to the waiting list priority given to them under current law during the first year that the plan is in effect. The bill requires instead that the component specify the number of individuals to be provided home and community-based services pursuant to their placement on the waiting list.

The implementation component for new recipients must specify how Medicaid case management services and home and community-based services are to be phased in over the period the plan covers. Under current law, this must include how the county board will serve individuals who have priority on the waiting list. The bill requires instead that this must include how the county board will serve individuals placed on the waiting list.

County board allocations for home and community-based services

Continuing law requires ODDD to consider certain information when allocating to county boards enrollment numbers for home and community-based services. Under current law, the information includes (1) the number of individuals with developmental disabilities who have priority on a waiting list and (2) other information ODDD considers necessary to enable county boards to provide the services to individuals in accordance with the priority requirements for waiting lists. The bill requires instead that the information include (1) the number of individuals with developmental disabilities placed on a county board's waiting list and (2) other information ODDD considers necessary to enable county boards to provide the services to individuals placed on the waiting lists.

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.

County boards of developmental disabilities – restriction on employment

(R.C. 5126.0221)

The bill modifies current law to prohibit a county commissioner's spouse, son, or daughter from being employed by the county board of developmental disabilities for the county the commissioner serves. (This prohibition does not, however, apply to such an individual employed by a county board before October 31, 1930.) Under current law, an "immediate family member" (parent, grandparent, brother, sister, spouse, son, daughter, aunt, uncle, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, and daughter-in-law[60]) is prohibited from being employed in such a position.

[60] R.C. 5126.01(N), not in the bill.

DEPARTMENT OF EDUCATION

I. School financing

- Specifies a formula amount of $6,020 for both years of the biennium.

- Adjusts the valuation index used in the state share index calculation for school districts that satisfy specified criteria related to the total taxable value of public utility personal property in the districts and the total taxable value of power plants in the districts.

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

- Increases a multiplier used in the formula for computing capacity aid funds for each city, local, and exempted village school district.

- 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.

- Modifies the cap described above for school districts that satisfy specified criteria related to the total taxable value of public utility personal property in the districts and the total taxable value of power plants in the districts.

- Provides a "cap offset payment" for FY 2018 for school districts that are subject to the cap for FY 2018 and receive a combined amount of foundation funding, pupil transportation funding, and fixed rate operating direct reimbursements for FY 2018 that is less than that combined amount of funding for 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.

- Requires the Department of Education to conduct a study of appropriate funding levels and methods of funding for gifted students and to report its findings and recommendations by May 1, 2018.

II. Early childhood education

Preschool program funding and operation

- Specifies criteria under which early childhood education funding to children whose families earn not more than 200% of the federal poverty guidelines be distributed.

- Prioritizes for funding children who are four years old, but permits remaining funds for three-year old children.

- Permits the Department of Education to create an early childhood education parent choice demonstration pilot program.

Staffing for center-based special education preschools

- Requires a ratio of one full-time staff member for every eight full-day or 16 half-day preschool children eligible for special education enrolled in a center-based preschool special education program.

III. 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 college to which a student applies to pay for one assessment used to determine that student's eligibility for the CCP Program; however, the student must pay for any additional eligibility assessments.

- 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.

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.

Course credit

- Requires CCP participants to receive a grade of "C" or better in a CCP course to (1) receive credit (both high school credit and college credit) for that course, and (2) apply the course toward the high school's graduation and curriculum requirements.

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').

Reports

- Beginning in 2018 and ending in 2023, requires the Chancellor and state Superintendent to submit an annual report by December 31 to the Governor, Senate President, Speaker of the House, and chairpersons of the House and Senate Education Committees on specified outcomes of the CCP Program.

- Limits the data that may be included in the CCP biennial report, required under current law, to only data that is available through the Higher Education Information System.

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.

IV. Educator licensure and preparation

Elimination of the Ohio Teacher Residency Program

- Beginning with the 2017-2018 school year, eliminates the Ohio Teacher Residency (OTR) Program, which is a four-year, entry-level program required for educators prior to applying for a professional educator license from the State Board.

- Maintains both the resident educator license and alternative resident educator license, which are four-year, renewable, entry-level licenses that an educator must hold prior to applying for the five-year professional educator license.

- Prohibits individuals currently participating in the OTR Program from being required to complete the program or its components and the State Board from requiring completion of the program or its components for educator licensure.

Career-technical educator licenses

- 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.

Other licensure provisions

- Requires the Department of Education to request fingerprints from licensed educators and applicants for licensure who are not enrolled in the Retained Applicant Fingerprint Database in order to enroll them and requires the Department to inactivate a license or reject an application of an educator who does not comply.

- Requires that the State Board of Education adopt rules prohibiting an applicant for an alternative principal license who has completed a Masters of Business Administration degree in lieu of a graduate degree in an education-related field from receiving the license unless the applicant has also successfully completed the Bright New Leaders for Ohio Schools Program.

- 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.

V. Curriculum and graduation credentials

Exemptions for ISACS-accredited nonpublic schools

- Exempts a student (1) who is attending a chartered nonpublic school that is accredited through the Independent Schools Association of the Central States (ISACS) and (2) who is attending the school under a state scholarship from the requirement to complete one of three high school graduation pathways and from the requirement to take the assessments under the College and Work Ready Assessment System.

- Maintains the requirement for scholarship students enrolled in non-ISACS chartered nonpublic schools to take the state assessments and complete a graduation pathway.

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 at least every two years 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.

VI. Community schools

Community school sponsor evaluation system

- Prohibits the Department of Education from assigning an automatic overall rating to a community school sponsor based solely on the sponsor receiving an equivalent

score of "0" points on one or more individual components not including academic performance.

- Specifies that a sponsor's overall rating is a cumulative score of the individual components of the evaluation system, unless a sponsor receives a "0" on the academic performance component.

- Requires the Department of Education to weight the "Progress" component of the state report card at 60% of the total score for the academic performance component that comprises the community school sponsor evaluation system.

- Requires the Department to notify a sponsor of its preliminary ratings for each component of the sponsor evaluation system and permits a sponsor to request an informal hearing to dispute those ratings prior to the Department's publication of the final ratings.

ESC community school sponsors

- Permits an educational service center (ESC) community school sponsor that is rated effective or higher to sponsor an e-school without any previous experience sponsoring an e-school or a community school regardless of whether it is located in the ESC's territory or a contiguous county.

- Specifies that the ESC may continue to sponsor the community school if the sponsor subsequently receives an overall rating lower than effective.

Access to community school student data verification codes

- Permits the State Board of Education and the Department of Education to have access to information that would enable student data verification codes to be matched to personally identifiable student data for the purpose of making per-pupil payments to community schools under the school funding formula.

VII. Other education provisions

Review of Department of Education FTE manual

- Requires the Department of Education to submit to the Joint Education Oversight Committee (JEOC) the manual the Department intends to use to review or audit the full-time equivalency student enrollment reporting by all public schools.

- Requires the Department to submit to JEOC and to each public school a detailed summary of any changes between the prior school year's manual and the proposed manual.

- Requires JEOC to hold one or more public hearings at which public schools may present testimony on their ability to comply with the Department's manual with proposed changes.

- Specifies that the proposed manual becomes ineffective and the Department must use the prior year's manual in the event that the Department fails to submit its proposed manual or JEOC determines that schools are not reasonably capable of compliance.

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.

Paper and online administration of state assessments

- Permits public and chartered nonpublic schools to administer the state achievement assessments in a paper format or a combination of online and paper formats.

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.

- 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

- Requires the Department of Education to determine by May 31 of each school year, whether funds remain available for income-based scholarships under the Educational Choice (EdChoice) Scholarship Program after the first application period.

Jon Peterson Scholarship deadline

- Removes the application periods and deadlines under the Jon Peterson Special Needs Scholarship Program, and instead requires the Department of Education to prescribe a procedure whereby scholarships are awarded "upon application."

- Prohibits the Department from adopting specific deadline dates for the Peterson Scholarship.

Bright New Leaders for Ohio Schools

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

- Reduces, from two to one, the number of voting members that the President of the Senate and Speaker of the House appoint to the nonprofit board, and removes the specified qualifications for those individuals.

- Requires the Governor to appoint one voting member to the nonprofit board.

- Specifies that the Governor (or the Governor's designee), the Superintendent, and the Chancellor are to serve as nonvoting members of the nonprofit board.

- Removes provisions of law specifying that (1) state financial support for the nonprofit corporation that implements the Program ceases June 30, 2018, and (2) the Ohio State University Fisher College of Business is to provide oversight to the nonprofit corporation that implements the Program.

- Permits the Governor, Senate President, and Speaker of the House each to select an individual to be a participant in the Program.

- Requires the Department of Education to secure principal positions for individuals who receive alternative principal licenses upon successful completion of the Program in low-performing public schools that have a high percentage of their students living in poverty.

Teacher retirement incentives

- Allows a school district, educational service center, community school, or STEM school to enter into an agreement to provide early retirement incentives or severance pay to a teacher to retire only if the district, center, or school determines that the agreement is financially sound.

- In the case of a school district, also requires that the district comply with tax levy provisions regarding any wage or salary schedule increases it made during the school year.

- Specifies that the bill applies to contracts entered into, extended, or renewed on or after its effective date and prevails over any collective bargaining agreement entered into on or after that date.

Other provisions

- Prohibits a school district that has not entered into an agreement with an educational service center as of June 30, 2017, from doing so during the two-year period from July 1, 2017, through June 30, 2019.

- Adds to the list of permitted uses of Auxiliary Services funds (1) language and academic support services for English language learners and (2) procurement of certain security services.

- Requires each chartered nonpublic school to publish on its website the number of enrolled students as of the last day of October, and its policy regarding background checks for employees and for volunteers who have direct contact with students.

- Requires each chartered nonpublic school to publish on its website, and make available to parents, guardians, and custodians, its curricula and reading lists for each grade.

- From the bill's effective date until October 1, 2021, prohibits a school district that is a party to an annexation ("win/win") agreement from transferring territory to another school district that is a party to the annexation agreement without the approval of the boards of education of each of the school districts.

- Extends from December 31, 2017, to December 31, 2019, the expiration of a provision that permits a school district to offer highest priority to purchase an athletic field to the chartered nonpublic school that is the field's current leaseholder.

- Requires JEOC to develop legislative recommendations for creating a joint transportation district pilot program.

- Specifies that bid bonds are not required for the purchase of school buses unless a school district board of education or educational service center governing board request that they be part of the competitive bidding process for a specified purchase.

- Exempts from the existing requirement to complete training in the use of an automated external defibrillator individuals employed by school districts and most community schools as substitute teachers, adult education instructors who are scheduled to work the full-time equivalent of less than 120 days per school year, and persons who are employed on an as-needed, seasonal, or intermittent basis.

- 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.

- Requires the Superintendent of Public Instruction, in consultation with the Governor's Executive Workforce Board, to establish standards for the operation of school district and educational service center business advisory councils.

- 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.

- Permits the Supervisor of Agricultural Education in the Department of Education to serve as the chair of the board of trustees of the Ohio FFA Association and to assist with the Association's programs and activities.

- Requires the Superintendent of Public Instruction to establish a workgroup on related services personnel for the purpose or improving coordination of state, school, and provider efforts to address the related services needs of students with disabilities.

I. School financing

(R.C. 3314.08, 3316.20, 3317.01, 3317.013, 3317.014, 3317.017, 3317.02, 3317.021, 3317.022, 3317.025, 3317.0212, 3317.0218, 3317.16, 3326.33, 3326.41, and 5709.92; repealed R.C. 3317.018, 3317.019, 3317.026, and 3317.027; Sections 265.210, 265.220, 265.230, 265.340, and 265.480)

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 funds for special education, kindergarten through third grade literacy, economically disadvantaged, limited English proficiency students, gifted students, career-technical education, capacity aid, a graduation bonus, a third-grade reading bonus, and student transportation).

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. From the LSC home page, www.lsc.ohio.gov, 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."[61]

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

Formula amount

(R.C. 3317.022)

The bill specifies a formula amount of $6,020 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. (The current formula amount for FY 2017 is $6,000.)

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.

Adjustment of state share index for certain districts

The bill adjusts the valuation index used in the state share index calculation for eligible school districts by replacing a district's "three-year average valuation" with a district's total taxable value, if that value is less than the three-year average valuation. For purposes of this adjustment, an "eligible school district" is a school district that satisfies all of the following criteria:

(1) The total taxable value of public utility personal property in the district is at least 10% of the district's total taxable value for tax year 2015.

(2) The total taxable value of public utility personal property in the district for tax year 2016 is at least 10% less than the total taxable value of public utility property in the district for tax year 2015.

(3) The total taxable value of power plants in the district for tax year 2016 is at least 10% less than the total taxable value of power plants in the district for tax year 2015.

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.[62]

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

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

Category	Disability	Dollar amount for FY 18 and FY 19
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.

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.[63]

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

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

Category	Type of student	Dollar amount for FY 18 and FY 19
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

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.[64]

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

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.

Category	Career-technical education programs[65]	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

[65] 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).

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 increases a multiplier used in the formula for capacity aid for city, local, and exempted village school districts to 4.0 (from 3.5 under current law). This payment is based on how much one mill of taxation will raise in revenue for the district.

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,[66] joint vocational school district, community school,[67] 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[68] and community school[69] 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.)

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

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

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

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

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.

Additionally, the bill maintains the formula in current law for calculating a district's transportation supplement payment, which is based on the district's rider density (the total ADM per square mile of the district).

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, 265.230, and 265.233)

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 5.5% of the previous year's state aid in each fiscal year of the biennium, except as provided below (see "**Modification of cap for eligible districts**"). 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.

For purposes of computing a district's guarantee under the bill, "total ADM for FY 2011" means the lesser of (1) the ADM used to derive the formula ADM for funding purposes for FY 2011[70] and (2) the district's ADM reported in October 2010.

Modification of cap for eligible districts

If a district is an "eligible school district" for purposes of the state share index adjustment described above (see "**Adjustment of state share index for certain districts**"), the bill modifies that district's cap so that the district receives the greater of the following:

(1) The amount calculated for the district under the cap described above; or

(2) The lesser of:

(a) The district's aggregate amount of core foundation funding and pupil transportation funding for the current fiscal year; and

(b) The district's previous year's state aid plus the district's taxes charged and payable against all property on the tax list of real and public utility property for tax year 2015 minus the district's taxes charged and payable against all property on the tax list of real and public utility property for tax year 2016.

Cap offset for certain districts

The bill provides a "cap offset payment" for FY 2018 for city, local, and exempted village school districts that are subject to the cap for FY 2018 and receive a combined amount of foundation funding, pupil transportation funding, and fixed rate operating direct reimbursements for FY 2018 that is less than that combined amount of funding for FY 2017. This payment is equal to the lesser of the following:

[70] For FY 2011, the Department used the ADM count for FY 2010 unless a district's actual count for FY 2011 exceeded FY 2010 by 2% or more, in which case the actual FY 2011 count was used.

(1) The amount by which the district's foundation funding is capped for FY 2018; or

(2) The difference between the district's combined amount of foundation funding, pupil transportation funding, and fixed rate operating direct reimbursements for FYs 2017 and 2018.

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 "new career and job pathways for underserved students from rural and urban areas that enhance access to employment in high-demand fields, including software and mobile application development, through innovation programs and partnerships between schools, institutions of higher education, and employers" may be a goal for a project that receives a grant under the Program;

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

(4) 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.

(5) Requires the Program's governing board to select grant advisors with workforce development expertise and with technology or high-demand careers expertise;

(6) Requires the Program's governing board to establish an initial grant application period of at least 60 days;

(7) Requires the Program's governing board to award grants to applicants that demonstrate new career and job pathways for underserved students from rural and urban areas over other applicants (in addition to a provision retained from the Straight A Program as extended by H.B. 64 that requires the governing board to award grants to applicants that demonstrate cost savings over other applicants);

(8) Removes a provision stating that if the proposal submitted by a grant applicant for a project will result in increased ongoing spending, that proposal must show how the spending will be offset by verifiable, credible, and permanent spending reductions;

(9) Provides that the lead applicant for a grant applicant for an education consortium may be an institution of higher education; and

(10) Provides that a grant awarded to an education consortium may exceed $1 million.

The bill appropriates $5 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).

Gifted funding study

(Section 265.480)

The bill requires the Department of Education to conduct a study to determine the appropriate amounts of funding for each category and sub-category of students identified as gifted, as well as the most appropriate method for funding gifted education courses and programs. The study must include costs for effective and appropriate identification, staffing, professional development, technology, materials, and supplies at the district level. In conducting the study, the Department must

emphasize adequate funding and delivery of services for smaller, rural school districts, including statewide support needed for this population.

The Department must report its findings and recommendations by May 1, 2018, to the Governor, the President of the Senate, the Speaker of the House, the Director and members of the Joint Education Oversight Committee, and the members of the primary and secondary education committees of the Senate and House.

II. Early childhood education

Preschool program funding and operation

(Section 265.20)

The bill funds early childhood education programs at school districts, joint vocational school districts, educational service centers, community schools sponsored by an exemplary sponsor, chartered nonpublic schools, and licensed childcare providers that meet at least the third highest tier of the Step Up to Quality Program developed by the Department of Job and Family Services[71] for children whose families earn not more than 200% of the federal poverty guidelines. Children who are at least four years old but not yet eligible for kindergarten receive priority for funding. If funds remain after awards are made for eligible four-year-olds, the bill also qualifies a child who is at least three years old, as of the district entry date for kindergarten.

The bill requires the Department of Education to distribute new or remaining early childhood education funds, after distributing funds to pay costs from the previous fiscal year, to existing and new eligible providers of early childhood education programs to support early learning and development programs operating in smaller communities and early development programs that are either rated at the third highest tier or higher in the Step Up to Quality program or complies with other requirements for programs that are not highly rated. The Department must distribute funds to serve additional eligible children based on community economic disadvantage, limited access to high quality preschool or childcare services, and demonstration of high quality preschool services as determined by the Department using the following weighted factors:

(1) The program's Step Up to Quality rating;

(2) The program's compliance with the Department's rules;

(3) The program's use of collaborative practices.

[71] R.C. 5104.29, not in the bill.

In order to determine where in the state there is limited access to high quality preschool and childcare services, the bill also requires the Department to identify the number of preschool and childcare services that are rated three stars or higher in the Step Up to Quality program by service delivery area school district.

Further, the bill requires the Department to assess the effectiveness of programs that receive early childhood education funding from the state. The Department must use the following factors to determine a program's effectiveness:

(1) The percentage of kindergarteners who attended the program and who perform above the "emerging" readiness level on the state-required kindergarten readiness assessment;

(2) The percentage of third graders who attended the program and who score proficient or higher on the reading portion of the English language arts portion of the state achievement assessments;

(3) The performance of children attending the program on the early learning assessment required under the Step Up to Quality program.

Early childhood education parent choice demonstration pilot program

The bill also permits the Department to designate one or more geographical areas within the state in which to operate the parent choice demonstration pilot program. The Department may consider designating areas with multiple providers of high-quality early childhood education programs that have a capacity to serve additional eligible children to identify potential obstacles to implementing a parent choice model. Parents may choose a program from among all providers within the pilot project area.

The Department must establish procedures for implementation of the pilot program, including a parent application process. The bill also allows the Department to expand the definition of "eligible child" for purposes of the pilot program to include a child who is at least three years old as of the district entry date for kindergarten and has one or more additional risk factors including, but not limited to (1) "exited Help Me Grow Home Visiting," (2) "exited Early Intervention and not eligible for preschool special education," or (3) currently placed in foster care.

Finally, the bill requires the Department of Education to collaborate with the Departments of Job and Family Services, Developmental Disabilities, Health, and Mental Health and Addiction Services, as needed, in establishing the pilot program. The bill also permits the Department of Education to select a nonstate entity, including an educational service center, a county department of job and family services, a childcare

resource and referral agency, or a county family and children first council, to partner with on the pilot program.

Background

Early childhood education programs for preschool-age children generally are regulated by the Department of Education, though the Department of Job and Family Services is authorized to license child care providers that meet requirements otherwise required by the Department of Education. The bill appropriates from the GRF $67.8 million for each of FY 2018 and FY 2019 to fund early childhood education programs that serve preschool-age children from families who earn up to 200% of the federal poverty guidelines, though 2% of that amount may be used for administrative costs.

Staffing for center-based special education preschools

(R.C. 3323.022)

The bill requires the rules of the State Board of Education regarding staffing ratios for preschool children with disabilities to require one full-time staff member for every eight full-day or 16 half-day preschool children enrolled in a center-based preschool special education program. That ratio must be maintained at all times for a program with a center-based teacher and a second adult must be present when there are nine or more children, including nondisabled children enrolled in a class session.

Currently, the State Board rules require a ratio of one full-time staff member for every six full-day or 12 half-day preschool children eligible for special education enrolled in a center-based program; however, there is no corresponding statutory requirement.[72]

III. 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

[72] Ohio Administrative Code 3301-51-11(H).

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.[73]

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.

[73] 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.

Cost of eligibility assessments

(R.C. 3365.03)

The bill requires the college to which a student applies to participate in the CCP Program to pay for one of the assessments used to determine that student's eligibility for the Program (see above). However, for any additional eligibility assessments related to the Program, the student is financially responsible for the costs.

This provision first applies to students seeking to participate for the 2018-2019 school year, which is the first year that the new eligibility conditions prescribed by the bill, including the requirements related to eligibility assessments, apply.

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 $6,020.

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 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, unless approved by the Chancellor, or exceed the default ceiling amount.

The bill makes changes to the payment structure by specifying 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, under either the default payment structure or under an alternative payment structure, 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."

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.[74]

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

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 also codifies in statutory law the Administrative Code definition for "textbook" as "any paper, electronic, or other purchased coursework material."[75]

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 50% of the cost of all required textbooks for each 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.

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

(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.

(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 50% 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 50% of the cost of all required textbooks 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.

Minimum grade of "C" for course credit

(R.C. 3365.04, 3365.05, and 3365.12; conforming change in R.C. 3365.15)

The bill requires participants to receive a grade of "C" or better in a CCP course in order to receive credit for that course by requiring:

(1) Public and participating nonpublic high schools to adopt a policy for awarding grades under the CCP Program, under which participants must receive at least a "C" to receive high school credit for that course. The bill also applies the minimum grade threshold ("C" or better) for a CCP course to count toward the high school's graduation requirements and subject area requirements.

(2) Public and participating private colleges, including participating out-of-state colleges, to adopt a policy for awarding grades under the CCP Program, under which participants must receive at least a "C" to receive college credit for that course. This provision applies to participants choosing to receive only college credit under "Option A" of the Program, as well as those choosing to receive both high school and college credit under either "Option A" or "Option B" of the Program.

A separate provision of law, unchanged by the bill, specifies that if a participant fails to attain a final passing grade in a CCP course, the participant's high school may seek reimbursement from the participant or the participant's parent, unless the participant is economically disadvantaged, in the amount of state funds paid to the college for the participant.[76] Under the bill, it is unclear whether participants who receive any grade lower than a "C" in a CCP course may be subject to this provision.

Background

Under current law, each public and participating nonpublic high school must implement a policy for the awarding of grades and the calculation of class standing for CCP courses, which must be equivalent to the school's policy for Advanced Placement, International Baccalaureate, and honors courses. Additionally, the high school must apply CCP courses that are successfully completed toward the high school's graduation

[76] R.C. 3365.09, not in the bill.

and subject area requirements and award comparable high school credit, or elective credit if applicable, for those courses.

Current law does not prescribe requirements for the awarding of grades and course credit by colleges under the CCP Program.

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.

CCP reports

(R.C. 3365.15)

Report on outcomes

In addition to the biennial report required under current law (see below), the bill requires the Chancellor and state Superintendent to submit an annual report, beginning in December 2018 and ending in December 2023, on outcomes of the CCP Program, supported by empirical evidence. Each report must be submitted to the Governor, Senate President, Speaker of the House, and chairpersons of the House and Senate Education Committees and include all of the following, disaggregated by cohort (defined as "students who participated in CCP and who, upon graduation from high school, enroll in an Ohio college during the same academic year"):

(1) Number, level, and type of degrees attained;

(2) Number of students who receive a degree in two different subject areas (i.e., double major);

(3) Time to degree completion, disaggregated by degree level and type;

(4) Time to enrollment in a graduate or doctoral program;

(5) The number of students who participate in study abroad;

(6) How all of the above measures compare to (a) the overall student population who did not participate in CCP during high school, and (b) similar measures compiled under the former Postsecondary Enrollment Options (PSEO) program.

The first report must be submitted by December 31, 2018, while the last report must be submitted by December 31, 2023. Each annual report must be submitted by December 31.

Biennial report

Under current law, continuing under the bill, the Chancellor and state Superintendent also must submit a biennial report to the same individuals listed above, detailing the status of the CCP Program and including an analysis of quality assurance measures related to the Program. The report must be submitted by December 31 every two years, with the first report required in 2017.

The bill limits the data that may be included in this biennial report to only data that is available through the Higher Education Information (HEI) System. The HEI System is a database administered by the Chancellor of Higher Education through which colleges submit various data on enrollment and finances.

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.[77] 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.

[77] R.C. 3345.061.

IV. Educator licensure and preparation

Elimination of Ohio Teacher Residency Program

(Repealed R.C. 3319.223; R.C. 3302.151, 3319.111, 3319.22, 3319.227, 3319.26, 3319.61, 3333.048, and 3333.39; Section 733.60)

Beginning with the 2017-2018 school year, the bill eliminates the Ohio Teacher Residency (OTR) Program, which is a four-year, entry-level program for educators that must be completed in order to qualify for a professional educator license issued by the State Board of Education. Further, it prohibits any individual currently participating in the OTR Program from being required to complete the program or any component of the program. Finally, the bill eliminates several provisions of law related to the OTR Program and its components.

Resident educator licenses maintained

Though the bill eliminates the OTR Program, it maintains both the resident educator license and the alternative resident educator license, which are four-year, renewable, entry-level licenses. Currently, an educator is issued one of these licenses while participating in, and completing the components of, the four-year OTR Program. An educator must have previously held one of these licenses in order to apply for the five-year professional educator license.

Under the bill, a new educator is still required to obtain one of these entry-level resident educator licenses prior to applying for a professional educator license. However, the bill specifically prohibits the State Board from requiring any applicant for a new educator license, or for renewal of any educator license, to complete the OTR Program, or any component of that program, as a condition for issuance of an educator license. The licenses continue to be valid for four years and are renewable.

Background

The Ohio Teacher Residency (OTR) Program is a four-year, entry-level program for educators that must be completed in order to qualify for a professional educator license issued by the State Board of Education. The OTR Program includes several components, such as mentoring for the first two years of the program, counseling as determined necessary by the district or school, and a performance-based assessment (the Resident Educator Summative Assessment (RESA)) during the third year of the program. Meanwhile, participants who are teaching career-technical courses must complete a separate set of components in order to complete the OTR Program, and are exempt from taking the RESA.

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.	Enroll in an educator preparation program offered by an institution of higher education that meets the same criteria as career-technical workforce development educator preparation programs that were approved for purposes of the former Ohio Teacher Residency (OTR) Program (see below), which must include at least 24 credit hours from a state university and a performance-based assessment. (Beginning with the 2017-2018 school year, the bill eliminates the OTR Program. However, the criteria described above for educator preparation programs will continue to apply for purposes of the new career-technical educator licenses.	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
		For more, see "**Elimination of the Ohio Teacher Residency Program**," above).	
Career-Technical Educator Level II	(1) High school diploma; (2) Demonstrates mastery of applicable career-technical education and workforce development competencies; and (3) Successful completion of the educator preparation program that the individual enrolled in as a condition to maintain 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.[78]

Licensed educator fingerprints

(R.C. 3319.291)

Under continuing law, the Department of Education and the State Board of Education must request a criminal records check for all applicants for new educator licenses and for renewals at least once every five years. In most cases, an applicant must submit two sets of fingerprints for that purpose, one for the state Bureau of Criminal Identification and Investigation (BCII) and one for the Federal Bureau of Investigation. However, in some cases, an applicant need only submit one set for just the FBI.[79] Separate law also requires the Department to register with the Retained Applicant Fingerprint Database (RAPBACK) operated by BCII to receive reports of arrest or convictions of licensees for whom BCII has conducted criminal records checks.[80] Since some of these applicants may have had only an FBI check, and since some educators holding valid teaching certificates issued under former law (generally prior to 1996) may not have had a criminal records check requested on behalf of the Department, BCII may not have all of the information it needs to include all licensed educators in the Database.

The bill essentially requires all educator license holders to submit their fingerprints to the Department so that they may be enrolled in the Retained Applicant Fingerprint Database. To that end, the bill directs the Department of Education to require all applicants for licensure and license holders who have not satisfied the requirements for enrollment in the Database to submit one complete set of fingerprints and written permission that authorizes the Superintendent of Public Instruction to forward the fingerprints to BCII to enroll that person into the Database. If a person does

[78] R.C. 3319.22 and 3319.26; repealed R.C. 3319.229.

[79] R.C. 3319.291(A) and (B).

[80] R.C. 3319.316, not in the bill.

not comply by the date prescribed by the Department, the Department must reject or inactivate the person's license.

Background

The Retained Applicant Fingerprint Database is a system under which BCII 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. It is a database of fingerprints of individuals on whom BCII has conducted criminal records checks for the purpose of determining eligibility for employment with or licensure by a public office.[81] As noted above, the Department of Education is statutorily required to register as a participating public office.

Alternative principal licensure

(R.C. 3319.27)

The bill requires that the State Board of Education adopt rules prohibiting an applicant for an alternative principal license who has completed a Masters of Business Administration degree in lieu of a graduate degree in an education-related field from receiving an alternative principal license unless the applicant has also successfully completed the Bright New Leaders for Ohio Schools Program (see below).

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.[82]

[81] R.C. 109.5721.

[82] 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).

V. Curriculum and graduation credentials

Exemption from state high school testing and graduation requirements for ISACS-accredited chartered nonpublic schools

(R.C. 3301.0711, 3310.03, 3310.14, 3310.522, 3313.612, and 3313.976)

Current law requires public high school students and most chartered nonpublic high school students to take all state high school achievement assessments and one of three graduation pathways in order to graduate from high school (see "**Background**" below).

The bill exempts from these requirements a student (1) who is attending a chartered nonpublic school that is accredited by the Independent Schools Association of the Central States (ISACS), and (2) who is attending the school under the Educational Choice Scholarship Program, Pilot Project (Cleveland) Scholarship Program, Jon Peterson Special Needs Scholarship Program, or the Autism Scholarship Program. Currently, students attending an ISACS nonpublic school not under a state scholarship are not required to take any state high school achievement assessments or complete a graduation pathway.

Although the bill exempts scholarship students in ISACS nonpublic schools, it maintains the requirement for scholarship students enrolled in non-ISACS nonpublic schools to take the state assessments and complete a graduation pathway.

Background

Graduation pathways

The term "graduation pathways" refers to three general options under which a student can graduate from high school. The available pathways for both public and chartered nonpublic schools are: (1) score at "remediation-free" levels in English, math, and reading on nationally standardized assessments, (2) attain a cumulative passing score on the state high school end-of-course exams, or (3) attain a passing score the WorkKeys job skills assessment and obtain either an industry-recognized credential or a state agency- or board-issued license for practice in a specific vocation.[83] A fourth option – attaining a passing score on an alternate assessment approved by the Department of Education – is available only to students in chartered nonpublic schools as an alternative to the three general pathways.

[83] R.C. 3313.618.

High school achievement assessments

The high school state achievement assessments are referred to in the Revised Code as the College and Work-Ready Assessment System and consist of the following: (1) a nationally standardized assessment that measures college and career readiness, such as the SAT or ACT, and (2) seven end-of-course exams in English language arts I, English language arts II, biology, Algebra I, geometry, American history, and American government.[84]

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.[85]

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

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[84] R.C. 3301.0712.

[85] 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;[86]

[86] 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 at least every two years.

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.

VI. Community schools

Community school sponsor evaluation system

(R.C. 3314.016)

The bill revises the community school sponsor evaluation system, under which the Department of Education annually assigns an overall rating to the sponsors of community schools (public charter schools) based on a combination of the following three components: (1) the academic performance of students enrolled in community schools under the sponsor's oversight, (2) the sponsor's adherence to quality practices, and (3) the sponsor's compliance with laws and administrative rules. Each component receives an individual rating, and the overall rating is derived from those individual ratings. The ratings are "exemplary," "effective," "ineffective," and "poor."

First, the bill prohibits the Department from assigning an automatic overall rating to a sponsor based solely on the sponsor receiving an equivalent score of "0" points on one or more individual components, not including the academic performance component. Currently, the Department implements a "business rule" under which it automatically assigns an overall rating of "ineffective" to a sponsor if it receives an

equivalent score of "0" points on one component, and an overall rating of "poor" if it receives an equivalent score of "0" points on at least two components.[87]

The bill also specifies that an overall rating is the cumulative score of the three components that comprise the evaluation system, *unless* a sponsor receives an equivalent score of "0" on the academic performance component.

Finally, the bill revises the formula to calculate the academic performance component by requiring the Department to weight the "Progress" component of the state report card at 60% of the total score for the academic performance component. The "Progress" component is composed of the overall value-added progress dimension and the value-added progress dimension disaggregated by specified student subgroups.[88]

Appeals of community school sponsor ratings

(R.C. 3314.016)

The bill establishes an appeals process for community school sponsors that must occur prior to publication of the results of the annual sponsor evaluation. Under that process, the Department must notify each sponsor in writing of its preliminary ratings and determinations for each component of the evaluation system not later than 45 days prior to the publication of the final ratings. Within ten days after receiving that notice, a sponsor may make a written request for an informal hearing to dispute the overall rating or determination for any component. The Department must hold an informal hearing within ten days after receipt of a request.

Finally, the Department must issue a written decision either affirming or modifying the ratings and determinations and reasons for that decision before publishing the final ratings. Under continuing law, the sponsor ratings for the previous school year must be published between October 1 and October 15.

ESC community school sponsors

(R.C. 3314.016)

The bill creates exemptions for educational service centers (ESCs) that sponsor community schools and have a sponsor rating of "effective" or higher. Such ESCs may (1) sponsor an Internet- or computer-based school ("e-school") without any previous experience sponsoring an e-school and (2) sponsor a community school regardless of

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[87] http://education.ohio.gov/getattachment/Topics/Community-Schools/Sponsor-Ratings-and-Tools/2016-2017-Sponsor-Evaluations-Tools/Sponsor-Evaluation-Technical-Document.pdf.aspx.

[88] R.C. 3302.03(C)(3)(c).

whether it is located in a county within the service territory of the ESC or in a contiguous county. Under current law, an ESC may sponsor conversion and start-up schools, regardless of where the school is located in relation to the ESC's territory so long as the Department of Education approves the sponsorship.[89] It appears the bill prevails over a conflicting provision that might be in an ESC's sponsorship agreement with the Department.

The bill also specifies that an ESC may continue to sponsor any community school authorized under the bill even if the sponsor subsequently receives an overall rating lower than "effective."

Access to student data verification codes for community school payments

(R.C. 3301.0714(D)(2))

The bill permits the State Board of Education and the Department of Education to have access to information that would enable student data verification codes (often called student "SSID" numbers) to be matched to personally identifiable student data for the purpose of making per-pupil payments to community schools under the school funding formula. Under current law, the State Board and the Department may also have access to this information for purposes of student level data records for early childhood education programs, the administration of state scholarship programs, and the verification of the accuracy of payments to county boards of development disabilities. Otherwise, the State Board and the Department may not have access to both a student's SSID and personally identifiable data.

VII. Other education provisions

Review of Department of Education FTE manual

(R.C. 103.45 and 3301.65)

The bill requires the Department of Education to submit to the Joint Education Oversight Committee (JEOC) the manual containing the standards, procedures, timelines, and other requirements the Department intends to use to review or audit the full-time equivalency student enrollment reporting by all school districts, community schools, STEM schools, and college preparatory boarding schools by May 1 of each year. That manual is often referred to as the "FTE manual." By May 1 of any year that the Department proposes to change the manual, the Department must also submit to JEOC and to each public school a detailed summary of the changes, specifically comparing the differences between the prior school year's FTE manual and the proposed FTE manual.

[89] R.C. 3314.02(C)(1)(d), not in the bill.

The Department also must post the summary and the proposed FTE manual in a prominent location on the Department's website.

JEOC to hold hearings on FTE manual

The bill requires JEOC, upon submission of an FTE manual with proposed changes, to hold one or more public hearings at which public schools may present testimony on their "ability and capacity to comply" with the proposed FTE manual. By June 15 of any year that the Department proposes changes to the FTE manual, JEOC must vote to determine whether public schools can "reasonably comply" with the proposed standards, procedures, timelines, and other requirements contained within it. By July 1 of each year in which JEOC determines that schools are "reasonably capable of compliance" with the proposed changes to the FTE manual, JEOC must prepare (1) a report comparing the prior year's FTE manual with the newest FTE manual, and (2) a summary of the testimony submitted in the public hearings.

Instances where proposed FTE manual is ineffective

If the Department fails to comply with the requirement to submit the proposed FTE manual to JEOC by May 1 of any year or JEOC determines that schools are not reasonably capable of compliance with the proposed changes in the FTE manual, the bill specifies that the proposed manual becomes ineffective. The Department then must conduct its reviews or audits using the manual and accompanying standards, procedures, timelines, and other requirements from the previous school year.

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.

Paper and online administration of state assessments

(R.C. 3301.0711(I))

The bill authorizes public and chartered nonpublic schools to administer the state achievement assessments in a paper format or a combination of online and paper formats. It also states that districts and schools may not be required to administer any state assessment in an online format. Finally, the bill requires the Department of Education to furnish, free of charge, all state achievement assessments to a school district or school, regardless of the format selected.

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 requires the Department of Education to determine by May 31 of each school year, whether funds remain available for income-based scholarships under the Educational Choice (EdChoice) Scholarship Program after the first application period.

Application periods for Ed Choice income-based scholarships

(R.C. 3310.16)

The bill requires the Department of Education to determine by May 31 of each school year, whether funds remain available for income-based scholarships under the Educational Choice (EdChoice) Scholarship Program after the first 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.[90] 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.

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

Jon Peterson Special Needs Scholarship application deadline

(R.C. 3310.52 and 3323.052)

The bill revises the application periods and deadlines under the Jon Peterson Special Needs Scholarship Program by eliminating the prescribed deadlines, and instead requires the Department of Education to prescribe a procedure whereby scholarships are awarded "upon application." Currently, there are two application deadlines: the first deadline is April 15 for the first term of the school year, and the second is November 15 for the second term.

The bill also prohibits the Department from adopting specific deadline dates for the Jon Peterson Special Needs Scholarship Program.

Background

The Jon Peterson Special Needs Scholarship Program is a state scholarship program available to all disabled students with an individualized education program established by their resident school districts. Funding for the program is provided in the same way as that of the Autism Scholarship Program, through a transfer of state aid from the resident district to the alternate provider. Likewise, scholarship students are also counted in their district's ADM for the purposes of the state foundation aid formula. Under current law, the amount of the scholarship cannot exceed $27,000 and is the lesser of the tuition charged by the alternate provider or the special education funding calculated for the student, which is the formula amount plus the applicable special education amount used to calculate funding for the student under the formula for traditional school districts.

Bright New Leaders for Ohio Schools

(R.C. 3319.271 and 3319.272)

The bill makes several changes regarding the operation of the Bright New Leaders for Ohio Schools Program, which provides an alternative path for individuals to receive training, earn degrees, and obtain licenses in public school administration.

Board of directors

The Bright New Leaders for Ohio Schools Program is implemented by the board of directors of a nonprofit corporation established in law for this purpose. The bill reduces the size of this board to seven voting members (from 11 voting members) by making all of the following changes to the board's composition:

--Removing the Governor, the Superintendent of Public Instruction, and the Chancellor of Higher Education from the voting membership of the board;

--Reducing, from two to one, the number of individuals that the President of the Senate and the Speaker of the House appoint as voting members of the board. The bill also removes the existing requirement that the Speaker appoint an active duty or retired military officer and that the Senate President appoint a current or retired teacher or principal.

--Requiring the Governor to appoint one voting member of the board.

Additionally, the bill specifies that the Governor (or the Governor's designee), the Superintendent, and the Chancellor are to serve as nonvoting members of the board.

State financial support

The bill removes a provision of current law that specifies that state financial support for the nonprofit corporation that implements that Program ceases on June 30, 2018.

Oversight

The bill removes a provision of current law that specifies that the Ohio State University Fisher College of Business must provide oversight to the nonprofit corporation that implements the Program. It does, however, retain provisions of current law specifying that the College is to provide the corporation with office space, and with office furniture and equipment, as is necessary for the corporation successfully to fulfill its duties.

Selection of participants

The bill permits the Governor, Senate President, and Speaker of the House each to select an individual to be a participant in the Program.

Principal positions

The bill requires the Department of Education to secure principal positions for individuals who receive alternative principal licenses upon successful completion of the Program in low-performing schools that have a high percentage of their students living in poverty.

Teacher retirement incentives

(R.C. 3311.771, 3314.104, 3319.0812, and 3326.082; Section 803.310)

The bill allows a school district, educational service center, community school, or STEM school to enter into an agreement to provide early retirement incentives, severance pay, or both in return for a teacher's agreement to retire only if the district, center, or school determines that the agreement is financially sound.

It also requires a school district or educational service center to comply with tax levy law concerning any wage or salary schedule increase made during the school year. Continuing law requires a school district to attach a certificate of available resources to every wage or salary schedule increase it makes during the school year. The certificate must indicate that the district has or will have adequate revenue to cover the increase for the term of the schedule. A wage or salary schedule increase that does not include the certificate is void.[91] The requirement does not apply to community schools or STEM schools. Even though they are referenced in the bill, it will not apply to educational service centers because the certificate of available resources requirement under continuing law does not apply to them.

The bill applies to contracts entered into, extended, or renewed on or after its effective date. It provides that it prevails over any collective bargaining agreement entered into on or after that date. The Public Employees' Collective Bargaining Law gives public employees (including teachers) the right to collectively bargain with their public employers and requires those public employers to bargain with employees on wages, hours, and terms and conditions of employment. Unless an exception applies, generally a collective bargaining agreement prevails over a conflicting statute.[92]

Under this provision, a "teacher" is any person who is employed in an Ohio public school as an instructor or holds a licensed educational position in a public school, such as a school nurse. Principals, supervisors, superintendents, and other school administrators are not "teachers" under this provision and thus are not subject to it.[93]

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[91] R.C. 5705.412, not in the bill.

[92] R.C. 4117.03, 4117.04, and 4117.10, not in the bill.

[93] R.C. 3311.771, 3314.104, 3319.0812, and 3326.082; R.C. 3319.221, not in the bill, by reference to R.C. 3319.09, not in the bill.

Moratorium on new ESC agreements

(Section 265.360)

The bill provides that a school district that has not entered into an agreement with an educational service center (ESC) as of June 30, 2017, may not do so during the two-year period from July 1, 2017, through June 30, 2019.

An ESC is a public regional service provider that can contract to provide services for any school district, community school, STEM school, or private school. A school district with a student count of 16,000 or less must have an agreement with an ESC. Larger districts are permitted, but not required, to have an agreement with an ESC.[94]

Auxiliary Services funds

(R.C. 3317.06)

The bill adds to the list of permitted uses of Auxiliary Services funds: (1) the provision of language and academic support services and other accommodations for English language learners attending nonpublic schools within a school district, and (2) the procurement and payment for security services through a county sheriff, police force, or from a certificated special police officer, security guard, or privately employed person serving in a police capacity for chartered nonpublic schools located within a district.

School districts receive state Auxiliary Services funds to purchase goods and services for students who attend chartered nonpublic schools located within their territories. Those moneys may be used to purchase, for loan to students of chartered nonpublic schools, such things as textbooks, digital texts, workbooks, instructional equipment including computers, and library materials, or to provide a variety of special services.

Chartered nonpublic school reporting requirements

(R.C. 3301.16 and 3301.164)

The bill requires each chartered nonpublic school to publish on its website the number of enrolled students as of the last day of October, and its policy regarding background checks for employees and for volunteers who have direct contact with students. It also requires each chartered nonpublic school to publish on its website, and

[94] R.C. 3313.843, not in the bill.

make available to parents, guardians, and custodians, its curricula and reading lists for each grade.

District territory transfers under annexation agreement

(R.C. 3311.06)

From the bill's effective date until October 1, 2021, the bill prohibits a school district that is a party to an annexation ("win/win") agreement from transferring territory to another school district that is a party to the annexation agreement without the approval of the boards of education of each of the school districts involved in the transfer. Existing law provides for several different methods by which school district territory may be transferred.

An "annexation agreement" is an agreement authorized under current law entered into between an "urban school district" (a "city" school district with an average daily membership for the 1985-1986 school year in excess of 20,000 students) and its neighboring suburban school districts. This agreement, rather than statutory law or the State Board, controls the transfer of territory that is annexed by the city served by the urban school district. Under an annexation agreement, the suburban school districts may retain some of the annexed territory but may make a payment to the urban school district in exchange for tax revenue that the urban school district would have received as a result of improvements if all of the annexed territory had transferred to it. The urban district, too, might make payments to suburban districts in exchange for their costs associated with municipal annexation.[95] Since all of the parties presumably benefit from the terms of an annexation agreement, which is negotiated among the parties, the agreement is frequently called a "win/win" agreement. The only such agreement is one between the Columbus City School District and several of its surrounding suburban school districts. It was entered into initially in 1986 and is renewable under its own terms every six years.

Sale of school district athletic field

(Sections 610.60 and 610.61 (amending Section 7 of H.B. 532 of the 129th G.A.))

The bill extends, from December 31, 2017, to December 31, 2019, the expiration of a law that permits a city school district to offer highest priority to purchase an athletic field to the chartered nonpublic school that is the property's current leaseholder. In doing so, the bill continues during that time the exemption from the requirement that when a school district disposes of a property it must (1) first offer the property to

[95] R.C. 3311.06(F).

community schools and college-preparatory boarding schools located in the district and (2) give first priority to high-performing and certain newly established community schools.

Joint transportation district pilot program

(Section 311.20)

Under the bill, JEOC must develop legislative recommendations for creating a joint transportation district pilot program under which (1) at least two school districts may create a joint transportation district to share transportation services, and (2) those districts must adopt staggered starting and ending times for the school day.

JEOC must submit its recommendations to the General Assembly not later than six months after the bill's effective date.

Purchase of school buses

(R.C. 3327.08)

School district boards of education and governing boards of educational service centers are permitted to purchase school buses under current law, but the purchase must be made only after competitive bidding that satisfies specific requirements. The bill specifies that bid bonds are not required for this competitive bidding process unless a board of education or governing board request that bid bonds be part of the process for a specified purchase. Current law does not appear to have a requirement for bid bonds for the purchase of school buses.

Training in use of automated external defibrillator

(R.C. 3313.6023 and 3313.717)

Individuals employed by school districts and community schools, except for e-schools or community schools that primarily serve students with disabilities, are currently required to complete training in the use of an automated external defibrillator by July 1, 2018, and at least once every five years thereafter.[96] The bill exempts the following individuals from this requirement:

(1) Substitute teachers;

(2) Adult education instructors who are scheduled to work the full-time equivalent of less than 120 days per school year; and

[96] R.C. 3313.6023, 3313.717, and 3314.03(A)(II)(k).

(3) Persons who are employed on an as-needed, seasonal, or intermittent basis.

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;

(2) Any eligible classes through the College Credit Plus Program that include a state-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.[97]

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.[98]

Business advisory councils

(R.C. 3313.82)

The bill requires the Superintendent of Public Instruction, in consultation with the Governor's Executive Workforce Board, to establish standards for the operation of business advisory councils that each school district board of education and educational

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

[98] 29 U.S.C. 218.

service center governing board must appoint under continuing law. The standards must include a requirement that each business advisory council and its appointing board develop and submit to the Department of Education a plan under which the council must advise the board on the matters specified by continuing law. Those matters include (1) the delineation of employment skills and the development of curriculum to instill those skills, (2) changes in the economy and the job market and the types of employment in which future jobs are most likely to be available, and (3) suggestions for developing a working relationship among businesses, labor organizations, and educational personnel.

The bill also specifies that the standards must require each business advisory council to meet at least quarterly and that each council and its board must file a joint statement by March 1 of each year describing how both parties have fulfilled their responsibilities.

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.

Ohio FFA Association assistance

(R.C. 3303.20; Section 733.63)

The bill permits the Supervisor of Agricultural Education in the Department of Education to serve as the chair of the board of trustees of the Ohio FFA Association. The Supervisor is authorized to assist with the Ohio FFA Association's programs and activities in a manner that enables the Association to maintain its state charter and to meet applicable requirements of the U.S. Department of Education and the National FFA Organization. This assistance may include the provision of Department personnel, services, and facilities.

The bill also prohibits Department of Education employees from receiving compensation from the Ohio FFA Association, except that the Department may be reimbursed by the Ohio FFA Association for reasonable expenses related to assistance provided to the Ohio FFA Association.

Finally, the bill states the following: "The General Assembly finds that the Ohio FFA Association is an integral part of the organized instructional programs in career-technical agricultural education that prepare students for a wide range of careers in agriculture, agribusiness, and other agriculture-related occupations."

Background

Current law requires the Superintendent of Public Instruction to appoint a Director of Agricultural Education within the Department of Education, who is responsible for disseminating information on agricultural education to school districts. Also, the Department must maintain an "appropriate" number of full-time employees focusing on agricultural education, and at least three of those employees must be program consultants who provide regional assistance to school districts. Finally, one consultant may coordinate local FFA activities.

According to the Ohio Department of Education, the FFA is a "national organization, formerly known as Future Farmers of America (FFA), dedicated to preparing young people for careers in the broadening field of agriculture through hands-on experiences provided by FFA advisors and teachers."[99]

Workgroup on related services personnel for students with disabilities

(Section 733.65)

The bill requires the Superintendent of Public Instruction to establish a workgroup on special education-related services personnel. The stated purpose of the bill's provision is to improve coordination of state, school, and provider efforts to address the related services needs of students with disabilities.

The workgroup must include the following members:

(1) Employees of the Department of Education, the Department of Higher Education, and other state agencies that have a role in addressing the related services needs of students with disabilities;

(2) Representatives from at least the following interested parties: (a) The Ohio Speech-Language-Hearing Association, (b) The Ohio School Psychologists Association, and (c) The Ohio Educational Service Center Association; and

(3) Representatives of school district superintendents, treasurers or business managers, and other school business officials.

[99] http://education.ohio.gov/Topics/Career-Tech/Additional-Resources/Student-Organizations/FFA.

The bill requires the workgroup to do the following:

(1) Identify and evaluate causes and solutions for the shortage of related services personnel in the school setting, including evaluating the long-term sustainability of potential solutions;

(2) Establish short-term, medium-term, and long-term goals to address the shortage of related services personnel in the state and monitor progress on those goals; and

(3) Report, as needed, on the work and findings of the workgroup.

The Department of Education must provide administrative support to the workgroup.

The bill specifies that the workgroup ceases to exist on June 30, 2019, unless the General Assembly authorizes its continuation.

Background on special education and related services

Under state and federal law, all children with disabilities residing in this state who are between three and 22 years old are entitled to a free and appropriate public education, which must include special education and related services that are provided in conformity with the child's individualized education program.[100]

For these purposes, "related services" means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, school nurse services, counseling services, orientation and mobility services, school health services, social work services in schools, and parent counseling and training, and diagnostic and evaluative medical services) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.[101] Each school district must employ, as necessary, the personnel to meet the needs of children with disabilities.[102]

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[100] Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446 and R.C. 3323.02, not in the bill.

[101] R.C. 3323.01, not in the bill.

[102] R.C. 3323.11, not in the bill.

BOARD OF EMBALMERS AND FUNERAL DIRECTORS

Board membership and rulemaking

- Modifies the membership criteria for the Board of Embalmers and Funeral Directors.
- Requires the Board to adopt rules related to the lawful disposition of unclaimed cremated remains held in a funeral home or crematory that has been closed.

Crematory operator permit

- Replaces the term "operator of a crematory facility" with "crematory operator."
- Modifies the definition of "embalming" to specifically include specified chemical treatments.
- Specifies that a "crematory operator" must operate with a permit and a "crematory facility" must operate with a license.

Funeral homes, embalming facilities, and crematory facilities

- Establishes criteria for a crematory operator permit, associated fees, and continuing education requirements.
- Eliminates the requirement that a funeral home be established under the name of the license holder and the requirement that the license not include directional or geographical references in the name.
- Caps reinstatement fees.
- Exempts courtesy card permit holders from continuing education requirements.
- Requires that a cremation chamber used for the cremation of animals display a notice on the unit stating that the unit is used for animals only.

Requirements for dead human body and cremated remains

- Prohibits any person from knowingly refusing to promptly submit the custody of a dead human body or cremated remains upon the order of the person legally entitled to the body or cremated remains.
- Prohibits, with a few exceptions, a person from knowingly failing to carry out the final disposition of a dead human body within 30 days after taking custody of the body.

Preneed funeral contracts

- Requires the Board to adopt rules regarding violations relating to the submission of sale reports for preneed funeral contracts.

- Requires a funeral home licensee for a funeral home that is closing to send written notice to the purchaser of every preneed funeral contract to which the funeral business is a party containing the name of any funeral business that has been designated to assume the obligations of the preneed contract.

- Requires within 30 days of the closing of a funeral home, the funeral home licensee to transfer all preneed contracts to the funeral home or funeral homes that have been designated to assume the obligation of the preneed contracts.

- Requires the Board to make designations for preneed contracts in the case of a closed funeral home, if the person who holds a funeral home license fails to designate a successor.

- Requires that all preneed funeral contracts include a disclosure that any purchaser may be eligible for reimbursement of financial losses suffered as a result of malfeasance, misfeasance, default, failure, or insolvency of the licensee.

- Requires preneed contracts held in trust to contain a disclosure regarding whether the seller will charge an initial service, cancellation, or service fees.

- Requires payment for preneed contracts to be paid directly to an insurance company or to the contract's trustee.

- Establishes the Preneed Recovery Fund, a custodial fund to be used to reimburse purchasers of preneed funeral contracts who have suffered financial loss as a result of the malfeasance, misfeasance, default, failure, or insolvency in connection with the sale of a preneed funeral contract.

- Imposes a $10 fee on the sale of preneed funeral contracts other than those funded by insurance policy assignment and requires that those fees be deposited into the Fund.

Board membership and rulemaking

(R.C. 4717.02)

The bill modifies the membership criteria for the Board of Embalmers and Funeral Directors (the Board). Under continuing law, unchanged by the bill, the Board must consist of seven members. Current law, changed in part by the bill, requires that five members be both a licensed embalmer and a practicing funeral director. The bill requires that five members be practicing funeral directors, but that only four of these five members also be licensed embalmers. The bill also adds the requirement that at least one of the five funeral director members of the Board hold a crematory operator permit.

Crematory operator permit

(R.C. 4717.051, 4717.06, 4717.07, 4717.08, 4717.09, 4717.14, and 4717.15)

Permit criteria

The bill establishes criteria for obtaining and holding a crematory operator permit. First, any person who wants to obtain a crematory operator permit must apply to the Board on a form prescribed by the Board. The applicant must also pay the initial permit fee of $100, and provide evidence, verified under oath and satisfactory to the Board that the applicant (1) is at least 18 years old and of good moral character, (2) if the applicant has pleaded guilty to, or has been found by a judge to be guilty of, or has had judicial finding of eligibility for treatment in lieu of conviction entered against the applicant in Ohio for any of the 11 specified offenses listed in the bill (i.e., *aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary*) or for a substantially equivalent offense, at least five years has elapsed since the applicant was released from incarceration, a community control sanction, a post-release control sanction, parole, or treatment program, and (3) the applicant has presented to the Board a certificate showing completion of a crematory operation certification program. The Board must issue the applicant a crematory operator permit if the Board receives satisfactory evidence and determines that the applicant satisfies all of the requirements listed above. The Board can revoke or suspend a permit or subject the permit holder to discipline in the same way it can exercise enforcement with licensees under continuing law.

Permit fees and enforcement

The fee for the initial or biennial renewal of a crematory operator permit is $100. The bill subjects the crematory operator permit renewal requirement to the same

requirements under the law for licensees, including that the permit expires on the last day of December of each even-numbered year. If the permit is not renewed by this time, it is considered "lapsed," which can be cured by paying the lapsed fee to the Board. The reinstatement of a lapsed crematory operator permit is $100 plus $50 for each month or portion of a month the permit is lapsed, but the Board is not permitted to charge more than $1,000. The Board may refuse to grant or renew, or may suspend or revoke any permit, or issue a notice of violation to any permit holder without an adjudication hearing.

Crematory operator continuing education

The bill requires that a crematory operator permit holder maintain active certification from a crematory operator certification program as a condition for renewal of the permit, and the Board is prohibited from renewing the crematory operator permit of an individual who fails to satisfy this certification requirement.

Funeral home, embalming facility, and crematory facility license

(R.C. 4717.06, 4717.07, 4717.09, 4717.11, and 4717.30)

Name

The bill makes a few changes regarding the license requirements for funeral home, embalming, and crematory facilities. The bill requires that the name of the person licensed (funeral director, embalmer, or crematory operator) to operate either a funeral home, embalming facility, or crematory facility be conspicuously displayed immediately on the outside or the inside of the primary entrance of the home or facility used by the public. In addition, the bill eliminates the requirement that a funeral home be established and named only under the name of the license holder and the requirement that the license not include directional or geographical references in the name.

Immunity

The bill makes uniform the list of persons continuing law provides a qualified immunity to in relation to specified actions in relation to funerals, embalming, cremation, and the disposition of human and cremated remains to provide parallel immunities for crematory operators, crematory facilities, funeral directors, and funeral homes.

Embalmer and funeral director continuing education

Under the bill, a person licensed in another state holding a courtesy card permit is not required to satisfy the continuing education requirements that licensed embalmers and funeral directors must meet in order to renew the permit.

Fee caps

The bill also caps the fees the Board is authorized to charge for the reinstatement of a lapsed license to operate a funeral home, embalming facility, or crematory facility to not more than $1,000.

Change of location, management, or ownership

The bill establishes procedures for when there has been a change of location, management, or ownership of a funeral home, embalming facility, or crematory facility. It revises these procedures for funeral homes and embalming facilities and establishes them for crematory facilities. The bill requires the licensee to surrender their license within 30 days after a change in (1) the location of the crematory facility (continuing law for funeral homes and embalming facilities), (2) the person who is actually in charge and ultimately responsible for the crematory facility (new), or (3) the ownership of the business entity that owns the home or facility that results in a majority of the ownership of the business entity being held by one or more persons who alone or in combination with others did not own a majority of the business entity immediately prior to the change in ownership (continuing law for funeral homes and embalming facilities).

Within 30 days after a change described above occurs, the person who will actually be in charge and ultimately responsible for the home or facility after the change must apply for a new license. The home or facility may continue to operate until the Board denies the application.

The bill eliminates the provision permitting a funeral home to continue to operate under the name of a licensee who ceases to operate the home if the name of the new person licensed to operate the funeral home is added to the license within 24 months after the previous license holder ceases to operate the funeral home.

Crematory facility used for animals

The bill requires that cremation chambers used for the cremation of animals have conspicuously displayed on the unit a notice that the unit is to be used only for animals.

Requirements for dead human body and cremated remains

(R.C. 4717.04, 4717.13, and 4717.27)

The bill specifies that when required to do so, under continuing law, a crematory facility or funeral home holding unclaimed cremated remains may dispose of the cremated remains by scattering them in any dignified manner, including in a memorial garden, at sea, by air, or at any scattering grounds, or in any other lawful manner. Under continuing law, unchanged by the bill, the cremated remains can also be disposed of in a grave, crypt, or niche.

The bill prohibits a person from (1) knowingly refusing to promptly submit the custody of a dead human body or cremated remains, after an order, to the person legally entitled to the body or cremated remains or (2) knowingly failing to carry out the final disposition of a dead human body within 30 days after taking custody of the body, unless ordered otherwise by the person holding the right of disposition.

The bill also requires the Board to adopt rules related to the lawful disposition of unclaimed cremated remains held in a funeral home or crematory that has been closed.

Preneed funeral contracts

(R.C. 4717.04, 4717.07, 4717.13, 4717.32, 4717.35, and 4717.36)

Preneed Recovery Fund fee and contract reports

The bill makes changes to the law regarding the administration and regulation of preneed funeral contracts. The bill requires that $10 of each preneed funeral contract sold in Ohio, other than those funded by the assignment of an existing insurance policy, must be provided to the Board. The Board is required to deposit this fee into the Preneed Recovery Fund (see "**Preneed Recovery Fund**," below).

In addition, the bill prohibits any person from failing to forward to the Board on or before its due date the annual report of preneed funeral sales required. If the report is sent to the Board by mail, then it should be postmarked on or before the due date in order for it to be considered timely filed. Mail that is not postmarked is considered filed on the date the Board receives it.

Procedures for contracts from closed funeral homes

In situations where the funeral home closes, the bill requires the person who holds the license for the closed funeral home to send a written notice to the purchaser of *every* preneed funeral contract to which the funeral business is a party explaining that the funeral business is being closed and the name of any funeral business that has been

designated to assume the obligations of the preneed contract. Within 30 days of the closing of a funeral home, the person who holds the funeral home license for the closed funeral home must not negligently fail to transfer all preneed contracts to the funeral home or funeral homes that have been designated to assume the obligation of the preneed contracts. If the person who holds a funeral home license for a funeral home that is closed fails to designate a successor funeral home or funeral homes to assume the obligations of the preneed funeral contracts, the Board is required to make this designation and order the transfer of the preneed funeral contracts to the designated funeral home or funeral homes.

Contract disclosures and directives

The bill requires that preneed funeral contracts that involve the payment of money or the purchase or assignment of an insurance policy or annuity include a disclosure that any purchaser of funeral goods or funeral services funded in whole or in part in advance of death under a preneed funeral contract may be eligible for reimbursement of financial losses suffered as a result of malfeasance, misfeasance, default, failure, or insolvency of the licensee. Also, the contract must include a directive that any payment made by the purchaser of the preneed funeral contract must be made directly to the insurance company.

If a preneed funeral contract is funded by any means other than an insurance policy or policies, or an annuity or annuities, the contract must include a disclosure that directs any payments made by the purchaser of the contract to be made directly to the trustee identified in the preneed funeral contract and a disclosure of whether the seller will charge any initial service or cancellation fee.

Fees and payment

The bill requires that all payments made by the purchaser of a preneed funeral contract must be made in the form of a check, cashier's check, money order, or debit or credit card payable to the trustee or insurance company.

The bill permits that a seller of a preneed funeral contract that is funded by any means other than an insurance policy or policies, or an annuity or annuities and that stipulates a fixed or firm or guaranteed price for the services and goods provided under the contract may charge an initial service fee not more than 10% of the total amount of all payments to be made under the contract. If the amount is paid by the purchaser in installments, then no more than half of any payment may be applied to the initial service fee. If the preneed funeral contract is revoked by the purchaser, any portion of the initial service fee that has not been paid under the preneed funeral contract is no longer due and payable to the seller.

Continuing law permits that if the preneed funeral contract does stipulate a firm or fixed or guaranteed price, the purchaser may request and receive from the trustee all of the assets of the trust at the time of cancellation, less a cancellation fee that the original seller may collect from the trustee that is equal to or less than 10% of the value of the assets of the trust on the date the trust is cancelled. The bill provides, however, that to the extent the original seller took an initial service fee as permitted, the aggregate amount of the cancellation fee and less the initial service fee may not exceed 10% of the value of those assets. Similarly, under continuing law when the purchaser of a preneed funeral contract transfers the contract to a successor seller, the original seller may collect from the trustee a transfer fee from the trust that equals up to 10% of the value of the assets of the trust on the date the trust is transferred, the bill provides however that to the extent the original seller took an initial service fee, the aggregate amount of the transfer fee and the initial service fee may not exceed 10% of the value of those assets.

Preneed Recovery Fund

(R.C. 4717.03, 4717.07, and 4717.41)

The bill establishes the Preneed Recovery Fund (the Fund) administered by the Board. The $10 fee collected from the Board from preneed funeral contracts sold in Ohio that are not those funded by the assignment of an existing insurance policy is required to be deposited into the Fund. The Fund must be used to reimburse purchasers of preneed funeral contracts who have suffered financial loss as a result of the malfeasance, misfeasance, default, failure, or insolvency in connection with the sale of a preneed funeral contract by any licensee, regardless of whether the sale of contract occurred before or after the establishment of the Fund. If at the end of Ohio's fiscal year, the balance of the Fund exceeds $2 million, the fee required from the preneed funeral contracts described above, for the upcoming fiscal year must be reduced by 50%, or to $5. If the balance in the Fund at the end of a fiscal year exceeds $3 million, the payment of this fee must be suspended for the upcoming fiscal year.

The bill requires the Board to adopt rules governing management of the Fund, the presentation and processing of applications for reimbursement, subrogation, or assignment of the rights of any reimbursed applicant.

The Board can also expend moneys in the Fund to make reimbursements on approved applications, purchase insurance to cover losses as considered appropriate by the Board and not inconsistent with the purposes of the Fund, and invest portions of the Fund that are not currently needed to reimburse losses and maintain adequate reserves, as are permitted to be made by fiduciaries under Ohio law. The Board can also pay the expenses of the Board for administering the Fund, including employment of local counsel to prosecute subrogation claims.

The bill requires that reimbursements from the Fund be made only to the extent to which those losses are not bonded or otherwise covered, protected, or reimbursed and only after the applicant has complied with all applicable rules of the Board. The Board must investigate all applications made and may reject or allow claims in whole or in part to the extent that money is available in the Fund. The Board has complete discretion to determine the order and manner of payment of approved applications. The bill stipulates that all payments from the Fund are a matter of privilege and not of right, and no person has any right in the Fund as a third-party beneficiary or otherwise. Attorneys are not permitted to be compensated by the Board for prosecuting an application for reimbursement.

If an applicant receives reimbursement from the Fund, the Board is considered subrogated in the reimbursement amount and may bring any action it considers advisable against any person. The Board may also enforce any claims it has for restitution or otherwise and may employ and compensate consultants, agents, legal counsel, accountants, and other persons it considers appropriate.

Terms defined and conforming changes

(R.C. 4717.01, 4717.03, 4717.04, 4717.14, 4717.21, 4717.23, 4717.24, 4717.25, 4717.26, 4717.28, and 4717.30)

The bill replaces the term "***operator of a crematory facility***" with "***crematory operator***," and specifies that a "***crematory operator***" must operate with a permit and a "***crematory facility***" must operate with a license. In addition, the bill modifies the definition of "***embalming***" to specifically include specified chemical treatments, such as arterial injection, cavity treatment, hypodermic tissue injection, to reduce the presence and growth of microorganisms, to temporarily slow organic decomposition, and to restore acceptable physical appearance.

The bill defines "**false and deceptive advertising**," which is prohibited under continuing law. "**False and deceptive advertising**" includes, but is not limited to, any of the following:

(1) Using the names of persons who are not licensed to practice funeral directing in a way that leads the public to believe that such persons are engaging in funeral directing;

(2) Using any name for the funeral home other than the name under which the funeral home is licensed; and

(3) Using in the funeral home's name the surname of an individual who is not directly, actively, or presently associated with the funeral home, unless such surname has been previously and continuously used by the funeral home.

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 OEPA 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:

  --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 March 24, 2015, ruling of the Ohio Supreme Court's in *County Board of Commissioners v. Nally*.

- 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.

Areawide waste treatment management planning

Clean Water Central Ohio

- Requires the Governor to designate Clean Water Central Ohio as the entity responsible for waste treatment planning for Franklin County, and portions of Delaware, Licking, Fairfield, Pickaway, and Union counties.

- Requires Clean Water Central Ohio to coordinate with OEPA to amend any existing wastewater treatment plan established under the Federal Water Pollution Control Act that is applicable to the area within its jurisdiction, or create a new plan for that area.

- Requires Clean Water Central Ohio to comply with applicable requirements of the Federal Water Pollution Control Act and regulations promulgated under it.

- Requires the Governor to appoint the initial governing board of Clean Water Central Ohio.

- Requires the initial governing board to adopt a resolution specifying the manner of selection and terms of office of subsequent members of the board.

County sewer districts and areawide waste treatment management planning

- Authorizes a county sewer district to contract to provide water and sewerage services to persons or entities located outside of the district, including outside of the county in which the district has jurisdiction.

- Requires an entity responsible for waste treatment management planning to do both of the following:

  --Make a determination about whether a waste treatment management plan conflicts with a county sewer district's contracting authority; and

  --Amend the plan to correct any conflict.

- Prohibits an entity responsible for waste treatment management planning from adopting or amending a plan in a manner that results in a conflict with a county sewer district's contracting authority.

Volkswagen settlement funding

- Requires the Director of Environmental Protection, in consultation with the Director of Transportation, to distribute $15 million in each of FY 2018 and FY 2019 from money arising from the Volkswagen Clean Air Act Settlement in accordance with a specified preferential scheme.

- Specifies all of the following regarding the scheme:

  --First preference must be given to qualifying projects that provide the greatest quantifiable reduction, in dollars per ton reduction, of carbon dioxide and nitrogen oxide;

  --Second preference must be given to qualifying projects that provide the greatest quantifiable reduction, in dollars per ton reduction, of carbon monoxide, fine particulate matter (pm 2.5), sulfur dioxide, and mercury;

  --The methodology for calculating the quantifiable reductions must be based on the U.S. Environmental Protection Agency's methodology and incorporate the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation model.

- Establishes appropriations of $15 million for each of FY 2018 and FY 2019 to award to transit authorities for purposes of rolling stock projects to supplement money awarded by ODOT under the Ohio Transit Preservation Partnership Program.

- Requires ODOT to collaborate with the OEPA to ensure distribution of the money complies with the preferential scheme and with the terms of the Volkswagen Clean Air Act Settlement, and specifies that the appropriations are from the OEPA fund that receives the amounts under the settlement.

- Requires the Directors, after they receive applications for qualifying projects, to submit a report of their findings and recommendations regarding those applications to the General Assembly.

- Requires the Directors to submit the report before submitting the applications to the Settlement Trustee to request funding.

Automotive shredder residue

- Exempts automotive shredder residue from requirements and fees applicable to other solid wastes if both of the following apply:

  --The automotive shredder residue conforms to specifications that result in a residue of uniform consistency resembling dirt or mulch; and

  --The particulate pieces that make up the residue do not exceed three inches in diameter.

- Specifies that automotive shredder residue that does not comply with the above requirements is subject to the requirements and fees otherwise applicable to solid wastes.

- Authorizes automotive shredder residue that does comply with the above requirements to be used as daily cover if the residue provides protection comparable to six inches of soil.

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.[103]

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

[103] R.C. 122.861, not in the bill.

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;

(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, 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.[104]

[104] R.C. 3745.11(V).

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.

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 source thresholds established in rules adopted under current law.	The fee is required to be paid through June 30, 2018.	The bill extends the fee through June 30, 2020.
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.

Type of fee	Description	Sunset under current law	Sunset under the bill
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, which is calculated using schedules for the three basic categories of public water systems.	The fee for an initial license or a license renewal applies through June 30, 2018, and must be paid annually in January.	The bill extends the initial license and license renewal fee through June 30, 2020.
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.

Type of fee	Description	Sunset under current law	Sunset under the bill
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 fee is submitted on or after July 1, 2018, the fee is $15.	The bill extends the $200 fee through June 30, 2020; the $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 2015 case law regarding TMDLs. In *County Board of Commissioners v. Nally*,[105] 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. It 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 by December 31, 2018, that:

(1) Allocate pollutant load between and among nonpoint sources and point sources in a TMDL report;

[105] 143 Ohio St.3d 93 (2015).

(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.[106]

[106] See R.C. 5709.20 through 5709.27, not in the bill.

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.

Areawide waste treatment management planning

Clean Water Central Ohio

(R.C. 6111.61 and 6111.62)

The bill requires the Governor, within 90 days after this provision's effective date, to designate Clean Water Central Ohio as the entity responsible for waste treatment planning for Franklin County, and portions of Delaware, Licking, Fairfield, Pickaway, and Union counties served by the Columbus municipal water and sewerage system.

Under the bill, Clean Water Central Ohio must coordinate with the Director of OEPA to amend any existing areawide waste treatment management plan applicable to Clean Water Central Ohio's jurisdiction, or, create a new plan. Clean Water Central Ohio, in the execution of its duties, must comply with requirements of the Federal Water Pollution Control Act and regulations promulgated under it.

The Governor must appoint Clean Water Central Ohio's initial governing board within 90 days after the designation of Clean Water Central Ohio. The initial board

must consist of nine members, each to serve a two-year term. As determined by the most recent federal decennial census, three of the nine members must represent the most populous municipal corporation in Clean Water Central Ohio's jurisdiction. The remaining six members must represent the next six most populous municipal corporations.

Before the expiration of the initial board members' terms, the board must adopt a resolution that specifies the manner of selection and terms of office for subsequent members. The resolution may establish additional procedures necessary for the operation of the board and may subsequently be amended. However, in all cases, the resolution must require three of the board members to represent the most populous municipal corporation in Clean Water Central Ohio's jurisdiction, and the remaining six members to equitably represent all other municipal corporations within that jurisdiction.

County sewer districts

(R.C. 6111.62 and 6117.38)

The bill authorizes a county sewer district to provide water supply services, in addition to sewerage services as authorized under current law, to persons or entities located outside of the district. In addition, the bill authorizes the district to contract for such services with persons or entities located outside of the county where the district is located. Under current law, it is unclear whether a district has the authority to contract for water and sewer services with persons or entities located outside of the county where the district is located.

In addition, the bill requires that, not later than one year after the bill's effective date, an entity responsible for areawide waste treatment management planning under the federal law governing such planning, including OEPA, must do both of the following with respect to each waste treatment plan over which the entity has authority:

(1) Determine if any element of each plan conflicts with or supersedes the authority of a county sewer district to enter into a contract to provide water and sewerage services to persons or entities located outside of the district; and

(2) Amend the plan to eliminate any conflicting or superseding element.

An entity required to amend a plan must take all steps necessary to amend the plan, including complying with the federal law governing areawide waste treatment management planning, the Federal Water Pollution Control Act, and regulations promulgated under that Act.

Finally, the bill prohibits any entity that is responsible for areawide waste treatment management planning, including OEPA, from either adopting or amending a plan in a manner that creates a conflict with the authority of a county sewer district to contract to provide water and sewerage services to persons or entities located outside the district.

Volkswagen settlement funding

(Section 737.20)

The bill requires the Director of Environmental Protection, in consultation with the Director of Transportation, to distribute $15 million in each of FY 2018 and FY 2019 from funding received from the Volkswagen Mitigation Trust Agreement or the Volkswagen Zero Emission Vehicle Fund arising from the Volkswagen Clean Air Act Settlement in accordance with a specified preferential scheme.

The bill specifies all of the following with respect to the scheme:

(1) First preference must be given to qualifying projects that provide the greatest quantifiable reduction, in dollars per ton;

(2) Second preference must be given to qualifying projects that provide the greatest quantifiable reduction, in dollars per ton reduction, of carbon monoxide, fine particulate matter (pm 2.5), sulfur dioxide, and mercury; and

(3) The methodology for calculating the quantifiable reductions must be based on the U.S. Environmental Protection Agency's methodology and incorporate the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation model.

The $15 million must be used in each of FY 2018 and FY 2019 to provide funding to transit authorities for purposes of rolling stock projects to supplement money awarded by ODOT under the Ohio Transit Preservation Partnership Program.

The bill requires the Director of Transportation to collaborate with the Director of Environmental Protection to ensure that distribution of the money complies with the preferential scheme and with the terms of the Volkswagen Clean Air Act Settlement, and specifies that the appropriations are from the OEPA fund that receives the amounts under the settlement. The bill also requires the Directors, after receiving applications for projects that qualify for settlement funding, to submit a report of their findings and recommendations regarding the applications to the General Assembly before submitting the applications to the Settlement Trustee to request funding.

Automotive shredder residue

(R.C. 3734.576)

Under current law, automotive shredder residue is a nonrecyclable residue that is generated as a direct result of processing automobiles, appliances, sheet steel, and other ferrous and nonferrous scrap metals through a hammermill shredder for purposes of recycling and that meets all of the following requirements:

(1) The residue is solid waste;

(2) The residue is not hazardous waste;

(3) The residue created during the recycling process is not more than 35% of the total weight of material that is processed for recycling; and

(4) The residue is generated by processing recycled materials that are to be sold, used, or reused within 90 days of the time when the material is processed.

The bill eliminates the requirement that residue must be solid waste in order to be automotive shredder residue. The bill also specifies that automotive shredder residue is exempt from the fees that apply to the transfer or disposal of solid waste and the fees for the generation of solid waste within a solid waste management district when both of the following apply:

--The residue conforms to specifications that result in a residue of uniform consistency resembling dirt or mulch; and

--The particulate pieces that make up the residue do not exceed three inches in diameter.

The bill also authorizes automotive shredder residue that complies with the requirements above to be used as daily cover if the residue can provide protection comparable to six inches of soil. The bill specifies that automotive shredder residue that does not comply with the above two requirements is a solid waste, as under current law, and thus is subject to the fees that apply to the transfer or disposal of solid waste and the fees for the generation of solid waste within a solid waste management district.

OHIO ETHICS COMMISSION

Ethics Law

- Expands the types of travel expenses that a public official or employee may accept from certain organizations without violating the Ethics Law.

Financial disclosure statement for faculty members

- Requires a faculty member of a state institution of higher education that assigns textbooks for a course taught by the faculty member to file a financial disclosure statement.

- Prohibits a faculty member required to file a statement from serving as a member on the Ohio Ethics Commission.

- Creates a penalty for a faculty member who knowingly fails to file the statement on or before the deadline and for a faculty member who knowingly files a false statement.

Ethics Law

(R.C. 102.01 and 102.03; Sections 110.10, 110.11, and 110.12)

The bill expands the types of travel expenses that a public official or employee may accept from certain organizations without violating the Ethics Law, which generally prohibits a public official or employee from receiving anything of value that is of such a character as to manifest a substantial and improper influence on the person with respect to the person's duties.

Financial disclosure statement filers

The bill allows a public official or employee who is required to file financial disclosure statements under the Ethics Law (a filer) to accept payment of event registration fees from a qualifying organization at its meeting or convention. Currently, a filer may accept only payment of the filer's actual travel expenses, including lodging and meals, food, and beverages, for the purpose of the meeting or convention.[107]

[107] See R.C. 102.02(A)(1), not in the bill, for a list of public officials and employees who are filers.

Further, the bill expands the types of organizations from which a filer may accept those payments. Existing law allows those payments to come from a national organization to which any state agency or state institution of higher education pays membership dues. Under the bill, a national, state, or regional organization to which any state agency, institution of higher education, or political subdivision pays membership dues may provide those expenses.

Under continuing law, any public official or employee also may accept travel, meals, and lodging expenses in connection with conferences, seminars, and similar events related to the person's official duties if the expenses are not of such a character as to manifest a substantial and improper influence upon the person with respect to the person's duties.

Nonfilers

Under the bill, a public official or employee who is not required to file financial disclosure statements (a nonfiler) may accept payment of event registration fees, actual travel and lodging expenses, or meals, food, and beverages provided to the person by a national, state, or regional organization to which a state agency, state institution of higher education, or political subdivision pays membership dues at a meeting or convention of that organization. Current law does not include such an exception for nonfilers to the general prohibition against accepting anything of value.

Continuing law permits a nonfiler to accept an honorarium or the payment of travel, meal, and lodging expenses if (1) it was paid in recognition of the nonfiler's demonstrable business, professional, or esthetic interests that exist apart from the nonfiler's public office or employment, including a demonstrable interest in public speaking, and (2) it was not paid by any person or entity that is regulated by, doing business with, or seeking to do business with the nonfiler's governmental entity or by any representative or association of those persons or entities.

Additionally, as mentioned above, any public official or employee may accept travel, meals, and lodging expenses in connection with conferences, seminars, and similar events related to the person's official duties if the expenses are not of such a character as to manifest a substantial and improper influence upon the person with respect to the person's duties.

Continuing law exceptions

Under continuing law, a member of the board of a state retirement system, a state retirement system investment officer, or an employee of a state retirement system whose position involves substantial and material exercise of discretion in the

investment of retirement system funds may not accept travel expenses, including lodging and meals, from any source.

And, a member, executive director, or employee of the Ohio Casino Control Commission may not accept anything of value, including travel expenses, from a casino operator, management company, or other person subject to the jurisdiction of the Commission or from an officer, attorney, agent, or employee of such a person.

Financial disclosure statement for faculty members

(R.C. 102.023, 102.05, 102.06, 102.09, and 102.99)

Financial disclosure requirements

The bill requires a faculty member of a state institution of higher education that assigns textbooks for a course taught by the faculty member to file a financial disclosure statement. Under current law, only professors whose position involves the performance, or authority to perform, administrative or supervisory functions are required to file financial disclosure statements.[108]

The bill also requires a state institution of higher education to provide a statement to any faculty member it employs or promotes that is required to file a statement under the bill. The statement must include the following information:

--Name of the faculty member filing the statement and each member of the faculty member's immediate family and all names under which the faculty member or members of the faculty member's immediate family do business;

--Source of each gift over $25 received from any person that represents or has an interest in supplying or making available textbooks for purchase;

--Identification of the source of payment of expenses incurred for travel that is received by the faculty member in connection with the faculty member's official duties, except for travel to meetings or conventions of a national or state organization to which any state institution of higher education pays membership dues;

--Identification of the source of payment of expenses for meals and other beverages, other than for meals and other food and beverages provided at a meeting where the faculty member participated in a panel, seminar, or speaking engagement.

[108] R.C. 102.01(B), not in the bill.

Ohio Ethics Commission

The bill requires a faculty member to file a statement, either in person, by mail, or electronically, by May 15 of each year, along with a $35 filing fee, to the Ohio Ethics Commission. The Commission may extend a filing deadline for good cause and must deposit all receipts, including any fees, received by the Commission into the Ohio Ethics Commission Fund. The Commission must also make the financial disclosure statements available for public inspection at a location designated by the Commission. Additionally, the bill prohibits a faculty member required to file a statement from serving as a member of the Ohio Ethics Commission.

Penalties

The bill adds two criminal penalties regarding the filing of statements under the bill. A faculty member who knowingly fails to file the statement on or before the filing deadline is guilty of a fourth degree misdemeanor. A faculty member that knowingly files a false financial disclosure statement is guilty of a first degree misdemeanor.

OHIO FACILITIES CONSTRUCTION COMMISSION

Agency administration of facilities projects

- Permits the Department of Administrative Services (DAS), 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.

- Specifies that the powers of the Ohio Facilities Construction Commission (OFCC) do not extend to letting or administering contracts that fall under the power of DAS to make changes to existing facilities.

- Provides that a contract awarded by DAS takes precedence over the authority of the OFCC.

Contractor debarment

- Allows the Executive Director of the 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 the OFCC.

OFCC membership

- Adds two senators appointed by the Senate President and two representatives appointed by the Speaker of the House as nonvoting members of the OFCC.

- Specifies that the senators must not be from the same political party and that the representatives must not be from the same political party.

- 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.

- Specifies that the member appointed by the Governor prior to the bill's effective date serve the remainder of the member's term, and, 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.

Cost of segments of certain school districts' facilities projects

- Specifies that, if a district satisfies certain conditions, the district's portion of the cost for a second or subsequent segment of a facilities project must be based on the district's current percentile ranking (rather than the district's percentile ranking on the date the project was segmented).

Repeal of reporting requirements

- 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 facilities projects

(R.C. 123.21, 123.211 (formerly Section 529.10 of S.B. 310 of the 131st G.A.), and 153.01)

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.

The bill also specifies that the law governing the OFCC does not interfere with the power of DAS to prepare plans for, maintain, equip, furnish, improve, renovate, repair, remodel, or rehabilitate existing facilities and that the OFCC's powers do not extend to letting or administering contracts let by DAS. A contract awarded by DAS takes precedence over the OFCC's authority.

Under continuing law, the Executive Director of the OFCC may authorize the following agencies to administer a project whose estimated cost is less than $1.5 million, 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 adds four legislators as nonvoting members of the OFCC, which currently consists of the Director of Budget and Management and the Director of Administrative Services or their designees and a member appointed by the Governor. Two legislative members must be senators appointed by the President of the Senate, and two must be representatives appointed by the Speaker of the House. The senators must not be members of the same political party, and the representatives must not be members of the same political party.

The Speaker and the President must make their appointments by January 31 of an odd-numbered year, and the appointments must be for the duration of that General Assembly (that is, until January 1 of the next odd-numbered year). A legislative seat on the OFCC becomes vacant if the legislator ceases to serve in the relevant chamber of the General Assembly. A vacancy in a legislative seat must be filled in the same manner as for original appointments by the 31st day after the seat becomes vacant. Currently, four legislators serve on the SFC under the same conditions.

Additionally, the Governor's appointment to the OFCC must be an administrative department head who is not the Director of Budget and Management or the Director of Administrative Services. 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 appointed by the Governor and the manner for filling a vacancy for that member's position.

The bill specifies that the member appointed by the Governor before 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 appoint a member to the OFCC as provided by the bill.

Cost of segments of certain school districts' facilities projects

(R.C. 3318.037)

The Classroom Facilities Assistance Program (CFAP) provides each city, local, and exempted village school district with partial funding to address all of the district's classroom facilities needs. It is a graduated, cost-sharing program where a district's portion of the total cost of the project and priority for state funding are based on the district's relative wealth. The poorer districts are served first and receive a greater amount of state assistance than wealthier districts will receive when it is their turn to be served based on their respective wealth percentile. For this purpose, each year, all the districts are ranked into percentiles according to the three-year average adjusted (tax) valuations per pupil.

A school district may divide the district's entire classroom facilities project under CFAP into discrete segments.[109] If it does so, under current law, the district's portion of the cost for all segments of the project must be the "required percentage of the basic project cost" based on the district's percentile ranking on the date the project was segmented (that is, the district's percentile ranking times 1%).[110] The bill specifies that, if a district satisfies the criteria specified below, that district's portion of the project cost for a second or subsequent segment must be the "required percentage of the basic project cost" based on the district's *current* percentile ranking for the fiscal year in which the district seeks funding for the new segment, rather than the earlier percentile.

In order to be eligible, a district must satisfy all of the following criteria:

(1) The district executed the agreement for the project that was segmented;

(2) The district has undertaken one or more segments of that project; and

[109] R.C. 3318.034.

[110] R.C. 3318.032.

(3) Since the original project agreement was executed, the district has experienced a decrease in its three-year adjusted valuation per pupil such that the district's current percentile ranking is lower than its percentile ranking on the date the district executed the original agreement for the project.

The bill's provisions do not apply to large urban districts participating in the Accelerated Urban Program.

Repeal of reporting requirements

(Repealed R.C. 123.27)

The bill repeals the law that requires both:

(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.

OFFICE OF THE GOVERNOR

Antitrust review by CSI Office

- Requires the Common Sense Initiative Office to review and approve or disapprove actions or proposed actions that have been referred to the Office 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 Office.

- 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 Office.

- Requires a person to obtain a determination from the Office 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 Office 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 Office's review any action in which members of the board or commission who are members of the profession affected by the action are statutorily prohibited from participating in the action.

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

Ohio Institute of Technology

- 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.

Health Services Price Disclosure Study Committee

- Eliminates the Health Services Price Disclosure Study Committee in the Governor's Office of Health Transformation.

Antitrust review by CSI Office

(R.C. 107.56)

The bill requires the Common Sense Initiative Office to review and approve or disapprove certain board or commission actions that have been referred to the Office (see "**Reviewable actions**," below). Only certain entities may refer an action to the Office for review (see "**Parties**," below). The Office 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:

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 Speech and Hearing Professionals Board

Boards expressly subject to antitrust review				
State Cosmetology and Barber Board	Manufactured Homes Commission	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	Chemical Dependency Professionals Board	State Board of Psychology	State Dental Board
State Medical Board	State Veterinary Medical Licensing Board	State Vision Professionals Board	State Chiropractic Board	Counselor, Social Worker, and Marriage and Family Therapist Board
Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board				

Reviewable actions

Under the bill, the Office must review board or commission actions referred to the Office 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 Office, unless the action is referred to the Office 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 or has not complied with 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 Office if members of the board or commission who are members of the profession affected by the action are statutorily prohibited from participating in the action.

Parties

The bill allows the following parties to refer an action to the Office 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 Office 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 Office 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 Office. 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 Office 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 Office finds the action to be consistent with a clearly articulated state policy, the Office 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 Office must approve an action if the Office 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 Office must disapprove an action if the Office 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 Office. If the Office disapproves an action, the action is void.

The Office must prepare a written memorandum that explains the Office's approval or disapproval. The Office must transmit a copy of the memorandum to all parties involved in the review and post it to the CSI 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 Office for review within 30 days after receiving notice of the action. If a person refers an ongoing or proposed action to the Office for review, the board or commission must cease the action or refrain from taking the action until the Office 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 Office 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 Office, 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 Office has completed and transmitted the memorandum described under "**Procedure**," above.

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.

Health Services Price Disclosure Study Committee

(Section 620.10 (repealing Section 7 of H.B. 52 of the 131st G.A.))

The bill eliminates the Health Services Price Disclosure Study Committee in the Governor's Office of Health Transformation. The Committee was created in 2015 to study the impact and feasibility of carrying out law (unchanged by the bill, but not yet implemented due to a pending lawsuit) that requires a medical services provider to present to a patient a written cost estimate before performing any nonemergency service or procedure.[111]

[111] R.C. 5162.80, not in the bill.

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.

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.

- 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.

Nursing home inspection not needed to increase capacity

- Provides that a nursing home does not need to be inspected before the Director of Health increases its licensed capacity if the new beds are placed in an area that was inspected as part of the most recent previous inspection of the nursing home.

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.

Hospital nurse staffing plan

- Requires each hospital to have its own nursing services staffing plan reviewed by the hospital's nursing care committee at least once every two years rather than annually.

- Requires a hospital, not later than March 1 each even-numbered year, to submit to ODH its nursing services staffing plan in effect at that time.

Vital statistics fees to benefit Children's Trust Fund

- Increases to $6 (from $3 in existing law) the fee for a certified copy of a birth record, a certification of birth, or a copy of a death record.

- Increases to $14 (from $11 in existing law) the fee that a court of common pleas may charge to file for a divorce decree or a decree of dissolution.

State Board of Sanitarian Registration

- Eliminates the State Board of Sanitarian Registration and transfers the Board's duties and powers regarding the regulation of sanitarians-in-training and sanitarians to the Director of Health.

- Requires the Director to establish an advisory board to advise the Director regarding the registration of sanitarians-in-training and sanitarians and other matters.

- Reduces by 25% the amount in current law that the Director can charge for an application for registration as a sanitarian or a sanitarian-in-training or for a late fee.

Aquatic amusement rides

- Subjects aquatic amusement rides to ODH approval and to inspection and licensure by city and general health districts.

Authority to regulate lead abatement

- Specifies that ODH has the sole and exclusive authority to regulate and adopt rules governing lead abatement activities in Ohio and that such regulation is for the

benefit of employees in accordance with Article II, Section 34 of the Ohio Constitution.

Breast and Cervical Cancer Project

- Requires the ODH to set new eligibility requirements for services provided through the Ohio Breast and Cervical Cancer Project (BCCP).

- Requires ODH to adopt rules specifying the cost sharing limit for each screening and diagnostic service that may be obtained through the BCCP.

- Repeals a provision that permits the BCCP to use remaining contributed funds, after paying for screening, diagnostic, and outreach services provided by local health departments, federally qualified health centers, or community health centers, to pay for services provided by other providers.

Health Care Compact

- Adopts "The Health Care Compact," which permits Ohio to become a member state and, along with other member states, enact the Compact.

- Provides the legislature of a member state with the primary responsibility to regulate health care.

- Authorizes a member state to suspend the operation of any federal law, rule, regulation, or order regarding health care that is inconsistent with laws and regulations adopted under the Compact.

- Provides a member state with federal money up to an amount equal to the member state's current year funding level for that federal fiscal year.

- Establishes the Interstate Advisory Health Care Commission, which consists of members appointed by each member state.

- Specifies that the Compact is effective upon its adoption by at least two member states and consent of Congress.

Smoke Free Workplace Act; research exception

- Exempts, from the Smoke Free Workplace Act, qualifying enclosed spaces in certain laboratory facilities when used for clinical research activities related to the health effects of smoking or the use of tobacco.

Help Me Grow Program

- Clarifies that the Help Me Grow Program has two components (home visiting and part C early intervention services) and that ODH is the lead agency for the former, while the Ohio Department of Developmental Disabilities (ODDD) is the lead agency for the latter.

- Requires that families be referred to appropriate part C early intervention services (in addition to home visiting services) through the central intake and referral system created under existing law.

- Requires ODH to enter into an interagency agreement with ODDD to implement the Help Me Grow Program and distribute Program funds to ODDD in accordance with a formula in the agreement.

Central intake and referral – home visiting and early intervention

- Requires ODH and ODDD to rescind any requests for proposals (RFP) issued for a person or government entity to operate the central intake and referral system for home visiting services required by recently enacted law and, instead, to issue a new RFP that meets requirements specified in the bill.

- Requires that the central intake and referral system serve as a single point of entry for access, assessment, and referral of families to part C early intervention services, in addition to home visiting services.

Palliative care facility licensure – correction of drafting error

- Repeals a provision regarding palliative care facility licensure that was inadvertently enacted because of an LSC drafting error while preparing a committee report.

Prohibited conduct in recreational vehicle parks

- Prohibits certain felonious conduct (nuisance activities) in recreational vehicle parks and combined use park camps.

- Requires the local board of health to send notice to the park operator, after the occurrence of two nuisance activities on the park property, that the operator is at risk of losing its license if another nuisance activity occurs within a six-month period.

- Requires the camp licensing entity to revoke a park operator's license if the licensing entity receives notice that three or more nuisance activities have occurred in the park in a six-month period.

Certificates of need

- Requires the ODH Director to administer an expedited review process for the Certificate of Need program in addition to the process currently in use.

- Provides that a change in the owner or operator of a long-term care facility for which a certificate of need was granted that occurs during the five-year period of monitoring by ODH is not a reviewable activity unless the new owner or operator is associated with certain violations specified in existing law.

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.

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.[112] "Physical abuse" continues to be defined as knowingly causing physical harm or recklessly causing serious physical

[112] R.C. 2907.01, not in the bill.

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, 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.

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.

Nursing home inspection not needed to increase capacity

(R.C. 3721.02)

The bill provides that a nursing home does not need to be inspected before the Director of Health increases its licensed capacity if the beds being added are placed in an area of the nursing home that was inspected as part of the most recent previous inspection of the nursing home. Existing law requires the Director to inspect a nursing home at least once before it is licensed and at least once every 15 months thereafter.

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.

Hospital nurse staffing plan

(R.C. 3727.54)

Under law unchanged by the bill, each hospital must create an evidence-based, written nursing services staffing plan guiding the assignment of all nurses in a hospital. The plan must, at a minimum, reflect current standards established by private accreditation organizations or governmental entities.[113]

The bill requires a hospital's nursing care committee to review the plan at least every two years instead of annually, as required by existing law. It also requires the hospital to submit a copy of its most recent plan to ODH by March 1 of every even-numbered year.

Vital statistics fees to benefit Children's Trust Fund

(R.C. 3109.14)

The bill increases fees on certain vital statistics records that are deposited in the Children's Trust Fund:

- Increases to $6 (from $3 in existing law) the fee that authorized state and local officials must charge for a certified copy of a birth record, a certification of birth, or a copy of a death record; and

[113] R.C. 3727.53, not in the bill.

- Increases to $14 (from $11 in existing law) the fee that a court of common pleas may charge to file for a divorce decree or decree of dissolution.

The Children's Trust Fund finances activities of the Children's Trust Fund Board, which must develop and carry out a strategic plan for child abuse and child neglect prevention.[114]

State Board of Sanitarian Registration

(R.C. 4736.02, 4736.03, 4736.05, and 4736.12; repealed R.C. 4736.16; conforming changes in numerous other R.C. sections; Sections 515.13 and 737.30)

Elimination of the Board and transfer of authority

The bill eliminates the State Board of Sanitarian Registration and transfers the Board's duties and powers to the Director of Health. Such powers and duties include all of the following:

(1) Furnishing applications to, and conducting written examinations of, anyone applying to register as a sanitarian or sanitarian-in-training;

(2) Registering sanitarians and sanitarians-in-training;

(3) Establishing education criteria for sanitarians and sanitarians-in-training;

(4) Administering a continuing education program in subjects relating to practices of the profession as a sanitarian that incorporates the use and application of new techniques, scientific advancements, and research findings in the profession;

(5) Charging and collecting application, renewal, and late fees; and

(6) Denying, refusing to renew, revoking, or suspending a certificate of registration for unprofessional conduct, the practice of fraud or deceit in obtaining a certificate of registration, dereliction of duty, incompetence in the practice of environmental health science, or for other good and sufficient cause.

The bill specifies that all rules, orders, and determinations of the Board continue in effect as if made by the Director until modified or rescinded by the Director. Further, all certificates, registrations, and continuing education credit issued by the Board remain valid. Any unfinished business of the Board and any pending action or proceeding by or against the Board may be handled by the Department of Health or the Director, as appropriate.

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[114] R.C. 3109.17, not in the bill.

Sanitarian Advisory Board

The bill also establishes the Sanitarian Advisory Board, which is a seven-member board that is required to advise the Director regarding all of the following:

(1) The registration of sanitarians-in-training and sanitarians;

(2) Continuing education requirements for sanitarians;

(3) The administration of sanitarian examinations;

(4) The education criteria for sanitarians and sanitarians-in-training; and

(5) Any other matter as may be of assistance to the Director in the regulation of sanitarians and sanitarians-in-training.

The bill requires the Director to appoint the members of the Board with the advice and consent of the Senate for terms established in accordance with rules adopted by the Director.

Reduction of sanitarian registration fees

The bill also reduces, by 25%, the amount that the Director can charge for an application for registration as a sanitarian or a sanitarian-in-training, an application for registration renewal, and for late registration renewal.

The fees under current law and as modified by the bill are as follows:

Sanitarian and sanitarian-in-training fees		
Type of fee	**Current law**	**The bill**
For sanitarians-in-training to apply for registration as sanitarians	$80	$60
For persons other than sanitarians-in-training to apply for registration as sanitarians	$160	$120
Renewal fee for registered sanitarians	$90	$67.50
Renewal fee for sanitarians-in-training	$90	$67.50
Additional late fee for renewal	$75	$56.25

Under current law, unchanged by the bill, these fees may be increased with the approval of the Controlling Board so long as the increased fees do not exceed the statutorily established amounts by more than 50%.

Aquatic amusement rides

(R.C. 1711.53, 3749.01, 3749.02, 3749.03, 3749.04, 3749.05, 3749.06, and 3749.07; Section 737.40)

The bill subjects aquatic amusement rides built or renovated after the bill takes effect to approval by ODH. Beginning April 2018, all aquatic amusement rides are subject to inspection and licensure by city and general health districts. The bill does this by removing the exemption for special use pools in amusement areas from such approval, inspection, and licensure. All amusement rides are subject to approval, inspection, and licensure by the Department of Agriculture (AGR) under continuing law. ODH approves, and city and general health districts inspect and license, all public swimming pools, public spas, and special use pools under current law, but aquatic amusement rides are exempt as a type of special use pool. Under the bill, aquatic amusement rides are subject to approval by ODH and AGR, and subject to inspection and licensure by health districts and AGR.

Authority to regulate lead abatement

(R.C. 3742.04)

The bill declares that ODH has the sole and exclusive authority in Ohio to compel, prohibit, license, regulate, and adopt rules governing lead abatement activities (with the exception of authority delegated by the Revised Code to boards of health). The bill also declares that, in accordance with Article II, Section 34 of the Ohio Constitution, the purpose of Ohio's law governing lead abatement is to protect the comfort, safety, and general welfare of employees and others who may encounter lead and lead-based paint. Therefore, the bill declares that it is the intent of the General Assembly that the Revised Code and rules adopted under it be the sole and exclusive means by which lead abatement activities may be compelled, prohibited, licensed, or regulated. Any law or rule governing the abatement of lead, lead-based paint, or the employment or licensing of lead abatement professionals who abate lead and lead-based paint enacted or adopted by a political subdivision before or after the effective date of the bill is void.

Article II, Section 34 of the Ohio Constitution provides a general grant of authority to the General Assembly to enact laws providing for the comfort, health, safety, and general welfare of employees. This constitutional authority is to the exclusion of and supersedes any other authority granted in the Ohio Constitution, including the municipal home rule amendments in Article XVIII of the Ohio Constitution. Notwithstanding the bill's declaration that Ohio's lead abatement law is enacted in accordance with Article II, Section 34, it is unclear how a court would rule

with regard to any conflict between the bill and a municipal ordinance governing lead abatement.

Additional provisions governing lead abatement

The bill authorizes ODH, in the furtherance of its sole and exclusive authority, to enter into cooperative agreements with other state agencies for advice and consultation. The bill declares that any cooperative agreements do not confer on other state agencies any authority to administer or enforce the law governing lead abatement. In addition, the bill declares that the cooperative agreements do not dilute or diminish the Department's sole and exclusive authority.

With regard to rules adopted by ODH governing lead abatement, the bill declares that the rules must be adopted in accordance with the Administrative Procedure Act and must include procedures and requirements governing all of the following:

(1) The dissemination of information for purposes of educating persons who own, dwell, or work in homes containing lead or lead-based paint through affirmations, warnings, and guidelines;

(2) The dissemination of information for purposes of training lead abatement employees to address the hazardous duties and inherent risks associated with lead abatement and testing; and

(3) The gathering of data to improve the implementation of the laws governing lead abatement.

Breast and Cervical Cancer Project (BCCP)

(R.C. 3701.144 and 3701.601)

Eligibility

The bill requires ODH to set new eligibility requirements for services provided through the Ohio Breast and Cervical Cancer Project (BCCP). The BCCP constitutes Ohio's participation in the National Breast and Cervical Cancer Early Detection Program, which the bill codifies in the Revised Code. The BCCP must be administered in accordance with the federal Breast and Cervical Cancer Mortality Prevention Act of 1990,[115] as well as ODH's grant agreement with the U.S. Centers for Disease Control and Prevention.

[115] 42 United States Code (U.S.C.) 300k *et seq*. Title XV of the federal Public Health Service Act.

The following table compares the BCCP's current eligibility criteria[116] with the eligibility requirements ODH must establish under the bill.

Ohio Breast and Cervical Cancer Project Eligibility		
	Current Eligibility Requirements	**Eligibility Requirements Under the Bill**
Income	Low income.	Not more than 250% of the federal poverty level (FPL).
Health insurance status	Uninsured.	Any of the following: • Uninsured; • Covered by health insurance that excludes the screening or diagnostic services the woman seeks through the BCCP; or • Covered by health insurance that imposes cost sharing for the services the woman seeks through the BCCP that exceeds the limit specified by the Director of Health in rules.
Covered services	• Pap tests and clinical breast exams covered for women ages 40 and older. • Mammograms covered for: ➢ Any woman age 50 and older; ➢ A woman age 40 to 49 if indicated by a clinical breast exam, family history, or other factors.	• Cervical cancer screening and diagnostic services for women ages 21 to 64. • Breast cancer screening and diagnostic services for: ➢ Any woman age 40 to 64; or ➢ A woman age 25 to 39 who has been determined by a physician to need breast cancer screening and diagnostic services due to the results of a clinical breast examination, the woman's family history, or other factors.

Rules

Under the bill, the Director of Health must adopt rules specifying the cost sharing limit for each screening and diagnostic service that may be obtained through the BCCP. The bill defines "cost sharing" in the same manner as existing law governing

[116] Ohio Department of Health, *BCCP Program Eligibility*, available at https://www.odh.ohio.gov/health/cancer/bccp/bc_elig.aspx.

insurance coverage for orally administered cancer medications.[117] Under that definition, "cost sharing" means the cost to an individual insured under an individual or group policy of sickness or accident insurance or a public employee benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the policy or plan.[118]

The Director may adopt other rules as necessary to implement the BCCP provisions. All rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

Exclusive use of BCCP funds

(R.C. 3701.601)

The bill repeals a provision that permits the BCCP to use funds contributed to the BCCP to pay for services by other providers after paying for screening, diagnostic, and outreach services from local health departments, federally qualified health centers (FQHCs), or community health centers. As a result, those funds must only be used to pay local health departments, FQHCs, and community health centers for screening, diagnostic, and outreach services. Under continuing law, the BCCP is funded by donations made through an income tax refund contribution check-off box and direct personal contributions.

Health Care Compact

(R.C. 190.01 and 190.02)

Purpose of the Compact

The bill adopts "The Health Care Compact" and makes Ohio a member state, along with any other state that has legally joined the Compact. The Compact's purpose is to allow a state who wants to protect individual liberty and personal control over its "health care" (see "**Definitions**," below) decisions to authorize its legislature with that regulatory responsibility. Any regulation by the member states will be done with the goal to improve health policy in their respective jurisdictions. The Compact is effective upon its adoption by at least two member states and the consent of Congress.[119]

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[117] R.C. 3701.144(A).

[118] *See* R.C. 3923.85, not in the bill.

[119] A law or regulation enacted under the authority of the Compact must not conflict with the Ohio Constitution, Article I, Section 21.

State control

A member state may suspend, through legislation, the operation of all federal laws, rules, regulations, and orders regarding health care that are inconsistent with the laws and regulations adopted by the state. Federal and state laws, rules, regulations, and orders regarding health care will remain in effect unless a member state expressly suspends them pursuant to the Compact. For any federal law, rule, regulation, or order that remains in effect in a member state after the "effective date" (see "**Definitions**," below), that member state is responsible for the associated funding obligations of its state.

Funding

A member state is entitled to federal money from Congress each federal fiscal year,[120] as mandatory spending and not subject to annual appropriation, to support the exercise of member state authority under the Compact. The money a member state is entitled to each fiscal year will be up to an amount equal to its member state current year funding level (see "**Definitions**," below) for that fiscal year. Congress will establish an initial member state current year funding level, based upon reasonable estimates, for each member state by the start of each fiscal year. The final member state current year funding level will be calculated and funding reconciled by Congress based on information provided by each member state and audited by the U.S. Government Accountability Office.

Amendments and withdrawal

The member states may amend the Compact, by unanimous agreement at any time. An amendment is effective unless Congress disapproves of the amendment within one year. Any member state may withdraw from the Compact by enacting a law stating the withdrawal. The withdrawal is effective six months after the Governor of the state withdrawing gives notice of withdrawal to the other member states.

Interstate Advisory Health Care Commission

The bill establishes the Interstate Advisory Health Care Commission. The Commission's purpose is to study health care issues of particular concern to member states and make recommendations. The Commission will also collect information and data to assist member states with health care regulation, specifically through assessing the performance of various state health care programs and compiling information on the prices of health care. The Commission is funded by the member states as agreed to by the member states.

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[120] A federal fiscal year begins on October 1 and ends on September 30. 2 U.S.C. 602.

The Commission will consist of members appointed by each member state through a process determined by that member state. In Ohio, the Governor will appoint members to the Commission not later than 30 days after the Compact is entered into and ratified by Congress. A member state may not appoint more than two members and may withdraw membership at any time. The Commission may also adopt and publish bylaws and policies. The Commission can only act if a majority of the members are present and cannot take any action within a member state that contradicts a state law of that member state.

Definitions

Under the bill:

"**Health care**" means care, services, supplies, or plans related to the health of an individual, including:

- Preventative, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling, service, assessment, or procedure with respect to the physical or mental condition or functional status of an individual or that affects the structure or function of the body;

- Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription; and

- An individual or group plan that provides, or pays the cost of, care, services, or supplies related to the health of an individual, except any care, services, supplies, or plans provided by the U.S. Department of Defense and U.S. Department of Veterans Affairs, or provided to Native Americans.

"**Member State Current Year Funding Level**" means the Member State Base Funding Level multiplied by the Member State Current Year Population Adjustment Factor multiplied by the Current Year Inflation Adjustment Factor.

"**Member State Base Funding Level**" means a number equal to the total federal spending on health care in the member state during federal FY 2010. On or before the "effective date," each member must determine the Member State Base Funding Level for its state, and that number is binding upon that member state. The preliminary estimate of Member State Base Funding Level for Ohio is $35,043,000,000.

"**Member State Current Year Population Adjustment Factor**" means that average population of the member state in the current year less the average population of the member state in federal FY 2010, divided by the average population of the

member state in federal FY 2010, plus 1. Average population in a member state is determined by the U.S. Census Bureau.

"**Current Year Inflation Adjustment Factor**" means the total gross domestic product deflator in the current year divided by the total gross domestic product deflator in federal FY 2010. Total gross domestic product deflator is determined by the Bureau of Economic Analysis of the U.S. Department of Commerce.

"**Effective date**" means the date upon which this Compact becomes effective for purposes of the operation of state and federal law in a member state, which is the later of:

(a) The date upon which this Compact is adopted under the laws of the member state; and

(b) The date upon which this Compact receives the consent of Congress pursuant to Article 1, Section 10, of the U.S. Constitution, after at least two member states adopt this Compact.

Smoke Free Workplace Act; research exception

(R.C. 3794.03)

The bill establishes an additional exemption, from the Smoke Free Workplace Act, for certain rooms in a laboratory facility. Specifically, the bill exempts an enclosed space in a laboratory facility at an accredited college or university, when used solely and exclusively for clinical research activities by a person, organization, or other entity conducting institutional review board-approved scientific or medical research related to the health effects of smoking or the use of tobacco products. The bill requires a notice of new research to be filed annually with ODH. Additionally, the research must be conducted in an enclosed space that is not open to the public and that is designed to minimize exposure of nonsmokers to smoke.

Under continuing law, private residences, rooms for sleeping in hotels, family-owned places of employment, rooms in nursing homes, retail tobacco stores, and outdoor patios, are under some circumstances exempt from the Smoke Free Workplace Act.

Help Me Grow Program

(R.C. 3701.61)

Components – clarification regarding agency leads

Help Me Grow is a program established by ODH under existing law to encourage early prenatal and well-baby care, provide parenting education to promote the comprehensive health and development of children, and provide early intervention services for individuals with disabilities. The home visiting component of Help Me Grow operates in all 88 counties and provides first-time parents having incomes of not more than 200% of the federal poverty level (as well as families whose children are at-risk for poor birth and poor early childhood outcomes) with information, support, and encouragement in their homes. The early intervention services component of Help Me Grow provides eligible infants and toddlers with services consistent with part C of the federal Individuals with Disabilities Education Act ("IDEA")[121] and regulations implementing that part.[122] ODDD serves as the "lead agency" under IDEA for the early intervention services component.[123]

The bill clarifies in the statute establishing the Help Me Grow Program that the Program has two components – home visiting and part C early intervention services – and that ODH is the lead agency for the former, while ODDD is the lead agency for the latter.

Part C early intervention services component

Intent and goals

The bill specifies that the part C early intervention services component of the Help Me Grow Program is to be the state's system for the provision of coordinated early intervention services to children under age three who have developmental delays or disabilities and meet eligibility requirements established in rules adopted by ODDD. The bill also specifies that it is the General Assembly's intent that early intervention services be grounded in the philosophy that young children learn best from familiar people in familiar settings. Accordingly, each family with a child who receives early intervention services must be a member of a local early intervention services team that includes not only the family but also a service coordinator and service providers. The

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[121] 20 U.S.C. 1431 *et seq*.

[122] 34 C.F.R. part 303.

[123] R.C. 5123.02(F), not in the bill.

bill requires that team members work together to ensure that a child is accessing available supports and resources to enhance the child's learning and development.

The bill additionally requires that the goals of the part C early intervention services component of the Help Me Grow Program be consistent with goals and intent for the federal part C early intervention program, as expressed by the U.S. Department of Education.

Interagency agreement

The bill requires the Director of Health to enter into an interagency agreement with ODDD, as is permitted under existing law,[124] to implement the Help Me Grow Program and ensure coordination of early childhood programs. Under existing law, the Director is permitted to enter into an interagency agreement with one or more state agencies to implement the Program and ensure coordination of early childhood programs.

Fund distribution

The bill requires the Director of Health to distribute Help Me Grow Program funds in accordance with a formula included in the interagency agreement described above. Under current law, the Director is permitted (but not required) to distribute the funds through contracts, grants, or subsidies to entities providing services under the Program.

The bill requires that the amount distributed to ODDD in accordance with the formula be proportional to the number of referrals that ODDD receives through the central intake and referral system for home visiting and early intervention services required under existing law (see below). The Director may distribute the remaining Help Me Grow Program funds through contracts, grants, or subsidies to entities providing home visiting services under the Program.

Central intake and referral – home visiting and early intervention

(R.C. 3701.611; Section 291.60)

Recently enacted law[125] requires ODH and ODDD to create, by October 6, 2017, a central intake and referral system for the Part C Early Intervention Services Program and all home visiting programs in Ohio. The system must comply with federal IDEA

[124] R.C. 5123.024, not in the bill.

[125] This law was enacted by Sub. S.B. 332 of the 131st General Assembly.

regulations. Through a competitive bidding process, ODH and ODDD are permitted to select one or more persons or government entities to operate the system.

The bill requires ODH and ODDD to immediately rescind any RFP that they have issued for a person or government entity to operate the central intake and referral system. ODH and ODDD are then required to issue a new RFP in accordance with existing requirements as well as the following new requirements:

--First, ODH and ODDD must, before issuing an RFP to operate the system, consult with the appropriate stakeholders to identify best practices and coordinate goals to ensure adequate access to services offered through the system. The RFP must require bidders to specify how they would achieve the best practices and coordinated goals and allow adequate time for bidders to develop the partnerships that are necessary to implement the coordinated goals.

--Second, the selected system operator must ensure that the system:

- Serves as a single point of entry for access, assessment, and referral of families to part C early intervention services (in addition to home visiting services, as required by current law);

- Uses a standardized risk assessment and social determinants of health form or other mechanism for not only assessing each family member's risk factors and social determinants of health, but also for ensuring each family is referred to the appropriate home visiting or part C early intervention program or service;

- Promotes the availability of both home visiting and part C early intervention services; and

- Authorizes providers, central coordinators, and other stakeholders to use Help Me Grow promotional materials for both the home visiting and part C early intervention services components and make the materials accessible through the central intake and referral system.

--Third, the standardized form or other mechanism must be agreed to by the Home Visiting Consortium and Early Intervention Services Advisory Council.

--Fourth, the system operator must issue an annual report to ODH and ODDD that includes data regarding referrals made by the central intake and referral system, costs associated with the referrals, and the quality of services received by families who were referred to services through the system. The report must be distributed to the Home Visiting Consortium and the Early Intervention Services Advisory Council.

The bill specifies that nothing in it prohibits ODH or ODDD from using alternative promotional materials or names for the central intake and referral system, or requires the use of Help Me Grow promotional materials or names.

Palliative care facility licensure – correction of drafting error

(Repealed R.C. 3712.042)

H.B. 470 of the 131st General Assembly included a provision requiring every person or public agency that proposed to operate a palliative care facility to be licensed by the Department of Health. This was a drafting error. An amendment adopted by the Senate Rules and Reference Committee (AM4217) removed this and other provisions regarding the licensure of palliative care facilities; however, in preparing the committee report to reflect that amendment, LSC staff inadvertently failed to remove the text of R.C. 3712.042, and it was enacted. The bill repeals this statute that was enacted in error.

Prohibited conduct in recreational vehicle parks

(R.C. 3729.08 and 3729.14)

The bill prohibits a person from using or operating a recreational vehicle park or combined park-camp (a park with both recreational vehicles and portable camping units) as a chronic nuisance property – a property where three or more nuisance activities have occurred during any consecutive six-month period. The bill also prohibits a park operator from (1) allowing the park or combined park-camp to be used as a chronic nuisance property, or (2) knowingly permitting a person with a campsite use agreement to engage in nuisance activity in the park or combined park-camp. A nuisance activity is:

- A felony drug abuse offense;
- A felony sex offense;
- A felony offense of violence; or
- A felony or specification that includes the possession or use of a deadly weapon, including an explosive or a firearm.

Notice

Under the bill, the local board of health of the health district in which a recreational vehicle park or combined park-camp is located must send notice to the park or combined park-camp operator if the board finds that persons associated with the property have engaged in two or more nuisance activities on the property within

any consecutive six-month period. The operator must send the notice by certified mail, and the notice must:

- Specify the conduct that constitutes the nuisance activity;
- Inform the operator that if any additional nuisance activities occur during the six-month period, the property will be declared a chronic nuisance property and the camp operator's license will be revoked.

If, subsequent to the mailing of the notice, the board learns of another nuisance activity occurring on the property during the six-month period, the board must immediately report to the licensing authority that the property is a chronic nuisance. The licensing authority must immediately revoke the operator's license upon receipt of such information.

The license revocation provisions do not limit any other recourse permitted under law for nuisance conduct.

Certificates of need

(R.C. 3702.52)

Existing law requires a person seeking to engage in an activity regarding a long-term care facility to obtain a certificate of need (CON) from the Director of Health if the activity is a reviewable activity.[126] A long-term care facility is a nursing home, the portion of a facility certified as a skilled nursing facility or nursing facility under federal Medicare or Medicaid law, and the portion of a hospital that contains skilled nursing beds or long-term care beds.[127] Reviewable activities that require a CON include constructing a new long-term care facility or replacing an existing one, renovating a facility at a cost of $2 million or more, increasing bed capacity, and relocating beds.[128]

Expedited CON process

Under existing law, the Director must (1) issue rulings on whether a particular proposed project is a reviewable activity and (2) accept and consider CON applications. The bill requires an expedited review process to be administered in addition to the existing standard review process. The bill specifies that an application for which

[126] R.C. 3702.53, not in the bill.

[127] R.C. 3702.51, not in the bill.

[128] R.C. 3702.511(A), not in the bill.

expedited review is requested must meet the same requirements as all other applications.

Reviewable activity rulings

The bill provides that if an expedited review is requested, a reviewable activity ruling must be issued not later than 14 days after a complete request for a ruling is received by the Director. Under existing law with standard review, the ruling must be issued not later than 45 days after a complete request is received.

CON applications

Under existing law, as part of reviewing CON applications, the Director must determine whether an application is complete. The Director must mail the applicant a written notice that the application is complete or a written request for information not later than 30 days after the application or a response from the applicant is received. The bill provides that for expedited review applications, the Director's notice or request must be mailed not later than 14 days after the application or response is received. The bill also shortens the comment period to 21 days for expedited review applications, from 45 days for standard review applications.

Regarding granting or denying a CON application, the bill provides that in expedited review cases, the application must be granted or denied no later than 30 days after the notice of completeness is mailed. Under existing law with standard review, the application must be granted or denied within 60 days.

Changes in facility ownership during monitoring period

Existing law requires the Director to monitor the activities of a person granted a CON during the period beginning with the granting of the CON and ending five years after implementation of the activity for which the CON is granted. The Director is to determine whether the reviewable activity for which the CON is granted is conducted in substantial accordance with the CON.

Under existing law, a decrease in bed capacity cannot be used as the basis for determining that a reviewable activity is not being conducted in substantial accordance with a CON. The bill adds that a change in the owner or operator of the facility cannot be used as the basis for such a determination, unless the new owner or operator is associated with certain safety or licensing violations specified in existing law.[129] Under this provision, the holder of a CON may transfer or sell a facility during the five-year

[129] See R.C. 3702.59(B), not in the bill.

monitoring period without the new owner or operator being required to apply for a CON and pay an application fee.

DEPARTMENT OF HIGHER EDUCATION

Restriction of instructional fee increases

- Prohibits state universities, university branches, and the Northeast Ohio Medical University from increasing in-state undergraduate tuition and fees.

- Permits community colleges, state community colleges, and technical colleges to increase instruction and general fees by not more than $10 per credit hour over what was charged in the previous academic year.

- Excludes room and board, student health insurance, auxiliary goods or services fees provided to students at cost, noninstructional program fees, pass-through fees for licensure and certification exams, study abroad fees, elective service charges, fines, voluntary sales transactions, and career services from the fee restrictions.

Investigation of fees

- Authorizes the Chancellor to investigate all fees charged to students by state institutions of higher education and to prohibit state institutions from charging any fee the Chancellor determines not to be in the best interest of students.

Textbook study

- Requires state institutions of higher education annually to report to the Efficiency Advisory Committee on its efforts to reduce textbook costs for students.

- Requires state institutions to conduct an annual study of the current costs of textbooks and to submit it to the Chancellor.

Tuition Guarantee Program

- Removes the limit on the one-time tuition increase for each cohort under the Undergraduate Tuition Guarantee Program.

In-state tuition for transferred G.I. Bill beneficiaries

- Qualifies for in-state tuition at state institutions of higher education persons who are receiving transferred G.I. Bill benefits from a service member who is on active duty, rather than only from a veteran who has completed service, as under current law.

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 credit and 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 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 recognize or endorse a regionally accredited private nonprofit institution of higher education created by the governors of several states, a state institution of higher education, or a private nonprofit institution of higher education for the purpose of providing competency-based education programs.

Awarding college credit for comparable coursework

- Prohibits state institutions of higher education from refusing to accept college credit earned in Ohio in the past five years as a substitute for comparable coursework and establishes an assessment-based process for a student to receive credit for coursework earned more than five years ago.

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.

- Qualifies for OCOG students who are enrolled in a short-term certificate program that may be completed in less than one year and for which a certificate or industry-recognized credential is awarded in an in-demand job.

- Requires the Chancellor to determine a new OCOG calculation for students enrolled in a short-term certificate program that does not first apply a student's federal Pell grant to the state cost of attendance.

- 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 universities

- Requires the board of trustees of each state university to review the university's policy on faculty tenure and update that policy to promote excellence in instruction, research, service, commercialization, or any combination thereof.

- Requires a state university to include multiple pathways for tenure in its policy, one of such may be the commercialization pathway, in order to receive specified research funds from the Department of Higher Education.

Post-tenure review at state institutions of higher education

- Requires each state institution of higher education to adopt a policy for post-tenure review and to conduct a post-tenure review of each tenured faculty member at least once every five years.

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.

OSU utility agreement

- Allows the Ohio State University (OSU) to issue a request for proposals and select a special purpose vehicle with whom to enter into a utility agreement to improve the energy efficiency of the utility system on its Columbus, Ohio campus, beginning in calendar year 2017.

- Exempts OSU and the selected special purpose vehicle from several aspects of current law regarding the sales and use tax, public utilities regulation, disposal of

state agency excess or surplus supplies, construction management contracts, public improvements, and use of certain proceeds.

- Provides that a special purpose vehicle cannot own any utility services delivered to the Columbus campus by a public utility, and that OSU must be the customer of record for any public utility providing service to the Columbus campus while the utility agreement is in effect.

- Provides that OSU is not exempt from any applicable public utilities tariffs, applicable rules of the Public Utilities Commission of Ohio, and any other applicable federal or state law.

- Provides that authority regarding the utility agreement requirements terminates upon completion of all obligations under the utility agreement.

University housing, dining, and recreational facilities

- Permits a university housing commission to develop or redevelop housing, dining, and recreation (HDR) facilities on a property site within or outside the political subdivision in which the administrative offices of the university identified with the commission are principally located.

- Applies all of the following regarding certain HDR facility property sites located outside the political subdivision:

    - HDR uses permitted under continuing law are unconditionally permitted on the property sites;

    - Development may accommodate population and structural densities exhibited on other university or university housing commission property;

    - Land use laws of local subdivisions, subdivision regulations, and other similar laws cannot prohibit, condition, limit, or impair development of the HDR facilities on the property sites.

Sick leave for employees of state colleges and universities

- Reduces the amount of sick leave employees of a state college or university are entitled to receive for each 80 hours of service to 3.1 hours from 4.6 hours under current law.

- Prohibits a state college or university from providing sick leave in an amount greater than the sick leave required by statute.

- Prohibits a state college or university from agreeing to a provision in a collective bargaining agreement after the provision's effective date that provides sick leave in an amount greater than the sick leave required by statute.

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

(Section 381.160)

For FYs 2018 and 2019 (the 2017-2018 and 2018-2019 academic years), the bill prohibits each state university, university branch, and the Northeast Ohio Medical University from increasing its in-state undergraduate instructional and general fees over what the institution charged for the 2016-2017 academic year. Moreover, the bill limits community colleges, state community colleges, and technical colleges to not more than a $10 per credit hour increase in their general and instructional fees over what was charged for the previous academic year.

The bill's limits on fee increases explicitly exclude the following:

(1) Room and board;

(2) Student health insurance;

(3) Fees for auxiliary goods or services provided to students at the cost incurred to the institution;

(4) Noninstructional program fees;

(5) Fees assessed to students as a pass-through for licensure and certification exams;

(6) Fees in elective courses associated with travel experiences;

(7) Fines;

(8) Voluntary sales transactions; and

(9) Career services.

As in previous biennia when the General Assembly capped tuition increases, the bill's provisions do 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.

Finally, the bill specifies that the prohibition on increases does not apply to institutions that participate in an undergraduate tuition guarantee program.

Investigation of fees charged by state institutions

(R.C. 3333.0416)

The bill authorizes the Chancellor of Higher Education to investigate all fees charged to students by state institutions of higher education. If the Chancellor finds that the fee is not in the best interest of the student, the Chancellor may prohibit the state institution from charging that fee. However, if the Chancellor prohibits a state institution from charging a fee, the institution may seek approval from the Controlling Board to charge the fee.

Higher education textbook study

(R.C. 3333.951(C) and (D))

The bill requires each state institution of higher education annually to report to the Efficiency Advisory Committee on its efforts to reduce textbook costs to students. Also, each state institution also must conduct a study to determine current textbook costs for students enrolled in the institution and submit that study to the Chancellor annually by a date prescribed by the Chancellor.

Undergraduate tuition guarantee

(R.C. 3345.48)

The bill removes the limitation on the one-time tuition increase per cohort for institutions that participate in the undergraduate tuition guarantee. Under current law, an institution that participates in the program keeps instructional and general fees constant for four years, except for one permitted increase. That increase may be up to 6% for the first cohort that participates in the program and the sum of the five-year average rate of inflation and the percentage the General Assembly restrains the increase on state undergraduate instructional and general fees for the applicable fiscal year for each subsequent cohort. Under the bill, the board of trustees of each institution that participates in the program determines the one-time amount it may increase fees per cohort.

In-state tuition for transferred G.I. Bill beneficiaries

(R.C. 3333.31)

The bill qualifies a person for in-state tuition at state institutions of higher education, if that person is receiving transferred federal veterans' education benefits (either under the Montgomery G.I. Bill or the Post 9/11 G.I. Bill) from a member of the Armed Forces who is on active duty. Under current law, only persons receiving transferred G.I. Bill benefits from a veteran who served at least 90 days on active duty, but has since completed service, qualify for in-state tuition under such transferred benefits.

As under current law, in order to qualify for in-state tuition, the person receiving the transferred G.I. Bill benefits must live in the state as of the first day of a term of enrollment at the state institution.

Current law, unaffected by the bill, qualifies several other persons for in-state tuition at state institutions, including veterans receiving G.I. Bill benefits and recipients of the federal Marine Gunnery Sergeant John David Fry Scholarship. Additionally, subject to certain domicile requirements, a veteran and the veteran's spouse and dependents also qualify for in-state tuition, if the veteran served at least one year on active military duty or was killed in action or declared a prisoner of war (POW) or missing in action (MIA).

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 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. For that purpose, the bill specifies that an "applied bachelor's degree" is a bachelor's degree that is specifically designed for an individual who holds an associate of applied science degree, or the equivalent, in order to maximize application of the individual's technical course credits toward the bachelor's degree and is based on curriculum that incorporates both theoretical and applied knowledge and skills in a specific technical field.

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;

(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.

The Chancellor also may approve a program that does not meet the criteria described above if the program clearly demonstrates a unique approach to benefit the state's system of higher education in the state, as determined by the Chancellor.

"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; Sections 610.50 and 610.51 (amending Section 2 of S.B. 1 of the 130th G.A.))

The bill requires the Chancellor, by January 1, 2018, to create an inventory of credit and 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 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 recognize or endorse 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 any of the following:

(1) A regionally accredited private nonprofit institution of higher education 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;

(2) A state institution of higher education; or

(3) A private, nonprofit institution of higher education.

If an eligible institution is a regionally accredited private, nonprofit institution of higher education that satisfies the requirements described above, the Chancellor may, in recognizing or endorsing the institution, specify the eligibility of students enrolled in the institution for state student financial aid programs, any articulation and transfer policies of the Chancellor that apply to the institution, and the reporting requirements for the institution. However, the bill prohibits the Chancellor from providing any state operating or capital assistance to this type of institution for the purpose of providing competency-based education in Ohio.

Additionally, for *any* eligible institution, the Chancellor may, in recognizing or endorsing that institution eliminate any unnecessary barriers to the delivery of competency-based education, facilitate opportunities to share best practices on the

delivery of competency-based education with any eligible institution, and establish any other requirements that the Chancellor determines are in the best interests of the state.

Awarding college credit for comparable coursework

(R.C. 3345.58)

The bill prohibits state institutions of higher education from refusing to accept college credit earned in Ohio within the past five years as a substitute for comparable coursework offered at the institution. This includes credit earned in advanced or upper level coursework, which must be accepted as a substitute for comparable core or lower level coursework. For college credit earned in Ohio more than five years ago, the bill requires state institutions to (1) permit the student to take a competency-based assessment in the relevant subject area, and (2) if the student passes the assessment, to excuse the student from completing the course and grant the student credit for that course.

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.[130]

[130] O.A.C. 3333-1-09.1(B)(4).

OCOG for short-term certificate students

(R.C. 3333.122)

The bill qualifies for OCOG students, otherwise eligible under current law, who are enrolled in a short-term certificate program. A short-term certificate program is an undergraduate program offered by a state institution of higher education that may be completed in less than one year and that awards a certificate or industry-recognized credential in an in-demand job.

Further, the bill requires the Chancellor to determine a calculation for students in short-term certificate programs that does not apply the student's Pell grant to the state cost of attendance. Current law otherwise continues to apply Pell grants first to a student's state cost of attendance to calculate amounts of OCOG awards.

Ohio National Guard scholarships

(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.

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. If the rules are adopted, any financial assistance received under those federal programs must 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 scholarships

(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:

(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.[131]

Tenure policies at state universities

(R.C. 3345.45)

The bill requires the board of trustees of each state university to review the university's policy on faculty tenure and update that policy to promote excellence in instruction, research, service, commercialization or any combination of those areas.

Beginning January 1, 2018, as a condition to receive higher education Third Frontier research funds, the bill requires each state university to include multiple pathways in its faculty tenure policy. The bill specifies that a commercialization pathway may be one of the included pathways.

Current law requires the Chancellor, jointly with all state universities 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 university must adopt a faculty workload policy (but not necessarily a tenure policy) consistent with those standards.

[131] 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.

Post-tenure review at state institutions of higher education

(R.C. 3345.451)

The bill requires the board of trustees of each state institution of higher education to (1) adopt a policy for conducting post-tenure review that includes development of a comprehensive post-tenure review plan and (2) supply a copy of that plan to all tenured faculty. Each institution's post-tenure review policy must facilitate continued faculty development consistent with the academic needs of the institution and the most effective use of institutional resources and ensure accountability.

Under the bill, each institution must conduct a post-tenure review of each tenured faculty member at least once every five years that indicates whether the faculty member "exceeds expectations," "meets expectations," or "does not meet expectations." A faculty member who is classified as "does not meet expectations" is required to submit a professional performance improvement plan developed in accordance with policies provided through the institution's provost in consultation with the appropriate dean of the college or program. If that faculty member does not show significant improvement in the areas identified in the improvement plan, the faculty member must be subject to discipline, including a reduction in academic rank and dismissal, if appropriate.

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 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.

Ohio State University utility agreement

(Section 749.20)

The bill authorizes Ohio State University, beginning in calendar year 2017, to enter into a utility agreement with a special purpose vehicle to operate, develop, equip, maintain, improve, control, and increase the energy efficiency of the utility system. The bill defines "utility system" as the university-owned system for producing, transforming, or distributing one or more of the following in order to serve OSU's Columbus campus and intended solely for consumption by that campus or OSU's lessees: power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity. The definition includes any building, structure, or facility owned or leased by OSU that is on real property (1) OSU owns or leases, and (2) behind the meter of the public utility service provider serving the Columbus campus.

The bill specifies that the utility system cannot be used to provide or offer communications services. It defines "communications services" as any of the following:

- Telecommunications services, as defined under federal law;[132]
- Cable service, as defined under federal law;[133]
- Information service, as defined under federal law;[134]
- Wireless service;
- Any other one-way or two-way communication service, including Internet access service.

The bill further specifies that the utility agreement cannot permit the special purpose vehicle to take ownership of electricity or natural gas delivered by a public utility. In fact, the bill provides that nothing in the bill should be construed to allow the special purpose vehicle to take ownership of any utility services delivered to the Columbus campus by a public utility. OSU, at all times during the utility agreement, must be the customer of record for any public utility providing utility service to the Columbus campus.

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[132] 47 U.S.C. 153(53).

[133] 47 U.S.C. 522(6).

[134] 47 U.S.C. 153(24).

Request for proposals

OSU must issue a request for proposals (RFP) for managing, maintaining, and improving the utility system and meeting certain energy use and sustainability requirements for the system. The RFP must include all relevant information, including a general description of the project, the proposal submission deadline, the information to be included in the proposal, selection criteria, and the timeline for selection.

OSU may consider any appropriate criteria in evaluating the proposals, including:

- The technical ability of the special purpose vehicle based on its key personnel, corporate structure, organization, and staffing plan;
- The financial ability of the special purpose vehicle based on its approach to financing, sources and uses of funds, and debt structuring;
- The energy conservation measures proposed by the special purpose vehicle.

OSU may evaluate and select a proposal based on qualifications, best value, or both. The bill also permits the evaluation and selection to be done through negotiation. OSU may accept or reject any or all proposals in whole or in part.

Upon selecting a proposal, OSU may enter into an agreement with the selected special purpose vehicle for an amount of time and under other terms and conditions as it determines are necessary and appropriate. The special purpose vehicle is to be paid under the agreement by fees or other consideration OSU determines.

Exemptions

Taxes

Under the bill, OSU-owned property that is leased to the special purpose vehicle is to continue to be tax-exempt, as long as the property is used to operate the utility system for the benefit of the Columbus campus and OSU's lessees under the utility agreement. The bill provides that, for purposes of the sales and use tax, the following are deemed to be sold to OSU under the agreement: (1) building and construction materials to be incorporated into the utility system, and (2) materials related to energy conservation measures to be developed by the special purpose vehicle.

Public utilities

The bill provides that, as long as the utility system serves only OSU-owned or leased buildings, structures, and facilities, the special purpose vehicle will not be considered any of the following:

- A "public utility" under the law governing the Public Utilities Commission's general powers (R.C. Chapter 4905.);
- An "electric services company," for purposes of the competitive electric retail service law (R.C. Chapter 4928.);
- A "retail natural gas supplier," for purposes of the retail natural gas law (R.C. Chapter 4929.);
- An "electric supplier" under the law governing electric and other companies (R.C. Chapter 4933.);

The bill also provides that, to the extent the utility system serves only the Columbus campus or OSU's lessees, OSU and the special purpose vehicle are exempt from the requirement that certain entities must receive certification from the Public Utilities Commission before providing competitive retail electric service.

Also, OSU is not to be considered a "public utility property lessor," for purposes of the public utilities tax law (R.C. Chapter 5727.). The bill provides, however, that nothing in the bill exempts OSU from complying with all of the following:

- Any applicable tariffs of the public utilities from which the Columbus campus receives utility services;
- Any applicable rules of the Public Utilities Commission;
- Any other applicable state or federal law.

Excess or surplus supplies

The bill provides that personal property related to the utility system that is sold or leased to a special purpose vehicle pursuant to the agreement must not be considered excess or surplus supplies for the sole purpose of determining the applicability of Ohio law regulating the disposal of state agency excess or surplus supplies. It also specifies that personal property to be sold to the special purpose vehicle does not include any installed components, in whole or in part, of the utility system.

Other exemptions

The bill specifies that Ohio law governing (1) construction management contracts with public authorities, (2) public improvements, and (3) energy conservation contracts entered into with state institution of higher education boards of trustees, do not apply to any of the following:

- OSU's evaluation or selection of, or contract with, a special purpose vehicle;

- Performance of the following under the utility agreement, provided that the special purpose vehicle uses a best value or competitive selection process to identify the provider: design, demolition, project management, construction, repair, replacement, remodeling, renovation, reconstruction, enlargement, addition, alteration, painting, or structural or other improvements;

- Heating, cooling, or ventilating plants and other equipment installed or materials supplied for any of the activities performed under the agreement.

The bill also specifies that the special purpose vehicle, when selecting the energy conservation measure provider named in the agreement, does not need to practice best value or competitive selection.

Under the bill, OSU is exempt from being required to hold, invest, or use the proceeds of the utility agreement for the same purposes for which proceeds may be used under the laws regarding a university's ability to: (1) acquire housing and dining facilities or auxiliary or education facilities, and (2) establish or develop entrepreneurial projects. This exemption applies notwithstanding current Ohio law that requires state universities to use proceeds from the sale or lease of certain property for the same purposes for which proceeds or borrowings may be used for the above two actions.

Termination

The bill specifies that authority provided regarding the utility agreement requirements terminates on the date that all obligations under the agreement have been completed.

University housing, dining, and recreation facilities

(R.C. 3347.091)

The bill provides that buildings or real property a university housing commission identifies as a property site to develop or redevelop for housing, dining, and recreation (HDR) facilities, need not be situated within the political subdivision in which the administrative offices of the university identified with the commission are principally located.

If the property site is located entirely outside of the political subdivision, but not less than 33% of the property site's boundary is contiguous (the boundary need not be continuous) to other university-owned or leased property, then all of the following apply:

(1) HDR uses permitted under continuing law are unconditionally permitted on the property site.

(2) The property site may be developed to accommodate population and structural densities that match other developed real property and buildings owned or leased by the university or commission for the HDR purposes.

(3) No land use laws enacted by a municipality, township city, or county; subdivision regulation; or similar lawfully binding provision may be enforced, to the extent that they prohibit, condition, limit, or impair either the development of a property site or structural types or dimensions proposed for such purposes.

The bill states that the HDR provisions are not to be construed to impair or prohibit a commission or university from acquiring title to real property or buildings leased or proposed to be leased in accordance with those provisions.

Under continuing law unchanged by the bill, university housing commissions exist for the following: Ohio State University, Miami University, Central State University, Kent State University, Bowling Green State University, Ohio University, Cleveland State University, University of Toledo, Wright State University, University of Akron, Youngstown State University, University of Cincinnati, and Shawnee State University.[135]

[135] R.C. 3347.01, not in the bill.

Sick leave for employees of state colleges and universities

(R.C. 124.38)

The bill reduces the amount of sick leave state college or university employees are entitled to receive for each 80 hours of service from 4.6 hours under current law (119.6 hours or 14.95 work days per year) to 3.1 hours (80.6 hours or just over 10 work days per year). Under continuing law, most state employees are entitled to receive 3.1 hours of sick leave for each 80 hours of service.[136]

The bill prohibits a state college or university from doing either of the following:

- Providing sick leave in an amount greater than the sick leave required by statute;

- Agreeing to a provision in a collective bargaining agreement that is modified, renewed, extended, or entered into on or after the provision's effective date that provides sick leave in an amount greater than the sick leave required by statute.

Under current law, sick leave provided by statute is the minimum amount required to be granted, and a state college or university may grant additional sick leave or agree to a provision of a collective bargaining agreement that provides for additional sick leave.[137]

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.

[136] R.C. 124.382(B), not in the bill.

[137] *Ebert v. Stark County Board of Mental Retardation*, 63 Ohio St.2d 31 (1980).

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 (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.[138] This law is unchanged by 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.

[138] R.C. 3333.061(G), not in the bill.

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.[139]

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.

[139] More information about the "Ohio Innovation Exchange" is available at https://www.ohioinnovationexchange.org/.

OFFICE OF THE INSPECTOR GENERAL

Term of the Inspector General

- Extends the term of the current Inspector General by two years to end January 11, 2021, instead of January 13, 2019, and modifies the general term of the Inspector General to begin every four years thereafter on the second Monday of January.

Term of the Inspector General

(R.C. 121.48)

The bill extends the term of the current Inspector General by two years to end January 11, 2021, instead of January 13, 2019, and modifies the general term of the Inspector General to begin every four years thereafter on the second Monday of January. Under current law, the Inspector General's term begins and ends in conjunction with the Governor's term, on the second Monday of January. Under continuing law, the Governor appoints the Inspector General.

DEPARTMENT OF INSURANCE

Suspension of open enrollment and other insurance programs

- Extends from January 1, 2018 to January 1, 2022, a provision of law that suspends Ohio's Open Enrollment Program, Ohio's Health Reinsurance Program, and conversion options under an existing health benefit plan.

- Requires that if the applicable sections of the federal Patient Protection and Affordable Care Act of 2010 related to health insurance coverage become ineffective prior to the expiration of the suspension on January 1, 2022, then the suspended sections again become operational.

Prior authorization requirements

- Exempts dental benefits offered as a part of a health benefit plan from prior authorization requirements imposed on health plan issuers.

Health insuring corporation quality assurance requirements

- Enables a health insuring corporation to use an accreditation from the Accreditation Association for Ambulatory Health Care to meet quality assurance program requirements.

Coverage of telemedicine services

- Requires health plan issuers to cover telemedicine services the same as in-person health services.

Payer education on mental health and addiction services

- Requires the Superintendent of Insurance, in consultation with the Director of Mental Health and Addiction Services, to develop consumer education on mental health and addiction services insurance parity.

- Requires the Superintendent and Director to establish a consumer hotline to help consumers understand their insurance benefits as part of this consumer education.

- Requires the departments to jointly report to the General Assembly annually on their efforts under the program.

Notice of cancellation of automobile insurance

- Authorizes an insurer to send a notice of cancellation of automobile insurance due to nonpayment of premium along with a bill.

Suspension of open enrollment and other insurance programs

(Sections 610.53 and 610.54 (amending Section 3 of S.B. 9 of the 130th G.A.))

The bill extends from January 1, 2018, to January 1, 2022, the expiration of the suspension of certain programs and requirements under Ohio's Insurance Law. Section 3 of S.B. 9 of the 130th General Assembly currently suspends, during the period beginning January 1, 2014, and expiring January 1, 2018, the operation of the following programs:

- Ohio's Open Enrollment Program;
- Ohio's Health Reinsurance Program;
- Option for conversion from a group to individual contract under an existing contract with a HIC;
- Option for conversion from a nongroup contract to a contract issued on a direct payment basis under an existing contract with a HIC;
- Option for conversion from a group policy to an individual policy under an existing policy with a sickness and accident insurer.

Under the federal Patient Protection and Affordable Care Act of 2010 (ACA), because of the guaranteed availability of coverage in the individual and group markets, the programs suspended by S.B. 9, and outlined above, appear to be duplicative of the federal programs.[140] If the guaranteed availability of coverage and the requirements related to health insurance coverage under the ACA become ineffective prior to the expiration of the suspension, the suspended programs outlined above, in either their present form or as they are later amended, again become operational.

[140] 42 U.S.C. 300gg-1 and 300gg-6.

Prior authorization requirements

(R.C. 1751.72 and 3923.041)

The bill exempts dental benefits offered as a part of a health benefit plan from deadlines and standards imposed on health plan issuers in relation to prior authorization requirements. A health plan issuer includes health insuring corporations, sickness and accident insurers, public employee benefit plans, and multiple employee welfare arrangements.[141] A prior authorization requirement is any requirement that coverage of a health service, product, or procedure be dependent upon a covered individual receiving approval from the health plan issuer prior to delivery of the service, product, or procedure. Continuing law, unchanged by the bill, requires that if a health plan issuer implements a prior authorization requirement, then that issuer must meet certain deadlines and other standards when implementing that requirement. Under the bill, these deadlines and standards would not apply to any prior authorization requirement implemented in relation to a dental benefit.

Health insuring corporation quality assurance requirements

(R.C. 1751.75)

The bill enables a health insuring corporation to use an accreditation from the Accreditation Association for Ambulatory Health Care to meet quality assurance program requirements. Current law requires health insuring corporations to meet certain quality benchmarks, such as demonstrating that a corporation's network of providers is adequate to meet the needs of the corporation's covered individuals. The law authorizes health insuring corporations to demonstrate compliance with these requirements via accreditation through various organizations. The bill adds the Accreditation Association for Ambulatory Health Care to this list.

Telemedicine services

(R.C. 3902.30)

The bill requires health plan issuers to cover telemedicine services the same as in-person health services. A telemedicine service is any medical service delivered through the use of a communication method where the physician and patient are not simultaneously present in the same location. This could include email, chat, or live video conference. A health plan issuer is prohibited from imposing any annual or lifetime benefit maximum specific to telemedicine services. This provision applies to health plans issued or renewed on or after January 1, 2018.

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[141] R.C. 1739.05, not in the bill.

Payer education on mental health and addiction services

(R.C. 3901.90 and 5119.89)

The bill requires the Superintendent of Insurance, in consultation with the Director of Mental Health and Addiction Services, to develop consumer and payer education on mental health and addiction services insurance parity. As part of that requirement, the Superintendent and Director must establish and promote a consumer hotline to collect information and help consumers understand and access their insurance benefits.

The bill also requires the departments to jointly report annually on their efforts. The report must include information on the departments' consumer and payer outreach activities and identify trends and barriers to access and coverage in Ohio. The departments must submit the report to the General Assembly, the Joint Medicaid Oversight Committee, and the Governor, by each January 30.

Notice of cancellation of automobile insurance

(R.C. 3937.25 and 3937.32)

The bill authorizes an insurer to send a notice of cancellation of a policy of automobile insurance along with a bill if the cancellation is due to nonpayment of policy premiums. The cancellation date of the policy must be on or after the due date of the bill and must be not less than ten days from the date of mailing the notice. Continuing law also requires a notice of cancellation of automobile insurance to include (1) the policy number, (2) the date of the notice, (3) the effective date of the cancellation, (4) an explanation of the reason for cancellation, and (5) a statement that the policy holder is entitled to review by the Superintendent of Insurance under certain enumerated circumstances.

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 (OWT) 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.

- Allows the local boards to hold meetings by interactive video conference or by teleconference, regardless of the Open Meetings Act's requirements.

- Requires the Director of Job and Family Services (JFS Director) to review and make any necessary changes to the criteria of workforce development programs to allow home health agency employees to participate in a program to the extent possible.

- 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 OWT, in conjunction with the Ohio Library Council, to develop a brand for public libraries as "continuous learning centers."

- Requires the Department of Veterans Services to establish and maintain a labor exchange and job placement website for veterans, and requires the OhioMeansJobs website to include a link to that website instead of maintaining an independent veterans' labor exchange and job placement function.

- 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.

Healthier Buckeye Grant Pilot Program

- Permits grants awarded under the Healthier Buckeye Grant Pilot Program to be expended through December 31, 2017.

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.

Healthy Food Financing Initiative

- Requires the JFS Director to contract with the Finance Fund Capital Corporation to administer the Healthy Food Financing Initiative to support healthy food access in underserved communities in urban and rural areas with low and moderate income.

- Requires the Director, not later than December 31, 2018, to provide a written progress report on the Initiative.

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 Children's Trust Fund Board membership

- Repeals the requirements that: (1) five of the members appointed to the Ohio Children's Trust Fund Board be residents of metropolitan statistical areas exceeding 400,000 in population and (2) no two of those five members be residents of the same metropolitan statistical area.

Child welfare applicant fitness

- Requires the executive director of a public children services agency (PCSA), or designee, to review promptly any information relevant to evaluating an applicant's fitness before employing the applicant, including an applicant who is an intern or volunteer.

- Specifies that the information reviewed must include any child abuse and neglect reports made involving the applicant; the final disposition, or status of, the child abuse and neglect report investigations; and any underlying report documentation.

- Prohibits the name of the person or entity that made the report of child abuse or neglect or participated in making the report from being included in the information the PCSA reviews.

- Requires the JFS Director to adopt rules to implement the fitness review requirements.

Foster Care Advisory Group

- Creates the Foster Care Advisory Group within the Department of Job and Family Services (ODJFS) to advise and assist the Department in identifying and implementing best practices to recruit, retain, and support foster caregivers.

- Requires the Advisory Group to issue a report regarding matters affecting foster caregivers and that the Advisory Group will dissolve after the report is issued.

Adult protective services

- Modifies and adds definitions to the adult protective services statutes.

- Expands and modifies the list of persons required to report to a county department of job and family services (CDJFS) suspected abuse, neglect, or exploitation of certain older adults.

- Permits a county prosecutor to petition courts for orders related to the provision of adult protective services.

- Requires a CDJFS to notify a local law enforcement agency if it has reasonable cause to believe that the subject of a report of abuse, neglect, or exploitation is being or has been criminally exploited.

- Modifies provisions governing the release of information from the uniform statewide automated adult protective services information system.

- Creates the Elder Abuse Commission to formulate and recommend strategies on matters related to elder abuse and to issue a biennial report.

- Requires ODJFS to provide training for implementing the statutory provisions on adult protective services, to make educational materials available to mandatory reporters, and to facilitate interagency cooperation.

- Requires each entity that employs or is responsible for licensing or regulating mandatory reporters of abuse, neglect, or exploitation to ensure that the mandatory reporters have access to the relevant educational materials developed by ODJFS.

- Repeals a requirement that each CDJFS prepare a memorandum of understanding that establishes the procedures to be followed by local officials regarding cases of elder abuse, neglect, and exploitation.

- Changes the definition of "home health agency" in the statute that shields certain entities from liability for the failure of a physician who is not an employee to obtain an informed consent from a patient prior to a surgical or medical procedure.

- Renumbers and rearranges portions of the statutes governing adult protective services and makes various technical and clarifying amendments to the law.

Supplemental Nutrition Assistance Program, employment and training

- Appropriates $2 million in state matching funds for the Supplemental Nutrition Assistance Program Employment and Training Program.

- Requires the JFS Director, in collaboration with the Chancellor of Higher Education, to use the matching funds to support programs providing nondegree credit short-term certificates.

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"[142] (WIOA). WIOA supersedes the federal "Workforce Investment Act of 1998,"[143] 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.

[142] 29 United States Code (U.S.C.) 3101 *et seq.*

[143] Former 29 U.S.C. 2801 *et seq.*

The Governor's Executive Workforce Board

(R.C. 6301.04)

WIOA, like its predecessor, requires each state to have a state board.[144] The state board, along with Ohio's Department of Job and Family Services (ODJFS), 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, 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);
- Other members required under WIOA (representing business, the Ohio workforce, and government);
- Any additional members appointed by the Governor.[145]

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;

[144] 29 U.S.C. 3111.

[145] 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.

- 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 in-demand jobs list and employers survey

(R.C. 3701.916, 6301.11, and 6301.111)

Under continuing law, the Governor's Executive Workforce Board, in conjunction with ODJFS and various public and private educational institutions, must develop a methodology for identifying jobs that are in demand by Ohio employers. ODJFS and the public and private educational institutions, in consultation with the Board, must use the methodology to create and publish a list of in-demand jobs in Ohio and in each Ohio region. ODJFS and the public and private educational institutions must periodically update the list. The bill requires the Board, in connection with ODJFS and the public or private educational institutions, to include an analysis of jobs that pay a wage rate of 125% or more of the federal minimum wage in the methodology for identifying in-demand jobs in Ohio. The bill additionally requires that direct care provided by a home health agency to be considered a targeted industry sector for purposes of identifying in-demand jobs in Ohio. The targeted industry sectors are identified by the Governor's Office of Workforce Transformation (OWT).

The bill also requires OWT, in conjunction with ODJFS, to conduct an electronic survey of Ohio employers that identifies jobs that are in demand by those employers. OWT, in conjunction with ODJFS, must use the survey results to update the in-demand jobs list.

OWT must perform the initial survey and complete the first update by December 31, 2018, and subsequent surveys and updates by 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 ODJFS and the Department of Higher Education, 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 ODJFS and the Departments of Higher Education and Education to provide staff support and assistance to OWT to establish criteria for evaluating the performance of state and local workforce programs. The bill requires that the criteria established by OWT include a measure that determines the effectiveness of a workforce program in transitioning individuals participating in any federal, state, or local means-tested public assistance program to unsubsidized employment. The bill also requires the Opportunities for Ohioans with Disabilities Agency (OODA) to 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[146] 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,[147] 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 ODJFS, 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. Except as provided below with respect to veterans, 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 website. Current law prohibits only additional workforce funds being used for that purpose.

Department of Veterans Services job placement website

(R.C. 5902.09 and 6301.03)

The bill requires the Department of Veterans Services to create, publish, and maintain a website for labor exchange and job placement activity specifically for veterans. The OhioMeansJobs website must include a link to that Department of Veterans Services' website and is prohibited from including an independent veterans' labor exchange and jobs placement function.

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[146] 29 U.S.C. 701 *et seq.*

[147] 20 U.S.C. 2301 *et seq.*

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.[148]

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)

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

[148] 29 U.S.C. 3121.

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 ODJFS 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 it 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 ODJFS (rather than ODJFS 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 ODJFS 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 ODJFS 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 ODJFS, 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.

Local board hearings

(R.C. 6301.06)

The bill allows local boards to hold meetings by interactive video conference or by teleconference, regardless of the Open Meetings Act requirement that a member of a public body be present in person at a meeting open to the public in order to be part of a quorum or to vote. The board may conduct a meeting by interactive video conference or teleconference only if the meeting is held in the following manner:

(1) The board establishes a primary meeting location that is open and accessible to the public;

(2) Meeting-related materials that are available before the meeting are sent via electronic mail, facsimile, hand-delivery, or U.S. Postal Service to each board member;

(3) For an *interactive video conference*, the board causes a clear video and audio connection to be established that enables all meeting participants at the primary meeting location to see and hear each board member;

(4) For a *teleconference*, the board causes a clear audio connection to be established that enables all meeting participants at the primary meeting location to hear each board member;

(5) All board members can receive meeting-related materials that are distributed during the meeting;

(6) A roll call voice vote is recorded for each vote taken; and

(7) The minutes of the meeting identify which board members remotely attended by interactive video conference or teleconference.

Use of an interactive video conference is preferred, but the bill does not prohibit the board from conducting its meetings by teleconference or by a combination of interactive video conference and teleconference at the same meeting.

Under the bill, the board must adopt rules to implement interactive video conferencing or teleconferencing. At a minimum, the board must do *all* of the following in the rules:

- Authorize board members to remotely attend a board meeting by interactive video conference or teleconference, or by a combination, instead of attending the meeting in person;

- Establish a minimum number of board members who must be physically present in person at the primary meeting location if the board conducts a meeting by interactive video conference or teleconference;

- Require that not more than one board member remotely attending a board meeting by teleconference can be physically present at the same remote location;

- Establish geographic restrictions for participation in meetings by interactive video conference and by teleconference;

- Establish a policy for distributing and circulating meeting-related materials to board members, the public, and the media in advance of or during a meeting at which board members attend by interactive video conference or teleconference; and

- Establish a method for verifying the identity of a board member who remotely attends a meeting by teleconference.

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 ODJFS to provide annual incentive awards to local areas, rather than allowing it to provide those awards to workforce development agencies, as under current law. Under continuing law, ODJFS 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 for 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.

Review of workforce development program criteria

(R.C. 3701.916)

The bill requires the JFS Director to review the criteria for any program that provides occupational training, adult education, or career pathway assistance through a grant or other source of funding to determine whether home health agency employees may participate in the program. The JFS Director must make any necessary changes to the criteria to allow home health agency employees to participate in the program to the extent possible.

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 ODJFS 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 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. ODJFS 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 ODJFS 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 ODJFS 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 old. 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 (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, 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 old.

(2) Individuals receiving benefits and services under the Prevention, Retention, and Contingency Program may volunteer if they are between 14 and 24. 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 ODJFS 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 ODJFS 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 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.

Healthier Buckeye Grant Pilot Program

(Section 307.230)

The bill requires the Director to permit individuals and organizations receiving grant awards under the existing Healthier Buckeye Grant Pilot Program to expend awards through December 31, 2017. Under the Program, grants were awarded in FYs 2016 and 2017 to local healthier buckeye councils and other individuals and organizations based on criteria recommended by the Ohio Healthier Buckeye Advisory Council. Under the bill, awarded funds may be expended through December 31, 2017. This extension is also authorized by the recently enacted Transportation Budget.[149]

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, an ODJFS 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;

[149] Section 610.13 of Sub. H.B. 26 of the 132nd General Assembly.

(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 the JFS Director, the Director of 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 both:

(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.

Healthy Food Financing Initiative

(Section 307.35)

The bill requires the JFS Director, in cooperation with the Director of Health and with the approval of the Director of the Governor's Office of Health Transformation, to contract with the Finance Fund Capital Corporation to administer the Healthy Food Financing Initiative. The Initiative is to support healthy food access in underserved communities in urban and rural low and moderate income areas, as defined by either the U.S. Department of Agriculture or through a methodology adopted for use by another governmental or philanthropic healthy food initiative.

Under the bill, the Finance Fund Capital Corporation must demonstrate a capacity to administer grant and loan programs in accordance with state and federal rules and accounting principles. It also must partner with one or more entities with demonstrable experience in healthy food access-related policy matters.

Not later than December 31, 2018, the JFS Director must provide a progress report on the Initiative to the Governor, Speaker of the House, President of the Senate, and Minority Leaders of the House and Senate. The report must detail progress on (1) state funds granted or loaned, (2) the number of new or retained jobs associated with related projects, (3) the health impact of the Initiative, and (4) the number and location of healthy food access projects established or in development.

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.

Ohio Children's Trust Fund Board membership

(R.C. 3109.15)

The bill repeals the following two requirements regarding membership on the Ohio Children's Trust Fund Board:

(1) That five of the members appointed to the board be residents of metropolitan statistical areas exceeding 400,000 in population;

(2) That no two of those five members be residents of the same metropolitan statistical area.

Child welfare applicant fitness

(R.C. 5153.113)

Fitness review

The bill requires the executive director of a public children services agency (PCSA), or the executive director's designee within the PCSA, to review promptly any information the PCSA determines is relevant to the evaluation of an applicant's fitness before employing the applicant. Under the bill, "applicant" means a person under final consideration for appointment or employment with the PCSA as a person responsible for the care, custody, or control of a child.[150] An applicant also includes, for purposes of the bill (1) an intern applicant or (2) a volunteer applicant. An "intern applicant" is an applicant who is a trainee who will work with or without monetary gain or compensation seeking to gain practical educational and career experience. A "volunteer applicant" is an applicant seeking to perform services voluntarily without monetary gain or compensation.

Review of any relevant information

When evaluating an applicant's fitness, the PCSA executive director or designee may review any relevant information including the following:

- Child abuse and neglect reports, if the applicant is the subject and it has been determined that abuse or neglect occurred;
- The final disposition of child abuse and neglect report investigations, or the status of the investigations if they have not been completed;
- Any underlying documentation concerning the reports.

Under current law, ODJFS maintains a uniform statewide automated child welfare information system in accordance with federal law. The system includes records regarding investigations filed under Ohio law requiring the reporting and investigation of child abuse and neglect.[151] Presumably, the PCSA would search the system in order to complete the fitness evaluation under the bill. However, the bill does not expressly permit or require using the system.

[150] R.C. 5153.111, not in the bill.

[151] R.C. 5101.13, not in the bill.

Confidentiality

The fitness review under the bill is required notwithstanding any laws pertaining to confidentiality, including those under the county children's services law[152] and the law governing child abuse and neglect reporting.[153] In addition, the information reviewed by a PCSA executive director or designee may not include the name of the person or entity that made the child abuse or neglect report or participated in making the report.

Employment of applicants

The bill does not expressly state what happens if an applicant receives a negative fitness evaluation following a finding that the applicant has been the subject of a case in which it was determined that child abuse or neglect occurred. Neither does the bill provide a procedure for an applicant to dispute a negative fitness evaluation. Presumably, a PCSA would not hire an applicant with a negative fitness evaluation.

Under continuing law, the executive director of a PCSA also must request a criminal records check that includes fingerprinting for any applicant who has applied to the PCSA for employment as a person responsible for the care, custody, or control of a child. The PCSA may not hire an applicant who does not complete a fingerprint form, fails to provide fingerprint impressions, or has previously been convicted of or pleaded guilty to any of several specific criminal offenses, including, to name only a few, murder, patient abuse or neglect, rape, unlawful sexual conduct with a minor, endangering children, and drug trafficking.[154]

Rules

The bill requires the JFS Director to adopt rules pursuant to the Administrative Procedure Act (R.C. Chapter 119.) to implement the requirements regarding fitness evaluations of PCSA applicants.

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[152] R.C. 5153.17, not in the bill.

[153] R.C. 2151.421, not in the bill.

[154] R.C. 5153.111, not in the bill.

Foster Care Advisory Group

(R.C. 751.10)

The bill creates the Foster Care Advisory Group within ODJFS to advise and assist it in identifying and implementing best practices to recruit, retain, and support foster caregivers.

Membership

The Advisory Group must consist of at least 12 members, which includes the JFS Director or the Director's designee, and the following, to be appointed by the Director no later than September 1, 2017:

- Four foster caregivers holding valid foster home certification;
- Two representatives of two different public children services agencies;
- Two representatives of two different private child placing agencies or private noncustodial agencies;
- A representative of the Ohio Family Care Association;
- A representative of the Ohio Association of Child Caring Agencies;
- A representative of the Public Children Services Association of Ohio.

The Advisory Group must have two co-chairpersons: the JFS Director or Director's designee, and another co-chairperson appointed by the other members. The Advisory Group must determine the frequency of meetings and any other administrative matters. Members serve without compensation, but must be reimbursed for necessary expenses.

Duties

The Advisory Group must advise the JFS Director on matters affecting foster caregivers, which include:

- Current certification requirements;
- Ways to streamline certification requirements while maintaining quality, safety, and reliability;
- Ways to help foster caregivers best respond to children affected by parental drug use and how to deliver and sustain those supports;

- Best practices for identifying and recruiting foster caregivers.

Not later than May 1, 2018, the Advisory Group must issue a report that addresses and makes recommendations regarding the above matters, with copies of the report going to the JFS Director, the Governor, the Speaker and Minority Leader of the House, and the President and Minority Leader of the Senate. Upon submitting the report, the Advisory Group ceases to exist.

Adult protective services

(R.C. 173.501, 173.521, 173.542, 1347.08, 2317.54, 4715.36, 5101.60, 5101.61, 5101.611, 5101.612, 5101.62, 5101.622, 5101.63, 5101.632, 5101.64 to 5101.69, 5101.691, 5101.692, 5101.70 to 5101.74, 5101.741, 5101.99, 5123.61, and 5126.31; repealed R.C. 5101.621)

The bill makes several changes to the adult protective services statutes, including the expansion of definitions, expansion of reporters of suspected abuse, neglect, or exploitation of older adults, notification of local law enforcement agencies of suspected subjects being criminally exploited, creation of the Elder Abuse Commission, and requiring ODJFS to provide training and educational materials for implementing the statutes.

Definitions related to abuse, neglect, or exploitation of older adults

The Revised Code provides for the protection of older adults from abuse, neglect, and exploitation. For this purpose, under current law an adult is defined as any person age 60 or older within Ohio who is handicapped by the infirmities of aging or who has a physical or mental impairment that prevents the person from providing for the person's own care or protection and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including but not limited to a private home, apartment, trailer, or rooming house, and includes a licensed adult care facility but does not include any other state-licensed institution or facility or a facility in which a person resides as a result of voluntary, civil, or criminal commitment. The bill retains these definitions but relocates the definition of "independent living arrangement."

The bill retains the existing definition of abuse (the infliction upon an older adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish) but modifies the definitions of neglect and exploitation. Under existing law, "neglect" means the failure of an older adult to provide for himself or herself the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services. The bill adds abandonment as another form of neglect. The bill defines "abandonment" to mean desertion of an older adult by a caretaker without

having made provision for transfer of the older adult's care. A "caretaker" is the person assuming responsibility for the care of an older adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by court order. The bill clarifies that to constitute abandonment, the abandonment must involve the older adult's primary caretaker.

Current law defines "exploitation" to mean the unlawful or improper act of a caretaker using an older adult or an older adult's resources for monetary or personal benefit, profit, or gain when the caretaker obtained or exerted control over the older adult or resources without the older adult's consent, beyond the scope of the older adult's consent, or by deception, threat, or intimidation. Under the bill, "exploitation" means the unlawful or improper act of a ***person*** using, ***in one or more transactions***, an older adult or an older adult's resources for monetary or personal benefit, profit, or gain when the person obtained or exerted control over the older adult or resources without the older adult's consent, beyond the scope of the older adult's consent, or by deception, threat, or intimidation.

The bill modifies or adds other definitions for this area of law, and the modification and additions are discussed below when the relevant area of law is discussed.

Mandatory reporters of abuse, neglect, or exploitation

Existing law requires specific individuals who, having reasonable cause to believe that an older adult is being abused, neglected, or exploited, or is in a condition that is the result of abuse, neglect, or exploitation, to immediately report the belief to the county department of job and family services (CDJFS). The bill changes the list of individuals who must make such a report.

Retained mandatory reporters

With some changes in terminology, the bill retains the following list of mandatory reporters from existing law (substantive changes are indicated in italics in the list or are discussed following the list):

- Attorneys *admitted to the practice of law in Ohio*;
- Physicians, osteopaths, podiatrists, chiropractors, dentists, psychologists, and *registered or licensed practical* nurses *authorized to practice in Ohio*;
- Employees of a hospital as defined in R.C. 3701.01 (changed by the bill to employees of a hospital as defined in R.C. 3727.01);
- Employees of a home health agency *as defined in R.C. 3701.881*;

- Employees of a nursing home or residential care facility, as defined in R.C. 3721.01;

- Senior service providers (changed by the bill from any person who provides care or services to an older adult to a person who provides care or specialized services to an older adult but not including the state long-term care ombudsperson or a regional long-term care ombudsperson);

- Peace officers;

- Coroners;

- Clergy;

- Social workers, counselors, and therapists *(changed by the bill from any person engaged in social work or counseling to an individual licensed as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist).*

Deleted mandatory reporters

The bill deletes three categories of individuals from the current list of mandatory reporters: employees of an ambulatory health facility, employees of a community mental health facility, and employees of a home for the aging. However, it generally covers the same individuals under other designations.

Ambulatory health facility and outpatient health facility. Existing law defines "ambulatory health facility" as a nonprofit, public, or proprietary freestanding organization or a unit of such an agency or organization that:

(1) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(2) Has health and medical care policies that are developed with the advice of, and with the provision of review of such policies, an advisory committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(3) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(4) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(5) Maintains clinical records on all patients;

(6) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(7) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(8) Has established an accounting and recordkeeping system to determine reasonable and allowable costs.

"Ambulatory health facility" also includes an alcoholism treatment facility approved by the Joint Commission on Accreditation of Healthcare Organizations as an alcoholism treatment facility or certified by the Department of Alcohol and Drug Addiction Services.

The bill replaces "ambulatory health facility" with "outpatient health facility," defined as a facility where medical care and preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services are provided to outpatients by or under the direction of a physician or dentist. (The bill makes the same change in the section of law that lists the mandatory reporters of reasonably suspected abuse or neglect of a person with a developmental disability.)

Community mental health facility and community mental health agency. The bill replaces "community mental health facility" (a facility that provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located) with "community mental health agency" (any agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the mental health services listed in R.C. 340.09).

Home for the aging. The bill repeals and does not replace "home for the aging" (under existing law, a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental

impairment). However, according to the Department of Health, "home for the aging" is an obsolete term.

Home health agency. The bill uses the definition of "home health agency" given in R.C. 3701.881 rather than the one in current R.C. 5101.61. As used in existing law governing adult protective services, "home health agency" means an institution or a distinct part of an institution operated in Ohio that:

(1) Is primarily engaged in providing home health services;

(2) Has home health policies that are established by a group of professional personnel, including one or more doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and that includes a requirement that every patient must be under the care of a doctor of medicine or osteopathy;

(3) Is under the supervision of a doctor of medicine or osteopathy or a registered professional nurse who is responsible for the execution of the home health policies;

(4) Maintains comprehensive records on all patients;

(5) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in Ohio and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in Ohio, meets all the requirements specified in paragraphs (1) through (4), and is certified under Title XVIII of the federal Social Security Act.

As used in the bill, "home health agency" means a person or government entity, other than a nursing home, residential care facility, or hospice care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home: skilled nursing care, physical therapy, speech-language pathology, occupational therapy, medical social services, or home health aide services. Because the bill repeals the existing definition in R.C. 5101.61, it makes a corresponding change to the law governing informed consent for medical procedures.

Hospital. The bill replaces the definition of "hospital" as set forth in R.C. 3701.01 with the one used in R.C. 3727.01. R.C. 3701.01 defines "hospital" to include public health centers and general, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home facilities, extended care facilities, self-care units, and central service facilities operated in connection with hospitals, and also includes education and training facilities for health

professions personnel operated as an integral part of a hospital, but not to include any hospital furnishing primarily domiciliary care.

R.C. 3727.01 defines "hospital" as an institution classified as a hospital under R.C. 3701.07 (rules adopted by the Department of Health) in which diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care is provided to inpatients for a continuous period longer than 24 hours or a hospital operated by a health maintenance organization. "Hospital" does not include a facility licensed under R.C. Chapter 3721. (nursing homes and residential care facilities), a health care facility operated by the Department of Mental Health and Addiction Services or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, the office of any private licensed health care professional, whether organized for individual or group practice, or a clinic that provides ambulatory patient services and where patients are not regularly admitted as inpatients. "Hospital" also does not include an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation, and providing 24-hour nursing care pursuant to the exemption from licensing for the care of the sick when done in connection with the practice of religious tenets of any church and by or for its members.

New mandatory reporters

In addition to the mandatory reporters described above, the bill adds the following individuals:

- Pharmacists and dialysis technicians authorized to practice in Ohio;
- Employees of a hospital or public hospital, as defined in R.C. 5122.01. (*"Hospital" means a hospital or inpatient unit licensed by the Department of Mental Health and Addiction Services and any institution, hospital, or other place established, controlled, or supervised by the department; "public hospital" means a facility that is tax-supported and under the jurisdiction of the Department*).
- Employees of a health department operated by city board of health or a general health district or the authority having the duties of a board of health;
- Employees of a community mental health agency as defined in R.C. 5122.01;
- Agents of a county humane society;

- Firefighters for a lawfully constituted fire department;
- Ambulance drivers for an emergency medical service organization;
- First responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and paramedics;
- Officials employed by a local building department to conduct inspections of houses and other residential buildings;
- Certified public accountants and registered public accountants under R.C. Chapter 4701.;
- Licensed real estate brokers or real estate salespersons;
- Notaries public;
- Employees of a bank, savings bank, savings and loan association, or credit union;
- Investment advisors, as defined in R.C. 1707.01;
- Financial planners accredited by a national accreditation agency.

Voluntary reporters

The bill retains current law that permits any person who, having reasonable cause to believe that an older adult has suffered abuse, neglect, or exploitation, to report it to the CDJFS. The law includes a fine for anyone who violates either the mandatory or voluntary reporting provision. The bill eliminates the penalty for voluntary reporters.

Reports to the CDJFS

The bill modifies the handling of reports of abuse, neglect, or exploitation of older adults, whether made by a mandatory reporter or voluntary reporter. The bill retains the requirement that information contained in a report be made available, on request, to the older adult who is the subject of the report and to legal counsel for the older adult. It adds that if the CDJFS determines that there is a risk of harm to a person who makes a report or to the older adult who is the subject of the report, it may redact the name and identifying information related to the person who made the report.

Role of county prosecutors

The bill extends to county prosecutors the authority to petition courts for the following orders related to the provision of adult protective services:

(1) An order authorizing protective services for an older adult who the CDJFS determines is in need of protective services as a result of exploitation.

(2) If an older adult has consented to protective services but another person refuses to allow them, a temporary restraining order to prevent the interference with the services.

(3) An order authorizing emergency protective services and a renewal of such an order upon a showing that a continuation of the order is necessary to remove the emergency.

Under current law, only a CDJFS is expressly authorized to petition courts for these orders.

Criminal exploitation

The bill requires a CDJFS to notify a local law enforcement agency if it has reasonable cause to believe that the subject of a report of abuse, neglect, or exploitation of an older adult, or of an investigation of such a report, is being or has been criminally exploited.

During the course of the local law enforcement agency's investigation of criminal exploitation, the county prosecutor may file a petition in court for a temporary restraining order against any person, including the alleged victim, who denies or obstructs access to the older adult's residence. The court must issue the temporary restraining order if it finds there is reasonable cause to believe that the older adult is being or has been abused, neglected, or exploited and access to the older adult's residence has been denied or obstructed. The bill establishes that such a finding by the court is prima facie evidence that immediate and irreparable injury, loss, or damage will result, so no notice is required. After obtaining the temporary restraining order, a representative of the law enforcement agency may be accompanied to the residence by a peace officer.

Reimbursement for implementation of adult protective services provisions

The bill permits ODJFS to reimburse local law enforcement agencies and county prosecutors for all or part of the costs they incur in implementing the laws pertaining to adult protective services. ODJFS is permitted under current law to reimburse CDJFSs. The JFS Director must adopt rules requiring local law enforcement agencies and county prosecutors to ensure data concerning the implementation of those laws are submitted to ODJFS.

Adult protective services information system

The bill modifies provisions governing the release of information from ODJFS's uniform statewide automated adult protective services information system. In 2015, H.B. 64 of the 131st General Assembly required ODJFS to implement this system on a county-by-county basis. Under the bill, ODJFS must release information in the system to a CDJFS that is investigating the need for protective services for an older adult and to local law enforcement agencies conducting criminal investigations, and ODJFS may release information in the registry to law enforcement agencies through the Ohio Law Enforcement Gateway established under R.C. 109.57.

The bill repeals a provision specifying that the information contained in or obtained from the system is confidential, is not a public record, and is not subject to disclosure laws that apply to other state-implemented personal information systems. However, the bill maintains a provision permitting information contained in the system to be accessed or used only in a manner, to the extent, and for the purposes authorized by law. Additionally, it does not amend current law that exempts the information in the system from public disclosure.

Notice of orders for protective services

When a CDJFS petitions a court for an order authorizing the provision of protective services for an older adult, existing law requires the CDJFS to give the older adult notice of the petition. Under current law, that notice must be given orally and in writing. The bill permits notice to be given either orally or in writing.

Elder Abuse Commission

The bill creates the Elder Abuse Commission consisting of the following members:

(1) Eighteen members appointed by the Attorney General (two representatives of national organizations that focus on elder abuse or sexual violence, one person who represents the interests of elder abuse victims, one person who represents the interests of elderly persons, and one representative each of the AARP, the Buckeye State Sheriffs' Association, the County Commissioners' Association of Ohio, the Ohio Association of Area Agencies on Aging, the Board of Nursing, the Ohio Coalition for Adult Protective Services, the Ohio Domestic Violence Network, the Ohio Prosecuting Attorneys Association, the Ohio Victim Witness Association, the Ohio Association of Chiefs of Police, the Ohio Association of Probate Judges, the Ohio Job and Family Services Directors' Association, the Ohio Bankers League, and the Ohio Credit Union League);

(2) The following ex officio members:

(a) One member of the House of Representatives, appointed by the Speaker, and one member of the Senate, appointed by the President of the Senate;

(b) The following officials or their designees: the Attorney General, the Chief Justice of the Supreme Court, the Governor, the Director of Aging, the JFS Director, the Director of Health, the Director of Mental Health and Addiction Services, the Director of Developmental Disabilities, the Superintendent of Insurance, the Director of Public Safety, and the State Long-term Care Ombudsman.

Appointed members serve at the pleasure of the appointing authority. Vacancies are filled in the same manner as original appointments.

All members of the Commission are voting members. The Attorney General selects the chairperson from the appointed members. The Commission meets at the call of the chairperson, but not less than four times per year. The chairperson may call special meetings and must call a special meeting at the Attorney General's request. The Commission may establish its own quorum requirements and procedures regarding the conduct of meetings and other affairs.

Commission members serve without compensation, but they may be reimbursed for mileage and other actual and necessary expenses incurred in the performance of their official duties.

The sunset review statutes, which provide for the expiration of state public bodies unless they are renewed following a review, do not apply to the Commission.

The bill requires the Commission to formulate and recommend strategies on all of the following:

(1) Increasing awareness of and improving education on elder abuse;

(2) Increasing research on elder abuse;

(3) Improving policy, funding, and programming related to elder abuse;

(4) Improving the judicial response to elder abuse victims;

(5) Identifying ways to coordinate statewide efforts to address elder abuse.

The Commission must review current funding and report on the cost to ODJFS and the county departments of implementing its recommendations.

The Commission must issue a biennial report on a plan of action that may be used by local communities to aid in the development of efforts to combat elder abuse.

The report must include the Commission's findings and recommendations described above.

The bill authorizes the Attorney General to adopt rules under R.C. 111.15 as necessary for the Commission to carry out its duties.

Training, education, and cooperation

The bill requires ODJFS to do all of the following:

(1) Provide a program of ongoing, comprehensive, formal training on the implementation of the adult protective services statutes and require all caseworkers and their supervisors to undergo the training *(a change from the optional "ongoing, formal training" that ODJFS may provide to county departments and other agencies that implement the statutes under current law)*;

(2) Develop and make available educational materials for individuals who are required to report abuse, neglect, and exploitation;

(3) Facilitate ongoing cooperation among state agencies on issues pertaining to the abuse, neglect, or exploitation of older adults.

The bill requires each entity that employs or is responsible for licensing or regulating mandatory reporters of abuse, neglect, or exploitation of older adults (see "**Mandatory reporters of abuse, neglect, or exploitation**," above) to ensure that those individuals have access to the educational materials developed by ODJFS.

Memorandum of understanding

The bill repeals a provision enacted in 2015 by H.B. 64 of the 131st General Assembly requiring each CDJFS to prepare a memorandum of understanding that establishes the procedures to be followed by local officials regarding cases of elder abuse, neglect, and exploitation.

Supplemental Nutrition Assistance Program, employment and training

(Section 307.220)

Under federal law, each state participating in the Supplemental Nutrition Assistance Program (SNAP) must (1) implement an employment and training program to assist members of SNAP households gain the skills, training, and work experience necessary for obtaining regular employment and (2) prepare and submit an annual plan regarding the program to the U.S. Department of Agriculture Food and Nutrition Service for approval.

The bill requires the JFS Director, in collaboration with the Higher Education Chancellor, to do all of the following with respect to Ohio's SNAP Employment and Training Program:

(1) Convene a skills-based SNAP Employment and Training Program planning committee to develop a plan for the expansion of the Program, which must include representatives of community colleges, local workforce development boards, and nonprofit organizations providing employment and training services for low-income individuals;

(2) Identify workforce development, adult basic education, and higher education programs and resources that could serve as potential providers of education, training, and support services;

(3) Identify resources that could be reimbursed by funds from the U.S. Department of Agriculture;

(4) Develop guidance on leveraging eligible state, local, and philanthropic resources to qualify for SNAP Employment and Training Program federal match dollars that includes a description of the process to participate in the program and the system of tracking participant eligibility, enrollment, continued participation, and outcomes;

(5) Incorporate the plan to expand a skills-based employment and training program into the annual state plan submitted to the U.S. Department of Agriculture.

- Removes the hiring authority of professional, technical, and clerical employees for the Joint Education Oversight Committee (JEOC) from JEOC and instead authorizes the Speaker of the House and the President of the Senate to hire those employees.

Employees

(R.C. 103.47)

The bill removes the hiring authority of professional, technical, and clerical employees for the Joint Education Oversight Committee (JEOC) from JEOC and instead authorizes the Speaker of the House and the President of the Senate to hire those employees. JEOC examines education policy issues, including at school districts and state institutions of higher education.[155]

[155] R.C. 103.45.

- Requires that all moneys credited to the renamed Joint Legislative Ethics Committee Investigative and Financial Disclosure Fund must be used solely for expenses related to the investigative and financial disclosure functions of the Joint Legislative Ethics Committee.

Joint Legislative Ethics Committee: fund

(R.C. 101.34 and 102.02; Section 321.10)

The bill changes the name of a fund in the state treasury to the Joint Legislative Ethics Committee Investigative and Financial Disclosure Fund, and expands its permitted uses. The bill specifies that all moneys credited to the Fund must be used solely for expenses related to the investigative and financial disclosure functions of the Joint Legislative Ethics Committee (JLEC). Under current law, money in the Fund, which is called the Joint Legislative Ethics Committee Investigative Fund, must be used solely for the operations of JLEC in conducting investigations.

Under continuing law, JLEC acts as an advisory body to the General Assembly and related others on questions concerning financial disclosure. JLEC also conducts investigations of General Assembly members and related others.

- Removes the hiring authority of professional, technical, and clerical employees for the Joint Medicaid Oversight Committee (JMOC) from the JMOC and instead authorizes the Speaker of the House and the President of the Senate to hire those employees.

- Requires JMOC to enter into contracts with entities to conduct studies regarding the implementation of various health coverage mechanisms in Ohio.

Employees

(R.C. 103.41)

The bill removes the hiring authority of professional, technical, and clerical employees for the JMOC from the JMOC and instead authorizes the Speaker of the House and the President of the Senate to hire those employees. JMOC is responsible for providing ongoing legislative oversight of the state's Medicaid Program.[156]

Health coverage studies

(Section 313.20)

The bill requires JMOC to contract with an entity to conduct a study determining whether a high-risk pool is an appropriate mechanism for providing health coverage to uninsured Ohioans. A high-risk pool is a government program that provides health coverage for individuals who are uninsurable (e.g., due to preexisting conditions).[157] Not later than one year after the bill's effective date, the entity must submit a report of its findings to the Governor and the General Assembly.

The bill also requires JMOC to contract with an entity to conduct a study determining the feasibility of simultaneously implementing a plan that is similar to the Healthy Indiana Plan and a high-risk pool in Ohio. Under the Healthy Indiana Plan, for nondisabled Medicaid recipients between the ages of 19-64, traditional Medicaid is replaced with a plan that pairs high deductible health plans and health savings

[156] R.C. 103.412, not in the bill.

[157] U.S. Department of Health & Human Services, Centers for Medicare & Medicaid Services, "High-Risk Pool Plan (State)" available at https://www.healthcare.gov/glossary/high-risk-pool-plan-state/.

accounts.[158] Not later than one year after the bill's effective date, the entity must submit a report of its findings to the Governor and the General Assembly.

[158] Indiana Family and Social Services Administration, "About the HIP Program" available at http://www.in.gov/fssa/hip/2494.htm.

Temporary custody of child

- Permits an abused, neglected, dependent, unruly, or delinquent child to be placed in the temporary custody of any person approved by the juvenile court rather than any *home* approved by the juvenile court.

Annual review hearing change

- Removes the requirement for the juvenile court to continue holding case review hearings for a child subject to a legal-custody order if:
    - The child is not subject to an order of protective supervision;
    - No public children services agency or private child placing agency is providing services to the child; and
    - The court finds that further reviews are not necessary to serve the child's best interests.

Disposition of balance after sale on execution

- Modifies the notice and disposition requirements for balances remaining after sales on execution.

Recovery for wrongful imprisonment

- Removes the requirement that a "wrongfully imprisoned individual" determination must be made in a separate civil action in the common pleas court that heard the underlying criminal action.
- Modifies the criteria that an individual must satisfy in order to be a "wrongfully imprisoned individual."
- Requires the Court of Claims to deduct any known debts owed by a wrongfully imprisoned individual to the state or a political subdivision from the money that the individual otherwise would be awarded and pay those deducted amounts to the state or political subdivision.

Expungement of ex parte protection orders

- Requires a court to order the expungement of an ex parte protection order if the court does not issue, after a full hearing, a protection order against a minor, a civil

stalking protection order involving any person, or a civil domestic violence protection order involving a family or household member.

- Requires a court to order the expungement of an ex parte order if the court, after a hearing, determines that a temporary criminal stalking protection order involving a person other than a family or household member or criminal domestic violence protection order involving a family or household member should be revoked.

Temporary custody of child

(R.C. 2151.353)

The bill permits a juvenile court to place a child adjudicated to be an abused, neglected, or dependent child in the temporary custody of any *person* approved by the court, rather than in any *home* approved by the court as provided in current law. This change would also apply regarding children adjudicated to be delinquent or unruly.[159] Under continuing law, the court can also place the child for temporary custody with a public children services agency, private child placing agency, either parent, a relative residing within or outside the state, or a probation officer for placement in a certified foster home.

Annual review hearing change

(R.C. 2151.417)

The bill permits a juvenile court to stop holding annual review hearings for a child that is subject to a legal custody order if:

- The child is not subject to an order of protective supervision;
- No public children services agency or private child placing agency is providing services to the child; and
- The court finds that further reviews are not necessary to serve the child's best interests.

Under current law, a court that has issued an order for the legal custody of a child must hold a case review hearing at least every 12 months after the initial review until the child is adopted, returned to the parents, or the court otherwise terminates the

[159] R.C. 2151.354(A)(1) and 2152.19(A)(1), not in the bill.

child's placement or custody arrangement. During these hearings, the court (1) reviews the case plan prepared for the child and the child's placement or custody arrangement, (2) approves or reviews the permanency plan for the child, and (3) may make changes to the case plan and placement or custody arrangement consistent with the permanency plan.

Disposition of balance after sale on execution

(R.C. 2329.44)

The bill modifies the notice and disposition requirements for the balance remaining after an execution sale made pursuant to the Execution Against Property Law if the sale generates more money than is necessary to satisfy the writ of execution. Under continuing law, if the sale generates a balance in excess of the amount necessary to satisfy the writ and the balance exceeds the statutory threshold, the court clerk must notify the judgment debtor of the balance by certified mail and must publish an advertisement of the balance if notification by certified and ordinary mail fails. The bill increases the statutory threshold from $25 to $100. The bill also requires that an advertisement run at least once rather than three times, and requires the advertisement to contain the case number, the name of the judgment debtor, and information on how to contact the clerk. The bill also allows the clerk to charge the judgment debtor the actual costs incurred in providing notice, rather than charging a set fee of $25 for providing notice if the balance is $25 or more or $5 if the balance is less than $25.

If a balance from a sale is unclaimed for 90 days after the first date of publication, the bill allows the clerk to dispose of the unclaimed funds in the same manner as the clerk handles other unclaimed funds in the clerk's possession.

Recovery for wrongful imprisonment

(R.C. 2305.02 and 2743.48)

The bill modifies the law governing recovery for wrongful imprisonment. First, the bill removes the requirement that a determination that an individual is a "wrongfully imprisoned individual" must be made in a separate civil action in the common pleas court of the county in which the underlying criminal action was initiated and removes the provision granting that court exclusive original jurisdiction to hear and determine such an action. Under the bill, such a determination must be made in a civil action in any court of common pleas, and courts of common pleas have exclusive original jurisdiction to hear and determine such an action.

Next, the bill modifies the criteria that an individual must satisfy in order to be a "wrongfully imprisoned individual" as follows:

(1) It clarifies the criterion that the individual did not commit the crime in question or that no crime was committed. Under the bill, that criterion is that the offense of which the individual was found guilty, including all lesser-included offenses, was not committed by the individual or that no offense was committed by any person. Currently, that criterion is that the charged offense, including all lesser-included offenses, either was not committed by the individual or was not committed by any person.

(2) It revises the "error in procedure that resulted in the individual's release" criterion that an individual must satisfy to be a "wrongfully imprisoned individual." Under the bill, that criterion specifies that, subsequent to sentencing or during or subsequent to imprisonment, an error in procedure was discovered that occurred prior to, during, or after sentencing, that violated the individual's constitutional rights to a fair trial, and that resulted in the individual's release. Currently, that criterion specifies that, subsequent to sentencing and during or subsequent to imprisonment, a procedural error resulted in the individual's release. The bill makes the modification apply retroactively to individuals whose wrongful imprisonment action was barred or dismissed on or after March 5, 2014, and prior to the modification's effective date based on the current provisions of that criterion, regarding discovery of an error in procedure occurring on or after the modification's effective date.

(3) It removes the criterion that the prosecutor will not appeal or refile charges with respect to the individual's conviction. Under the bill, that criterion is that the individual's conviction was vacated, dismissed, or reversed on appeal and no criminal proceeding is pending. Currently, in addition to those factors, the criterion requires that the prosecutor in the case cannot or will not seek any further appeal of right or leave of court regarding the vacated, dismissed, or reversed conviction and that no criminal proceeding can or will be brought by any prosecutor against the individual for any act associated with that conviction.

(4) It expands the criterion that describes the wrongful conviction so that the criterion applies regarding wrongful misdemeanor convictions, as well as to wrongful convictions of felonies or "aggravated felonies" that are covered under existing law.

Finally, the bill specifies that if a "wrongfully imprisoned individual" files a civil action against the state in the Court of Claims and the Court determines that the individual is entitled to receive a sum of money in the action, the Court must deduct from the sum of money that the Court otherwise would award any known debts owed by the wrongfully imprisoned individual to the state or a political subdivision and pay those deducted amounts to the state or political subdivision, as applicable.

Expungement of ex parte protection orders

(R.C. 2151.34, 2903.213, 2903.214, 2919.26, and 3113.31)

Under continuing law on the following types of protection orders, the court may issue an ex parte protection order for the safety and protection of the person to be protected by the order, and must schedule a full hearing on whether or not to grant a protection order: (a) juvenile court protection order against a minor, (b) civil stalking protection order involving any person, and (c) civil domestic violence protection order (or consent agreement) involving a family or household member. If the court, after such full hearing, refuses to grant a protection order, the bill requires the court, on its own motion, to order that the ex parte order issued and all records pertaining to the ex parte order be expunged after either of the following occurs: the period of the notice of appeal from the order refusing to grant a protection has expired, or the order refusing to grant a protection order is appealed and an appellate court to which the last appeal is taken affirms that order.

Under continuing law on the following types of temporary protection orders, the court may issue an ex parte protection order for the safety and protection of the person to be protected by the order, and, as soon as possible after its issuance, must conduct a hearing to determine whether the order should remain in effect or be modified or revoked: (a) criminal stalking protection order involving a person other than a family or household member issued as a pretrial condition of release of the offender and (b) criminal domestic violence temporary protection order involving a family or household member. The bill provides that if at such hearing the court determines that the ex parte order that the court issued should be revoked, the court, on its own motion, must order that the ex parte order and all records pertaining to the ex parte order be expunged.

The bill defines "expunge" as to destroy, delete, and erase a record, as appropriate for the record's physical or electronic form or characteristic, so that the record is permanently irretrievable.

LEGISLATIVE SERVICE COMMISSION

Ohio Constitutional Modernization Commission

- Abolishes the Ohio Constitutional Modernization Commission and requires the Commission to cease operations on or before July 1, 2017.

Inventory and assessment of state programs

- Requires the Director of the Legislative Service Commission (LSC) to prepare a report for the General Assembly regarding state programs that address individually identifiable risk factors for poor physical or behavioral health, or risk factors that may contribute to undesirable social outcomes.

Ohio Constitutional Modernization Commission

(Sections 610.38, 610.39, and 701.20)

The bill abolishes the Ohio Constitutional Modernization Commission and requires it to cease operations on or before July 1, 2017. The Commission was established in 2011 by H.B. 188 of the 129th General Assembly. It is required to study the Constitution of Ohio and to make recommendations from time to time to the General Assembly for the amendment of the Constitution.[160] Under current law, the Commission will cease to exist on January 1, 2018.

The bill also requires the Director of the Legislative Service Commission to attend to any matters associated with winding up the affairs of the Commission.

Inventory and assessment of state programs

(Section 701.30)

The bill requires the Director of the Legislative Service Commission (LSC) to prepare a report regarding state programs that address individually identifiable risk factors for poor physical or behavioral health, or risk factors that may contribute to undesirable social outcomes. The report must include an inventory of applicable state programs and assess whether or not a program on the inventory has the means to identify the specific needs of an individual, to refer the individual to appropriate services to address those needs, and to coordinate service and treatment for individuals,

[160] R.C. 103.61 to 103.63, not in the bill.

so as to determine whether or not identified risk factors are being addressed, on an individual level, by the program.

The bill requires each state agency to support and assist the Director of LSC in the preparation of the report. The report must be completed, posted on LSC's website, and submitted to the General Assembly, not later than June 30, 2018.

- Eliminates the Lake Erie Resources Fund, the purposes of which duplicate 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, 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 spent from the Lake Erie Resources Fund duplicate the purposes for which money can be spent 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. It further specifies that the Protection Fund may consist of money awarded to Ohio from the Great Lakes Protection Fund.

STATE LIBRARY BOARD

Local Government Information Exchange Grant Program

- Establishes the Local Government Information Exchange Grant Program so that certain political subdivisions may apply for a grant to post on the Internet data that meets the Program's requirements.

- Requires the State Librarian to administer and adopt rules for the Program, including grant eligibility criteria and specifications for consistent formatting.

- Requires the State Librarian to disburse a $10,000 grant to each applicant that meets the grant eligibility criteria, but specifies that the total amount of grants awarded cannot exceed the amount that can be funded with appropriations made by the General Assembly for the Program.

Local Government Information Exchange Grant Program

(R.C. 3375.03)

The bill establishes the Local Government Information Exchange Grant Program, to be administered by the State Librarian. The State Librarian is required to adopt rules under the Administrative Procedure Act as are necessary to administer the Program. The rules must include all of the following:

(1) Grant eligibility criteria, which must include a requirement that a grantee be a county, township, municipal corporation, or public library, or a regional planning commission, metropolitan planning organization,[161] or regional council of governments, which may apply for a grant on behalf of a county, township, municipal corporation, public library, or group thereof, to assist them in meeting the Program's requirements;

(2) Specifications for what data sets of public records must be included by an applicant for the applicant to be eligible for a grant;

(3) A requirement that data satisfying the grant criteria be posted on the Internet, by the grantee, in an open format;

[161] A metropolitan planning organization is a policy board designated to carry out the transportation planning process required by federal law, 23 U.S.C. 134.

(4) Specifications for consistent formatting and technology standards for data satisfying the grant eligibility criteria;

(5) Specifications for accounting standards for data provided by a grantee; and

(6) A requirement that the data provided by a grantee be provided in a format that is compatible with, and able to be published by the Treasurer of State as part of, the Ohio online checkbook or a similar program.

Required data may be different for counties, townships, municipal corporations, or public libraries.

The bill requires that the State Librarian disburse a grant of $10,000 to each grantee that meets the grant eligibility criteria established by the State Librarian. Grants must be awarded in the order in which a grantee has met the eligibility criteria. The total amount of grants awarded cannot exceed the amount that can be funded with appropriations made by the General Assembly for this purpose.

The bill does not prohibit a grantee who received a grant under the Program from pooling the grant with other grants received under the Program by other grantees, to assist them in meeting the Program's requirements or to comply with the online public record access law, explained above in "**Online public record access**."

STATE LOTTERY COMMISSION

Assistant and deputy directors

- 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.

Internal audit reports

- 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.

Credit card use

- Prohibits the Commission from adopting rules to allow a lottery sales agent to accept a credit card to purchase a lottery ticket, except at a video lottery terminal (VLT).

Intermediate draw monitor game

- Requires an intermediate draw monitor game to be made available on lottery devices with monitors capable of operating the game.

Supplemental incentive-based compensation program

- Requires the Commission to adopt rules establishing a supplemental incentive-based compensation program for lottery sales agents.

- Specifies that the supplemental incentive-based program must include quarterly sales goals and bonus compensation for a lottery sales agent that meets or exceeds a quarterly sales goal.

Certain lottery prizes to be claimed at retail locations

- Requires a winner of a lottery prize with a value of less than $5,000 to claim the prize at a retail location of a lottery sales agent.

- Requires a lottery sales agent presented with a winning lottery ticket with a value of less than $5,000 at the agent's retail location by a winner of a lottery prize to pay the prize to the claimant.

Video lottery terminals

- Requires the Commission to adopt rules to add video poker to all video lottery terminals (VLTs) capable of operating the game.
- Directs the Commission to adopt rules to reduce the commission paid to a VLT sales agent to 65.5% of the agent's VLT income.
- Authorizes the Commission to adopt rules governing a voluntary exclusion program for VLT participants.
- Requires the identity and personal information of voluntary exclusion program participants to be kept confidential.

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.

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.

Prohibit rules allowing the purchase of a lottery ticket with a credit card

(R.C. 3770.03)

The bill prohibits the Commission from adopting rules that would allow a lottery sales agent to accept a credit card to purchase a lottery ticket at any location other than a video lottery terminal (VLT). Current law does not address a lottery sales agent's ability to accept a credit card to purchase a lottery ticket. Current rules adopted by the State Lottery Commission allow a person to purchase a lottery ticket at a VLT using currency, credit vouchers, replays of credit awarded, value credits, or any form of card that contains credit for play on a VLT.[162] The bill does not affect the ability of a VLT sales agent (racino) to continue to accept these methods of payment at a VLT according to these rules.

Intermediate draw monitor game

(R.C. 3770.03)

The bill requires the Commission to adopt rules to offer an intermediate draw monitor game on lottery devices with monitors capable of operating the game. In the intermediate draw monitor game, a player selects a single number between one and 36 or other options related to the field of numbers on the monitor of a lottery device. These lottery devices are self-service terminals typically found in bars and restaurants, not video lottery terminals operated at racinos. Current law does not address specific games to be operated on lottery devices.

Supplemental incentive-based compensation program

(R.C. 3770.03)

The bill requires the Commission, in rules adopted under the Administrative Procedure Act, to establish a supplemental incentive-based compensation program for lottery sales agents. The program must include quarterly sales goals for lottery sales agents and bonus compensation for any lottery sales agents that meet or exceed those goals. Current law directs the Commission to adopt rules setting lottery sales agents' compensation but does not specifically require the Commission to establish an incentive-based supplemental compensation program.

[162] O.A.C. 3770:2-7-01.

Certain lottery prizes to be claimed at retail locations

(R.C. 3770.07)

Under the bill, any person who wins a prize of less than $5,000 on a lottery ticket must claim that prize at a retail location of a lottery sales agent. Lottery sales agents presented with a winning lottery ticket with a prize of less than $5,000 at the agent's retail location are required to pay the prize to the claimant. Current law does not restrict a person's ability to claim the prize from a winning lottery ticket, but instead generally defers to the Commission to determine how prizes must be claimed and paid.

Video lottery terminals

Video poker

(R.C. 3770.21)

The bill requires the Commission to adopt rules to add video poker to all VLTs capable of operating the game. Current law does not address the availability of video poker on VLTs.[163]

The Commission oversees the operation of VLTs at horse racetracks (racinos). The VLTs are part of the state lottery and are electronic devices that provide immediate prize determinations for participants on an electronic display.

VLT sales revenue

(R.C. 3770.03)

The bill directs the Commission to adopt rules to reduce the commission paid to a VLT sales agent to 65.5% of the agent's VLT income.[164] Current statutory law does not specify the amount of commission to be paid to a VLT sales agent from the agent's VLT income. Instead, the current commission paid to a VLT sales agent from their VLT income is set in rule at 65.5%.[165]

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[163] Adding video poker to VLTs may potentially violate Ohio Const. art. XV, sec. 6, depending on a court's interpretation of the word "lottery." It is also unknown if video poker constitutes a "table game" under that provision of the Ohio Constitution, which is limited to the four casino sites.

[164] "Video lottery terminal income" means credits played, minus approved gaming credits, minus VLT prize awards (R.C. 3770.21).

[165] O.A.C. 3770:2-3-08.

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 VLT 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, VLT 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 VLTs exists under current law, and the identity and personal information of program participants is also not confidential under current law.

MANUFACTURED HOMES COMMISSION

Removal from manufactured home parks

- Modifies procedures regarding the removal of abandoned or unoccupied manufactured homes, mobile homes, or recreational vehicles.

- Requires the park operator to provide a person that has an outstanding interest in the home or vehicle a written notice to remove it from the park or arrange for its sale within 21 days from the delivery of the notice.

- Permits the park operator to remove the home or vehicle from the manufactured home park, or sell, destroy, or transfer ownership of the home or vehicle, if a person does not come forward with an outstanding interest.

- Requires the park operator to submit a notarized affidavit listing the value of an abandoned home or vehicle and the affidavit to be signed by the auditor confirming the value, and establishes procedures if there is a disagreement over the value.

- Permits the park operator to remove the home or vehicle from the park and potentially sell, destroy, or transfer ownership if a probate court does not grant administration of a deceased resident's estate within 90 days from eviction, reduced from one year under existing law.

- Establishes procedures to identify and notify persons with an interest in the home or vehicle of a deceased resident.

- Revises the required contents of the writ of execution.

- Eliminates the requirement that a lienholder consent to the transfer of title, if the judgment is executed by transfer of title.

- Provides immunity for a sheriff, police officer, constable, or bailiff for damage caused by the park operator's removal of the home, vehicle, or personal property from the premises, or any damage to the home, vehicle, or personal property when the home or vehicle remains abandoned or stored in the park.

Contracts with local boards of health relating to nuisances

- Authorizes the Manufactured Homes Commission to contract with a local board of health to permit the Commission to exercise the board's authority to abate and remove any abandoned or unoccupied home or vehicle that constitutes a nuisance and is located in a manufactured home park.

Installation standards

- Removes the option of the Commission to adopt, as the uniform standards for the design and installation of manufactured housing, manufacturers' standards that are equal to or not less stringent than the federal model standards.

Inspections and inspectors

- Permits a township, municipal corporation, or county that does not have a certified building department regarding manufactured homes to designate the certified building department of another political subdivision to perform manufactured home inspection duties for that township, municipal corporation, or county.

- Establishes fees for manufactured home inspector certification and certification renewal.

Condition of manufactured home park

- Requires the park operator to ensure that all buildings, lots, streets, walkways, homes, and other facilities located in the park are maintained in satisfactory condition at all times.

Removal from manufactured home parks

(R.C. 1923.12, 1923.13, and 1923.14)

Overview

When a person stops paying rent, engages in unlawful behavior on the leased property, or abandons a manufactured home, mobile home, or recreational vehicle, the park operator where the home or vehicle is located can begin proceedings to evict the person (the resident or a deceased resident's estate) and remove the home or vehicle in which the person lives.

To start the eviction process, continuing law requires the park operator to first get a judgment of restitution in an eviction action. If the resident fails to remove the home or vehicle within three days after the judgment, the park operator may provide the titled owner of the home or vehicle written notice to remove the home or vehicle within 14 days.

If the home or vehicle has not been removed by the end of the 14-day period, continuing law establishes a process by which the park operator may obtain a writ of

execution to enforce that judgment. A writ of execution is a court order to a levying officer (sheriff, police officer, constable, or bailiff) to enforce the judgment. The writ may include related orders to other persons as well.

The process for removal may vary if there are outstanding titles, rights, or interest in the home or vehicle, if the person dies before an eviction is complete, or if the home or vehicle is abandoned. What can be done regarding the home or vehicle or the personal property inside also varies based on the value of the home or vehicle. The bill delves into detail about what takes place at each step.

Prior to requesting the writ of execution

Generally

Before requesting a writ of execution, under continuing law, the park operator must make diligent inquiries to determine if there is anyone with a right, title, or interest in the home or vehicle.

If the search is fruitful, the bill requires that the park owner provide the person who has the right, title, or interest a written notice to remove the home or vehicle from the park or arrange for its sale within 21 days from the delivery of the notice. The bill requires the park operator to deliver the notice in person or by ordinary mail to the person's last known address. If the home or vehicle is sold, the sale proceeds must be used to pay the rent due the park operator during the pendency of the sale.

If the search is not fruitful, or if the person with right, title, or interest in the home or vehicle does not remove it or arrange for its sale within the 21-day period, the bill permits the park operator to seek the writ of execution to remove the home or vehicle from the manufactured home park and potentially sell, destroy, or transfer ownership of the home or vehicle.

Deceased residents

Continuing law provides procedures governing situations in which a deceased resident or the deceased resident's estate is evicted. Generally, the removal of the home or vehicle and any personal property abandoned on the property is conducted in the manner prescribed by the probate court.

But, if a resident is in the process of being evicted, is the titled owner of the home or vehicle, and dies prior to the removal of the home or vehicle, a different procedure applies. Under both existing law and the bill, the park operator must store the vehicle for a period of time. Under existing law, if an estate executor or administrator is appointed within one year, the general procedure applies; if no executor or administrator is appointed within this time period, the park operator may seek a writ of

execution. The bill shortens this time period to 90 days and imposes some additional duties before the park operator may seek the writ.

The bill requires the park operator to make diligent inquiries to identify any person with right, title, or interest in the home or vehicle. If the search reveals a person who has right, title, or interest, the park operator must provide written notice to the person to remove or arrange for sale of the home or vehicle within 21 days. Notice must be delivered by personal delivery or ordinary mail to the person's last known address. If the home or vehicle is to be sold, the person must pay rent to the park operator while the sale is pending. If the removal or sale does not take place within 21 days, the park operator may seek the writ of execution to remove the home or vehicle from the park and potentially sell, destroy, or transfer ownership of the home or vehicle.

If the search reveals no person with a right, title, or interest, the bill requires the park operator to publish a notice of a petition for a writ of execution for two consecutive weeks in a newspaper of general circulation in the county where the home or vehicle was abandoned. The park operator must provide the court written certification of the dates of publication and an affidavit attesting to the publication.

Requesting the writ of execution

The bill eliminates the requirement that a park operator include all of the following with the request for the writ of execution:

- The name and last known address of each person with a right, title, or interest in the home or vehicle to be removed;
- The items of abandoned personal property and the name and last known address of each person that the park operator knows has a right, title, or interest in the personal property;
- A certification that the park operator provided the required written notice.

The bill also eliminates the authority of the court clerk to require the park operator to pay an advance deposit sufficient to secure payment of the appraisal of the home or vehicle and the advertisement of the sale.

Content of the writ of execution

If the park operator requests a writ of execution on the eviction judgment and has met the requirements for issuance, the court must issue a writ of execution on the judgment. The bill revises the law that specifies the contents of the writ.

Holdover tenant

The bill expressly sets out in the writ authority for the levying officer to remove and set out from a manufactured home park a person who remains on the premises after losing an eviction judgment. In accordance with continuing law, the bill also requires the writ to order the park operator to post a 14-day notice to the person to sell or remove the home or vehicle at the person's cost three days after the judgment is entered (note – this may have already been done, as it is required before the writ can be requested). The writ must declare that if the person fails to remove the home or vehicle at the end of the 14-day period, the person forfeits the person's rights to the home or vehicle and the park operator may exercise the park operator's rights in regards to removal or destruction of the home or vehicle.

Abandoned homes or vehicles

The bill expands the procedure for abandoned homes and vehicles. If the home or vehicle has been abandoned, the bill requires the writ to order the park operator to submit a notarized affidavit to the county auditor listing the titled owner, address, serial number, and value of the home or vehicle. The auditor must confirm within 15 days of receipt whether the auditor agrees or disagrees with the stated value.

If the auditor agrees, the auditor must return the affidavit, signed, to the park operator. If the auditor disagrees, the auditor must notify the park operator within 15 days. The park operator may submit additional information in favor of the stated value. Upon receipt of the additional information, the auditor has ten days to respond. If the auditor agrees, the auditor must return the signed affidavit. If the auditor still disagrees, the auditor must notify the park operator. The park operator may appeal to the court issuing the writ for a ruling on the disagreement.

The bill requires the writ to order the park operator to submit a signed copy of the affidavit to the court stating the value of the home or vehicle, which will be deemed to be the park operator's sworn testimony. If the park operator knowingly includes false information in the affidavit, the park operator is guilty of the offense of falsification.

Under continuing law, the treatment of abandoned vehicles depends on the home's or vehicle's value. The bill changes this threshold in a minor way. Under existing law, the brackets are: (1) less than $3,000 and (2) $3,000 or more. Under the bill, the brackets are: (1) $3,000 or less and (2) more than $3,000.

As under continuing law, if the abandoned home or vehicle is in the upper bracket, the writ must order the levying officer to cause the sale of the home or vehicle and the personal property within it. The bill removes the requirement that the writ list persons with an interest in the home, vehicle, or property.

If the abandoned home or vehicle is in the lower bracket, existing law requires the writ to order the levying officer to either: (1) cause the sale or destruction of the home or vehicle or (2) present the writ of execution to the court of common pleas for issuance of a certificate of title to the park operator. That certificate of title transfers title of the home or vehicle to the park operator free and clear in accordance with current law. Under the bill, the writ would not order the levying officer to cause the sale or destruction of the home or vehicle.

Execution of the writ

Notice

After the writ of execution is granted, continuing law requires the clerk of the court issuing the writ to send notice to the last known address of specified persons informing them that the home or vehicle may be sold, destroyed, or have its title transferred. Under the bill, the notice must be given to each person (other than the titled owner of the home or vehicle) listed in the writ as having a right, title, or interest in the home or vehicle or personal property in it, and to the county auditor and county treasurer. The bill provides that the person's consent is not required in order for the writ to be executed. The bill removes the clerk's duty to also send the notice to the titled owner of the home or vehicle.

Execution

Current law states that after receiving a writ of execution, the levying officer may cause the home or vehicle and all personal property to at their option be removed and if necessary placed in storage or retained at their current location. The bill eliminates the option of causing the home or vehicle and all personal property to be removed and if necessary placed in storage.

Immunity

The bill eliminates the provision that provides civil immunity to the levying officer for any damage caused to the home or vehicle or personal property in the *levying officer's removal* or the home, vehicle, or personal property. Instead, the bill provides immunity to the levying officer regarding damage caused by the *park operator's removal* of the home or vehicle or the removal of personal property from the premises, or any damage to the home, vehicle, or personal property during the time the home or vehicle remains abandoned or stored in the park.

Payment of costs

Under current law, if an abandoned home or vehicle or personal property is sold, the levying officer must pay from the sale proceeds: (1) certain costs regarding the

removal and movement of a home or vehicle and personal property, (2) the requirement that law enforcement reimburse the park operator for the deposit the park operator was required to pay to the clerk of courts (this deposit is removed by the bill), (3) any unpaid court costs assessed against the resident, and (4) costs of the sale. The bill adds that the levying officer must pay any advertising costs the park operator paid for related to the sale.

Certificate of title

Under current law, if the home or vehicle is sold and the court makes a journal entry that it is satisfied with the legality of the sale, the court must order the issuance of a certificate of title. The bill eliminates the requirement that the clerk of the court of common pleas issue a new certificate of title to a purchaser of the home or vehicle regardless of whether the writ was issued by the court of common pleas, a municipal court, or a county court. Instead, the court that issues the writ is authorized to order the title division of the court of common pleas to issue the certificate of title.

The bill makes parallel changes relating to the existing provisions transferring certificate of title to the park operator if an abandoned home or vehicle has been offered for sale at least twice and cannot be sold. The bill requires the park operator, in accordance with current law, to notify the county auditor of the transfer of title. If the home or vehicle is destroyed or removed, the park operator must provide the county auditor with notice of removal or destruction of the home or vehicle.

If an abandoned home or vehicle is in the lower bracket ($3,000 or less under the bill), current law requires the levying officer to provide notice of a potential action to any person who has a right, title, or interest within 60 days of receiving the writ. Current law provides three options that the levying officer may take with respect to the abandoned home or vehicle: cause its destruction if no one (other than the titled owner) has an interest in it, proceed with its sale, or cause the title to be transferred to the park operator. The bill eliminates the first two options, leaving only the transfer of title to the park operator and requires the levying officer to do this within 30 days after receiving the writ. The bill requires the park operator to notify the county auditor of the transfer of title. If the home or vehicle is destroyed or removed, the park operator must provide the county auditor with notice of removal or destruction of the home or vehicle.

Removal by titled owner before issuance of a writ of execution

If, prior to the issuance of a writ of execution, a titled owner wants to remove the home or vehicle, the bill allows the owner to remove the home or vehicle upon payment of all costs incurred by the levying officer and a series of other fees required under current law.

Contracts with local boards of health relating to nuisances

(R.C. 4781.56)

The bill authorizes the Manufactured Homes Commission to contract with the board of health of a city or general health district to permit the Commission to exercise the board's authority to abate and remove an abandoned or unoccupied home or vehicle that constitutes a nuisance and that is located in a manufactured home park within the board's jurisdiction. Under the contract, the Commission may receive complaints of abandoned or unoccupied homes or vehicles that constitute a nuisance and may, by order, compel the park operator to abate and remove the nuisance. The park operator is required to pay any costs for the removal.

The bill also grants the sheriff, police officer, constable, or bailiff civil immunity in relation to the abatement or removal of any abandoned or unoccupied home or vehicle pursuant to this provision.

Installation standards

(R.C. 4781.04)

The bill eliminates the option of the Commission to adopt rules that establish, as the uniform standards for the design and installation of manufactured housing, manufacturers' standards that are equal to or not less stringent than the federal model standards, leaving as the only option standards are consistent with and not less stringent than the model standards adopted by the U.S. Secretary of Housing and Urban Development.

Inspections and inspectors

(R.C. 4781.07 and 4781.281)

Designating other building department

The bill permits a township, municipal corporation, or county that does not have a building department that is certified regarding manufactured homes to designate the building department of another political subdivision, that is certified, to do the following on behalf of that township, municipal corporation, or county:

- Exercise the Commission's enforcement authority;
- Accept and approve plans and specifications for manufactured home foundations, support systems, and installations; and

- Inspect manufactured housing foundations, support systems, and manufactured housing installations.

A park owner or operator may request an inspection and obtain required approvals from any building department so designated by the township, municipal corporation, or county in which the manufactured home park is located.

Certification fee

Continuing law authorizes the Commission to certify municipal, township, and county building departments and their personnel, or any private third party, to exercise the authority described in the preceding dot points. Inspector certification is valid for three years. The bill establishes the following nonrefundable fees for manufactured home inspector certification and renewal:

(1) A certification or renewal fee of not greater than $50;

(2) A late fee for renewal of not greater than $25, in addition to the renewal fee.

Condition of manufactured home park

(R.C. 4781.57)

The bill requires a park operator to ensure that all buildings, lots, streets, walkways, homes, and other facilities located in the park are maintained in satisfactory condition at all times.

DEPARTMENT OF MEDICAID

State agency collaboration for health transformation initiatives

- Extends to FYs 2018 and 2019 provisions that authorize the Office of Health Transformation Executive Director to facilitate collaboration between certain state agencies for health transformation purposes and authorize the exchange of personally identifiable information regarding a health transformation initiative.

Health and Human Services Fund

- Provides for the Health and Human Services Fund to continue to exist for the 2018-2019 fiscal biennium.

- Permits the Medicaid Director, not more than once every six months during the 2018-2019 fiscal biennium, to request that the Controlling Board authorize expenditures from the Fund in an amount necessary to pay for the Medicaid program's costs.

- Specifies conditions that must be met in order for the Controlling Board to be permitted to authorize the expenditure.

Medicaid eligibility requirements for expansion group

- Requires the Medicaid Director to establish a waiver program under which an individual included in the Medicaid expansion group must satisfy additional requirements to be eligible for Medicaid.

Medicaid coverage of optional eligibility groups

- Eliminates the Medicaid program's authority to cover an optional eligibility group if state statutes do not address whether the program may cover the group.

- Permits the Medicaid program to cover an optional eligibility group currently covered by the program.

- Prohibits the Medicaid program from covering an optional eligibility group that the program does not currently cover unless state statutes either require the group to be covered or expressly permit the group to be covered.

Revised system to become and remain a Medicaid provider

- 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.

Medicaid payment rates

- Prohibits the implementation of a proposal to increase a Medicaid payment rate if (1) the proposal is not submitted to the Joint Medicaid Oversight Committee (JMOC), (2) JMOC votes to prohibit implementation, or (3) the General Assembly adopts a concurrent resolution prohibiting implementation.

- Eliminates a provision under which Medicaid payments for services generally cannot exceed the payment limits for the same services under Medicare.

- Requires the Department of Medicaid to rebase nursing facilities' cost centers at least once every five state fiscal years instead of not more than once every ten years and requires each cost center to be rebased for the same state fiscal years.

- Allows, instead of prohibiting, the use of the index maximizer element of the grouper methodology used in determining nursing facilities' case-mix scores.

- Makes changes to the quality indicators used for the purpose of the quality portion of nursing facilities' rates.

- Provides for a new nursing facility's initial rate for tax costs to be an amount determined by dividing its projected tax costs for the calendar year in which it begins to participate in Medicaid by a 100% imputed occupancy rate if the nursing facility submits the projected tax costs to ODM.

- 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.

- Provides that the total amount of payments for nursing facility services provided under Medicaid fee-for-service and the Integrated Care Delivery System (i.e., MyCare Ohio) cannot exceed $2,659,167,368 for FY 2018 and $2,664,485,703 for FY 2019.

- Requires that nursing facilities' rates be decreased as necessary to ensure that the total amount of the payments equals those amounts.

- Provides for adjustments beginning in state FY 2020 in an amount that equals the difference between the Medicare skilled nursing facility market basket index and a budget reduction adjustment factor.

- States the General Assembly's intent to enact laws that specify the budget reduction adjustment factor for each state fiscal year.

- Sets the budget reduction adjustment factor at zero for a state fiscal year if the General Assembly fails to enact such a law for that year.

- Requires the Medicaid payment rates for hospital services provided during FYs 2018 and 2019 to equal the rates that were in effect for those services on January 1, 2017, but subjects the rates to reductions if the total amount to be paid for hospital services in either fiscal year is projected to exceed $6.9 billion.

- Requires that the Medicaid rates for certain neonatal and newborn services equal 75% of the Medicare rates for the services.

- Requires that the Medicaid rates for other services selected by the Medicaid Director be reduced to avoid an increase in Medicaid expenditures that would otherwise result from the requirements regarding the rates for neonatal and newborn services.

- Prohibits during FYs 2018 and 2019 the restructuring of Medicaid rates for personal care aide services provided under the Ohio Home Care Medicaid waiver or provided as part of state plan home and community-based services.

- Provides that the Medicaid rates for personal care aide services provided under the Ohio Home Care Medicaid waiver or provided as part of state plan home and community-based services during FYs 2018 and 2019 cannot exceed the rates for the services in effect on June 30, 2017.

Delayed implementation of behavioral health redesign

- Prohibits certain elements of the behavioral health redesign from being implemented before January 1, 2018.

Medicaid managed care

- Provides that only Medicaid eligibility groups currently required or permitted to participate in the Medicaid managed care system are to participate in the system.

- Eliminates a requirement that physical health, behavioral health, nursing facility, and home and community-based services be included in the Medicaid managed care system.

- Prohibits home and community-based services available under Medicaid waivers and nursing facility services from being included in the Medicaid managed care system before January 1, 2021.

- Establishes a study committee to examine the merits of including home and community-based services available under Medicaid waivers and nursing facility services in the Medicaid managed care system.

- Prohibits alcohol, drug addiction, and mental health services from being included in the Medicaid managed care system before July 1, 2018.

- Exempts from Medicaid managed care prior authorization requirements certain psychiatric drugs that are prescribed by an advanced practice registered nurse who is certified in psychiatric mental health by a national certifying organization.

- Increases to 5% (from 2%) the maximum amount of Medicaid managed care organization premiums that may be withheld by ODM for purposes of the Managed Care Performance Payment Program.

- Creates the Medicaid Managed Care Quality Payment Fund.

- Permits money in the fund to be used only to make performance payments under the Managed Care Performance Payment Program to qualifying Medicaid managed care organizations and only if the unencumbered balance of the Managed Care Performance Payment Fund is zero.

- Abolishes the fund on July 1, 2019.

Medicaid waiver for services at institutions for mental diseases

- Requires the Department to create and administer a Medicaid waiver component to provide services to eligible individuals between the ages of 21 and 64 at hospitals and other facilities larger than 16 beds that are primarily engaged in providing diagnosis, treatment, or care to persons with mental diseases.

Medicaid health homes

- Eliminates the authority of the Medicaid Director to implement as part of the Medicaid program a system under which individuals with chronic conditions receive health home services and the Director's authority to implement a similar system for individuals with developmental disabilities.

- Abolishes ODM's Patient-Centered Medical Home Program which is also known as the Comprehensive Primary Care 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 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

- Establishes a $10.49 dispensing fee for each prescription that is filled or refilled by a terminal distributor of dangerous drugs who is a provider of drugs under the Medicaid program.

- Requires the Medicaid Director to adjust the dispensing fee on a biennial basis to reflect the average cost of dispensing.

Recovery of Medicaid overpayments

- Reduces from five to three the number of years ODM has to notify a nursing facility or intermediate care facility for individuals with intellectual disabilities of certain Medicaid overpayments.

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.

Nursing facility demonstration project

- Extends until June 30, 2019, a Medicaid demonstration project under which recipients receive nursing facility services in lieu of hospital inpatient services in a freestanding long-term care hospital.

- Provides for one nursing facility in Brown County, and another nursing facility in Seneca County, to be added to the demonstration project.

- Eliminates a requirement that a nursing facility have been initially constructed, licensed for operation, and certified to participate in Medicaid on or after January 1, 2010, to be eligible to participate in the demonstration project.

Nursing facility bed conversion pilot program

- Requires ODM to operate a pilot program during FYs 2018 and 2019 under which nursing facility beds located in Cuyahoga County may voluntarily be converted for use for substance use disorder treatment services.

General Assembly's intent regarding the Medicaid program's future

- Declares the General Assembly's intent to use the Healthy Ohio Program as a model if the U.S. Congress transforms the Medicaid program into a federal block grant.

Local boards of health as community hubs; public health nurses

- Authorizes a local board of health to be a "qualified community hub" for purposes of recently enacted law governing services that Medicaid managed care organizations must provide to certain pregnant women and women who are capable of becoming pregnant.

- Authorizes Medicaid managed care organizations that must provide those services to provide the services using public health nurses in lieu of or in addition to community health workers.

- Authorizes public health nurses (in addition to physicians or other licensed health professionals specified in rules required by existing law) to recommend that Medicaid recipients receive such services.

Columbus Medicaid pilot

- Requires the Department to operate during FY 2018 a pilot program to establish a software program that helps Medicaid recipients in Columbus remember appointments and locate transportation.

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 FY 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 FY 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 FY 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 FYs 2014 through 2017. The bill extends those authorizations and requirements to FYs 2018 and 2019.

Health and Human Services Fund

(Section 333.34)

The bill provides for the Health and Human Services Fund to continue to exist during the FY 2018-FY 2019 fiscal biennium. The Fund was originally created by the main operating budget act for the FY 2016-FY 2017 biennium, H.B. 64 of the 131st General Assembly.

The Medicaid Director is permitted by the bill to request, not more than once every six months during the FY 2018-FY 2019 fiscal biennium, the Controlling Board to authorize expenditures from the Fund in an amount necessary to pay for the costs of the Medicaid program. The amount per request is not to exceed the amount of such costs for six months. The Controlling Board is permitted to authorize the expenditure if Congress has not amended on or after the effective date of this provision of the bill the federal law governing the federal match for Medicaid services in a manner that reduces the percentage and the Controlling Board is satisfied with the following:

(1) Any changes, other than a change regarding the federal match for Medicaid services, made on or after the effective date of this provision of the bill by the U.S. Congress to federal law governing health and human services issues;

(2) The progress made by the executive branch of the state's government in (a) obtaining a State Innovation Waiver regarding health insurance coverage as required by existing law and subsequently implementing the waiver, (b) obtaining a federal Medicaid waiver for the Healthy Ohio Program and subsequently implementing the Program, and (c) enforcing state law that requires health care providers to give cost estimates to patients before rendering health care services to the patients.

Medicaid eligibility requirements for expansion group

(R.C. 5166.37)

The bill requires the Medicaid Director to establish a Medicaid waiver component that establishes additional eligibility requirements for members of the Medicaid expansion group (also known as Group VIII). Under the waiver component, a member of the expansion group also must satisfy at least one of the following requirements to be eligible for Medicaid:

(1) Be at least age 55;

(2) Be employed;

(3) Be enrolled in school or an occupational training program;

(4) Be participating in an alcohol and drug addiction treatment program;

(5) Have intensive health care needs.

Medicaid coverage of optional eligibility groups

(R.C. 5163.03 (primary) and 5162.021)

Federal Medicaid law requires states' Medicaid programs to cover certain eligibility groups (mandatory eligibility groups) and permits states' Medicaid programs to cover certain other groups (optional eligibility groups).

Current state law permits the Medicaid program to cover any optional eligibility group that state statutes do not address whether the program may cover. The bill eliminates this authority and instead permits the Medicaid program only to cover an optional eligibility group that it currently covers. Continuing law requires the Medicaid program to cover an optional eligibility group that state statutes require be covered and

permits the program to cover an optional eligibility group that state statutes permit be covered.

Under continuing law, the Medicaid program is prohibited from covering any optional eligibility group that state statutes prohibit the program from covering. The bill also prohibits the Medicaid program from covering any optional eligibility group not currently covered unless state statutes either require the group to be covered or expressly permit the group to be covered.

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.[166] 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 FY 2016). However, Ohio may use (carry over) unspent funds awarded for a federal fiscal year for up to the four following federal fiscal years.[167] 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:

(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

[166] 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.

[167] 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.

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.[168] 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.[169] 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 FYs 2016 and 2017.

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.

Legislative oversight of Medicaid payment rate increases

(R.C. 5164.69 (primary), 103.41, 103.417, 5162.021, 5164.02, and 5164.021)

The bill prohibits ODM and other state agencies that administer part of the Medicaid program on ODM's behalf from increasing the Medicaid payment rate for a service, by rule or otherwise, under certain circumstances.

The proposal cannot be implemented if ODM or the other state agency fails to submit the proposal to the Joint Medicaid Oversight Committee (JMOC) as required by

[168] Section 327.190 of Am. Sub. H.B. 64 of the 131st General Assembly.

[169] 42 U.S.C. 1396n(i).

the bill. If the proposal is to be implemented in part or whole by rule, ODM or the other state agency must include with the proposal a copy of the proposed rule as filed in final form under the Administrative Procedure Act (R.C. Chapter 119.). JMOC is required, not later than 30 days after receiving the proposal, to conduct a public hearing on the proposal and vote on whether to permit or prohibit the proposal's implementation. The proposal cannot be implemented if JMOC votes by the deadline to prohibit implementation. The proposal also cannot be implemented if the General Assembly, not later than 90 days after JMOC's deadline, adopts a concurrent resolution prohibiting implementation. The General Assembly's authority to adopt the concurrent resolution applies regardless of whether JMOC votes to permit the proposal's implementation or fails to vote before its deadline. These prohibitions apply to a proposal to increase a Medicaid payment rate regardless of whether it involves a change to the method by which the rate is to be determined or specifies the actual amount of the rate increase.

To give JMOC and the General Assembly time to prohibit implementation of a proposed Medicaid rate increase, neither the Medicaid Director nor the director of another state agency administering a part of the Medicaid program on ODM's behalf may designate for a rule increasing a Medicaid rate an effective date that is earlier than the 121st day after the date on which the rule is filed in final form under the Administrative Procedure Act.

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.

Medicaid rates for nursing facility services

(R.C. 5165.01, 5165.106, 5165.15, 5165.151, 5165.153, 5165.154, 5165.157, 5165.16, 5165.17, 5165.19, 5165.192, 5165.21, 5165.23, 5165.25, 5165.34, 5165.36, 5165.361, 5165.37, 5165.41, 5165.42, and 5165.52; Section 333.165)

The bill revises the formula used to determine Medicaid payment rates for nursing facility services. The formula has several components. There are four separate cost centers (ancillary and support costs, capital costs, direct care costs, and tax costs) and a quality payment. For nursing facilities that qualify as critical access nursing facilities, there is also a critical access incentive payment. Current law also provides for specific dollar amounts to be added and subtracted to the sum of the amounts determined for the different components.

The following shows how a nursing facility's total rate is determined under the formula as it exists in current law:

(1) Determine the sum of the rates for a nursing facility's four cost centers and, if the nursing facility qualifies as a critical access nursing facility, its critical access incentive payment.

(2) To that sum, add $16.44.

(3) From that sum, subtract $1.67.

(4) To that difference, add the nursing facility's quality payment.

Rebasings

A rebasing is a redetermination of nursing facilities' cost centers using information from Medicaid cost reports for a calendar year that is later than the calendar year used for the previous rebasing. Under current law, ODM is not required to conduct a rebasing more than once every ten years. The bill requires ODM to conduct a rebasing at least once every five fiscal years. It also requires ODM, when conducting a rebasing for a fiscal year, to conduct the rebasing for each cost center.

Index maximizer element

Determining a nursing facility's Medicaid payment rate for direct care costs includes a process under which case-mix scores are determined for the nursing facility. As part of the process, ODM must use a modified version of the grouper methodology used on June 30, 1999, by the U.S. Department of Health and Human Services for prospective payment of skilled nursing facilities under the Medicare program. Under current law, the grouper methodology is modified in part because ODM is prohibited from using the methodology's index maximizer element. The bill permits ODM to use the index maximizer element.

Quality payments

Nursing facilities earn quality payments by meeting quality indicators. The amount of a nursing facility's quality payment depends on the number of quality indicators the nursing facility meets. A nursing facility must meet at least one quality indicator to get a quality payment and the nursing facilities that meet all of the quality indicators receive the largest quality payments. The bill revises the quality indicators.

Under current law, there is a quality indicator regarding pressure ulcers that has two components. To earn credit for that quality indicator, not more than a certain percentage of a nursing facility's short-stay residents may have had new or worsened

pressure ulcers *and* not more than a certain percentage of long-stay residents at high risk of pressure ulcers may have had pressure ulcers. The bill makes these two separate quality indicators. Similarly, a quality indicator regarding antipsychotic medication has two components under current law; not more than a certain percentage of a nursing facility's short-stay residents may have newly received an antipsychotic medication *and* not more than a certain percentage of its long-stay residents may have received antipsychotic medication. The bill makes these two separate quality indicators.

The bill eliminates a quality indicator that a nursing facility meets if the number of its residents who had avoidable hospital admissions does not exceed a certain rate. In its place, the bill establishes a new quality indicator that a nursing facility meets if not more than a certain percentage of its long-stay residents have an unplanned weight loss.

Current law requires ODM to specify the percentages to be used for the purpose of determining whether a nursing facility meets the quality indicators. The bill requires ODM to specify the percentages at the 40th percentile of nursing facilities that have data for the quality indicators.

Critical access nursing facilities

The bill eliminates provisions of the law governing critical access nursing facilities that were intended to be eliminated by the main operating budget act for the 2016-2017 fiscal biennium, H.B. 64 of the 131st General Assembly, but were apparently inadvertently line-item vetoed by the Governor. The provisions being eliminated reference other provisions of law that no longer exist because they were eliminated by H.B. 64 as part of changes to the law governing nursing facilities' quality payments.

New ICFs/IID initial rate for tax costs

The method used to determine the initial Medicaid payment rates for new nursing facilities differs from the method used to determine the rates for other nursing facilities, because ODM does not have Medicaid cost reports and certain other information for the new nursing facilities. The initial rate is adjusted at the beginning of the next fiscal year to reflect new rate calculations for all nursing facilities.

Under current law, a new nursing facility's initial rate for tax costs is the median rate for tax costs for the new nursing facility's peer group in which it is placed as part of the process of determining nursing facilities' rates for ancillary and support costs. The bill provides for a new nursing facility's initial rate for tax costs to be an amount determined by dividing its projected tax costs for the calendar year in which it begins to participate in Medicaid by a 100% imputed occupancy rate if the nursing facility submits the projected tax costs to ODM.

Alternative purchasing model for nursing facility services

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.

Fiscal years 2018 and 2019 caps on nursing facility payments

The bill provides that the total amount of payments made by ODM under the fee-for-service component of the Medicaid program and by Medicaid managed care organizations under the Integrated Care Delivery System (i.e., MyCare Ohio) for nursing facility services provided during FYs 2018 and 2019 cannot exceed the following:

(1) For FY 2018, $2,659,167,368;

(2) For FY 2019, $2,664,485,703.

ODM is required to do all of the following in conjunction with LeadingAge Ohio, the Academy of Senior Health Sciences, and the Ohio Health Care Association:

(1) Monitor the payments made under Medicaid fee-for-service and the Integrated Care Delivery System for nursing facility services provided during those fiscal years;[170]

(2) Beginning with the calendar quarter ending December 31, 2017, and each calendar quarter thereafter during FY 2018 and FY 2019, project whether the total amount of payments to be made for the fiscal year will exceed the cap the bill sets for the fiscal year;

(3) If the total amount of payments to be made for FY 2018 or FY 2019 is projected to exceed the cap for the fiscal year, determine the percentage by which each nursing facility's rate under Medicaid fee-for-service and the Integrated Care Delivery System

[170] ODM is required to provide LeadingAge Ohio, the Academy of Senior Health Sciences, and the Ohio Health Care Association data about the payments on a monthly basis.

needs to be reduced for the immediately following calendar quarter to ensure that the total amount of the payments to be made for the fiscal year will equal the cap for the fiscal year.

If a rate reduction is to be made, each nursing facility's rate must be reduced by the percentage so determined. The reduction is to take effect on the first day of the immediately following calendar quarter and ODM must notify LeadingAge Ohio, the Academy of Senior Health Sciences, and the Ohio Health Care Association of the percentage reduction at least 30 days before it is to take effect.

Market basket index and budget reduction adjustment factor

One of the revisions the bill makes to the formula concerns the $16.44 add on discussed above. The bill maintains that add on for FYs 2018 and 2019. Beginning with the first fiscal year in a group of consecutive fiscal years for which a rebasing is conducted after FY 2020, the add on is to be the amount of the add on for the immediately preceding fiscal year. (See "**Rebasings**" below.) For other fiscal years beginning with 2020, the add on is to be the sum of the following:

(1) The amount of the add on for the immediately preceding fiscal year;

(2) The difference between (a) the Medicare skilled nursing facility market basket index determined for the federal fiscal year that begins during the state fiscal year immediately preceding the state fiscal year for which the rate is being determined and (b) the budget reduction adjustment factor for the fiscal year for which the rate is being determined.

The bill states that it is the General Assembly's intent to specify in statute the factor to be used for a fiscal year as the budget reduction adjustment factor. That factor is not to exceed the Medicare skilled nursing facility market basket index determined for the federal fiscal year that begins during the state fiscal year immediately preceding the fiscal year for which the factor is being determined. If the General Assembly fails to specify the factor in statute, the budget reduction adjustment factor is to be zero.

The bill also provides for the difference between the Medicare skilled nursing facility market basket index and the budget reduction adjustment factor to be part of the manner in which the rates for the cost centers are to be determined beginning with FY 2020, other than the first fiscal year in a group of consecutive fiscal years for which a rebasing is conducted.

Medicaid payment rates for hospital services

(Section 333.240)

The bill generally requires the Medicaid payment rate for a hospital service provided between July 1, 2017, and June 30, 2019, to equal the rate for the same type of service that was in effect on January 1, 2017. An exception applies for any rate change resulting from a hospital payment rate rebasing or recalibration by ODM on July 1, 2017.

The bill, however, also limits the total amount that may be paid under Medicaid for hospital services to $6.9 billion in FY 2018 or in FY 2019. If ODM projects the limit will be exceeded in either fiscal year, it must reduce the payment rates as necessary to remain within the limit.

Medicaid rates for neonatal and newborn services

(R.C. 5164.78)

The bill requires that the Medicaid payment rates for certain neonatal and newborn services equal 75% of the Medicare payment rates for the services in effect on the date the services are provided to Medicaid recipients eligible for the services. This requirement applies to the following neonatal and newborn services:

(1) Initial care for normal newborns;

(2) Subsequent day, hospital care for normal newborns;

(3) Same day, initial history and physical examination and discharge for normal newborns;

(4) Initial neonatal critical care for children not more than 28 days old;

(5) Subsequent day, neonatal critical care for children not more than 28 days old;

(6) Subsequent day, pediatric critical care for children at least 29 days old but less than two years old;

(7) Initial neonatal intensive care;

(8) Subsequent day, neonatal intensive noncritical care for children weighing less than 1,500 grams;

(9) Subsequent day, neonatal intensive noncritical care for children weighing at least 1,500 grams but not more than 2,500 grams;

(10) Subsequent day, neonatal care for children weighing more than 2,500 grams but not more than 5,000 grams.

The bill requires that the Medicaid payment rates for other Medicaid services selected by the Medicaid Director be less than the amount of the rates in effect on the effective date of this provision of the bill so that the cost of the rates for the neonatal and newborn services listed above do not increase Medicaid expenditures. The Director may not select for rate reduction any Medicaid service for which the rate is determined in accordance with state statutes.

Medicaid rates for personal care aide services

(Section 333.163)

The bill prohibits the Medicaid payment rates for personal care aide services provided under the Ohio Home Care Medicaid waiver or provided as part of state plan home and community-based services from being restructured during FYs 2018 and 2019. It also provides that the Medicaid payment rates for such services provided during those fiscal years is not to exceed the rates for the services in effect on June 30, 2017.

Delayed implementation of behavioral health redesign

(Section 333.260)

The bill prohibits any of the following changes to the Medicaid program's coverage of community behavioral health services from being implemented before January 1, 2018:

(1) Aligning billing codes for the services to national standards;

(2) Redefining mental health pharmacologic management and substance use disorder medical/somatic services as medical services;

(3) Separating and repricing the services and providing for lower acuity service coordination and support services;

(4) Requiring practitioners who are employed by a community addiction services provider or community mental health services provider and render the services to obtain a Medicaid provider agreement and be reported on Medicaid claims for the services;

(5) Requiring community addiction services providers and community mental health services providers to submit claims for the services to a third party responsible

for some or all of the costs of the services before the providers submit Medicaid claims for the services.

Medicaid managed care

Continuing law requires ODM to establish a care management system, which is more commonly called the Medicaid managed care system. The bill makes a number of changes to the law governing the system.

Medicaid groups participating in managed care

(R.C. 5167.03)

Current law requires ODM to designate the Medicaid recipients who are required or permitted to participate in the Medicaid managed care system. The bill provides instead that only Medicaid eligibility groups that are currently required or permitted to participate in the system are to participate in the system.

Elimination of requirement to include certain services in managed care

(R.C. 5162.70)

The Medicaid Director is required by continuing law to limit the growth in the per recipient per month cost of the Medicaid program. The Director must achieve the growth limit through certain actions. The bill eliminates one of these actions; the Director is no longer required to integrate in the Medicaid managed care system the delivery of physical health, behavioral health, nursing facility, and home and community-based services.

Including long-term care services in managed care

(R.C. 5167.03 (primary) and 5167.01; Section 333.270)

The bill prohibits home and community-based services available under Medicaid waivers and nursing facility services from being included in the Medicaid managed care system before January 1, 2021. However, participants of the Integrated Care Delivery System (i.e., MyCare Ohio) may be required or permitted to obtain such services under the system. And, Medicaid recipients who receive such services may be designated for voluntary or mandatory participation in the system in order to receive other health care services included in the system.

The bill establishes the Medicaid Managed Care Long-Term Services and Supports Study Committee to examine the merits of including in home and community-based services available under Medicaid waivers and nursing facility services in the

Medicaid managed care system. The study committee must include the following members:

(1) The chair of the House Finance Subcommittee on Health and Human Services;

(2) The chair of the House Aging and Long-Term Care Committee;

(3) The chair of the Senate Finance Health and Medicaid Subcommittee;

(4) The chair of the Senate Health, Human Services, and Medicaid Committee;

(5) The Executive Director of the Office of Health Transformation or Director's designee;

(6) The Medicaid Director or Director's designee;

(7) The Director of Aging or Director's designee;

(8) The Director of Health or Director's designee;

(9) The State Long-Term Care Ombudsman or Ombudsman's designee;

(10) One representative of each of the following organizations, as appointed by the organization's chief executive: Leadingage Ohio, the Academy of Senior Health Sciences, the Ohio Aging Advocacy Coalition, the Ohio Assisted Living Association, the Ohio Association of Health Plans, the Ohio Association of Area Agencies on Aging, the Ohio Council for Home Care and Hospice, the Ohio Health Care Association, the Ohio Olmstead Task Force, the Universal Health Care Action Network Ohio, and AARP Ohio.

Appointments to the study committee must be made not later than 30 days after the effective date of this provision of the bill. Members are to serve without compensation or reimbursement, except to the extent that serving on the committee is part of their usual duties. The Speaker and Senate President must appoint co-chairpersons from among the committee's legislative members.

When examining the merits of including the services in the system, the study committee must do the following:

(1) Consider available information about the Medicaid waiver created as part of the Integrated Care Delivery System and the Medicaid program's coverage of nursing facility services;

(2) Estimate the costs that the state, Medicaid managed care organizations, providers, and Medicaid recipients would incur;

(3) Address any redundancies in rules governing the services and the terms and conditions of contracts with Medicaid managed care organizations;

(4) Estimate the projected benefits that Medicaid recipients would realize;

(5) Consider policies and procedures that are intended to promote efficient implementation and administration of including the services in the system;

(6) Recommend systems that can be used in either Medicaid managed care long-term care services or supports or fee-for-services Medicaid to reward providers of long-term care services and supports that meet specified quality measures.

The study committee must complete a report not later than June 30, 2020. The report must include the study committee's recommendations regarding costs, benefits, and policies. The study committee must submit its report to the Governor, General Assembly, and JMOC and make it available to the public. On the report's submission, the committee ceases to exist.

Including behavioral health services in managed care

(R.C. 5167.04 (primary), 103.41, and 103.416)

Under current law, ODM must begin to include alcohol, drug addiction, and mental health services in the Medicaid managed care system not later than January 1, 2018. Before that date, any proposal by ODM to include all or part of the services in the system is subject to review by JMOC and ODM may implement the proposal only if JMOC approves it. JMOC is required to monitor ODM's actions in preparing to implement and implementing such a proposal until June 30, 2018. On and after January 1, 2018, any such proposal is subject to JMOC's monitoring but JMOC's approval is no longer required.

The bill generally eliminates these provisions. The requirement that alcohol, drug addiction, and mental health services be included in the Medicaid managed care system is retained but they are prohibited from being included before July 1, 2018. JMOC is required to monitor on a quarterly basis ODM's preparations to include the services in the system and is required to periodically monitor ODM's inclusion of the services in the system once they begin to be included.

Prior authorization for psychiatric drugs

(R.C. 5167.12)

The bill exempts from Medicaid managed care prior authorization requirements certain psychiatric drugs that are prescribed by either a certified nurse practitioner or a clinical nurse specialist who is certified in psychiatric mental health by a national organization approved by the Nursing Board. Under current law, such drugs are exempt from prior authorization requirements only if prescribed by (1) a physician who is, through the Medicaid managed care organization's credentialing process, allowed to provide care as a psychiatrist or (2) a psychiatrist who practices at a community mental health services provider whose services are certified by the Department of Mental Health and Addiction Services.

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 the 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.

Medicaid Managed Care Quality Payment Fund

(Section 333.53)

The bill creates in the state treasury the Medicaid Managed Care Quality Payment Fund. ODM is to use money in the fund only to make performance payments under the Managed Care Performance Payment Program to Medicaid managed care organizations that meet the program's performance standards and only if the unencumbered balance of the Managed Care Performance Payment Fund is zero at the time such a payment is to be made. The Managed Care Performance Payment Fund is an existing fund in the state treasury that is used to make performance payments under the Managed Care Performance Payment Program and for certain other Medicaid purposes.

The new fund, the Medicaid Managed Care Quality Payment Fund, is to be abolished July 1, 2019. When it is abolished, the Director of Budget and Management may transfer the fund's unencumbered balance to the General Revenue Fund or Budget Stabilization Fund.

Medicaid waiver for services at institutions for mental diseases

(R.C. 5166.38)

The bill requires the Department to create and administer a Medicaid waiver component to provide services to eligible individuals between the ages of 21 and 64 at institutions for mental diseases, which are hospitals and other facilities of more than 16 beds primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases. Under current federal regulations, Medicaid does not provide inpatient mental health coverage, including addiction treatment, for individuals in that age group at institutions for mental diseases. However, effective July 1, 2017, amended regulations will permit Medicaid recipients ages 21 to 64 who are in managed care plans to be eligible for up to 15 days of inpatient mental health treatment at institutions for mental diseases.[171] The waiver required by the bill would apply to treatment beyond that authorized by the amended regulations.

Medicaid health homes

(Repealed R.C. 5164.88 and 5164.881; Section 333.220)

The bill repeals the Medicaid Director's authority to implement within the Medicaid program a system under which Medicaid recipients with chronic conditions are provided with coordinated care through health homes. The bill also repeals the Director's authority to implement, in consultation with the Director of Developmental Disabilities, a similar program for individuals with developmental disabilities who have chronic conditions.

The bill abolishes ODM's Patient-Centered Medical Home program. This program is also known as the Comprehensive Primary Care Program. The program is a team-based care delivery system under which qualifying primary care practitioners who comprehensively manage the health needs of Medicaid recipients receive per-member-per-month payments and share savings payments.[172]

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

[171] 42 Code of Federal Regulations 438.6(e).

[172] Ohio Administrative Code 5160-1-71 and 5160-1-72.

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[173] 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."[174] 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.[175]

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

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[173] 42 U.S.C. 1396a(a)(25).

[174] U.S. 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.

[175] R.C. 1.14.

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 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.[176] The franchise fee is to be first imposed for the month of July 2017. Its

[176] 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 in an eligible cancer clinical trial. Experimental procedures are not basic health care services. (R.C. 1751.01, not in the bill.)

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.[177] 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:

[177] 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%.[178] 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

[178] 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 G.A.))

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; Section 812.20)

The bill establishes a $10.49 dispensing fee for each prescription that is filled or refilled by a terminal distributor of dangerous drugs who is a provider of drugs under the Medicaid program. The bill also requires the Medicaid Director to adjust the $10.49 dispensing fee on a biennial basis, to reflect the average cost of dispensing as determined by the results of the confidential survey of terminal distributors conducted under existing law.

In July of every even-numbered year, ODM is required to initiate a confidential survey of the cost of dispensing drugs incurred by terminal distributors of dangerous drugs in Ohio.

Current law requires the survey's completion and publication not later than October 31. The bill instead requires the survey to be completed and its results published not later than November 30 of the year in which it is conducted.

Recovery of Medicaid overpayments

(R.C. 5164.57)

Under current law, ODM generally may recover a Medicaid payment from a provider if ODM notifies the provider of the overpayment during the five-year period following the state fiscal year in which the overpayment is made. The bill reduces the recovery period in the case of an overpayment made to a nursing facility or intermediate care facility for individuals with intellectual disabilities that ODM determines from data in its possession, or in the possession of another state agency, at the time ODM makes the determination. In that situation, ODM may recover the overpayment if it notifies the facility of the overpayment during the three-year period following the state fiscal year in which the overpayment is made.

The bill maintains the law stipulating that this recovery authority does not limit ODM's authority to recover overpayments pursuant to other provisions of the Revised Code.

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 require the 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,[179] the portion of the federal fine that corresponds to Medicaid payments to be returned to the Department; however the fines cannot be used

[179] 42 C.F.R. 488.845.

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.

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.[180] 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.

[180] 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.

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, 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.[181] The actions of the Director 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.[182] 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;

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[181] 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 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.)

[182] R.C. 5164.91, not in the bill.

(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 withholdings under the Medicaid Managed Care Performance Payment Program for premium payments attributed to participants of the system during FYs 2018 and 2019.

Nursing facility demonstration project

(Sections 610.38 and 610.39 (amending Section 327.270 of H.B. 64 of the 131st G.A.))

The bill requires that ODM request federal approval to extend until June 30, 2019, the operation of a demonstration project under which Medicaid recipients receive nursing facility services in participating nursing facilities in lieu of hospital inpatient services in freestanding long-term care hospitals. The demonstration project was established by H.B. 64 of the 131st General Assembly, the main operating budget act for the FY 2016-FY 2017 biennium, and under current law is to be operated for two years beginning January 1, 2016.

The bill also requires ODM to seek federal approval to modify the demonstration project. Under current law, ODM must select four nursing facilities to participate. To the extent possible, the four nursing facilities must be located in Cuyahoga, Franklin, Hamilton, and Lucas counties. The bill requires ODM to add two additional nursing facilities to the demonstration project. To the extent possible, one must be located in Brown County and the other must be located in Seneca County. The bill maintains current law that permits ODM to select a nursing facility located in another county if necessary to find nursing facilities that meet the requirements for participation.

Another modification concerns the requirements that nursing facilities must meet to be eligible to participate in the demonstration project. The bill eliminates the requirement that a nursing facility have been initially constructed, licensed for operation, and certified to participate in Medicaid on or after January 1, 2010.

Nursing facility bed conversion pilot program

(Section 333.230)

The bill requires ODM to operate a pilot program during FYs 2018 and 2019 under which owners of nursing facilities located in Cuyahoga County may voluntarily cease to use one or more of the nursing facilities' beds for nursing facility services and instead begin to use those beds for substance use disorder treatment services. To so convert the use of a bed, all of the following requirements must be met:

(1) The bed cannot be occupied by an individual receiving nursing facility services or be needed for an individual seeking such services;

(2) The Department of Health must (a) reduce the nursing facility's Medicaid certified capacity and corresponding nursing home licensed capacity by the bed being converted if other beds in the nursing facility will continue to be used for nursing facility services after the conversion or (b) terminate the nursing facility's Medicaid certification and nursing home license if no beds in the nursing facility will continue to be used for nursing facility services after the conversion;

(3) The substance use disorder treatment services for which the bed is to be used must satisfy the applicable standards for certification by the Director of Mental Health and Addiction Services and, if the owner of the bed seeks state or federal funds or funds administered by a board of alcohol, drug addiction, and mental health services to pay for the services, be certified by the Director.

The bill requires the Department of Health and the Department of Mental Health and Addiction Services to assist ODM with the operation of the pilot program. ODM is required to complete a report about the pilot program not later than October 1, 2019. The report must include recommendations about making the pilot program a permanent and statewide program. The report is to be submitted to the Governor, General Assembly, and JMOC. It also must be made available to the public.

General Assembly's intent regarding the Medicaid program's future

(Section 333.280)

The bill declares the General Assembly's intent to use the Healthy Ohio Program as a model for making medical assistance available to the state's qualifying residents if the U.S. Congress transforms the Medicaid program into a federal block grant. The Healthy Ohio Program is a Medicaid waiver proposal under which certain Medicaid eligibility groups would enroll in comprehensive health plans and contribute to Buckeye accounts. The main operating budget act for the 131st General Assembly, H.B.

64, required ODM to seek federal approval for the waiver but the U.S. Centers for Medicare and Medicaid Services denied the waiver request in September 2016.

Local board of health as community hubs; public health nurses

(R.C. 5167.173)

Law enacted in 2016 by S.B. 332 of the 131st General Assembly requires Medicaid managed care organizations to provide or arrange for certain female Medicaid recipients (those who are pregnant or capable of becoming pregnant) to receive services by certified community health workers who work for, or are under contract with, a qualified community hub. Under that law, a "qualified community hub" is a central clearinghouse for a network of community care coordination agencies that meets all of the following criteria:

(1) Demonstrates to the Director of Health that it uses an evidence-based, pay-for-performance community care coordination model endorsed by the federal Agency for Healthcare Research and Quality, the National Institutes of Health, and the Centers for Medicare and Medicaid Services (or their successors) to connect at-risk individuals to health, housing, transportation, employment, education, or other social services;

(2) Demonstrates to the Director that it has achieved, or is engaged in achieving, certification from a national hub certification program; and

(3) Has a plan, approved by the Medicaid Director, specifying how the community hub ensures that children receive specified developmental screenings.

The bill modifies all three criteria necessary to be a qualified community hub:

--First, a central clearinghouse may use certified community health workers or public health nurses in lieu of being endorsed by the national organizations and agencies;

--Second, a central clearinghouse may be a local board of health instead of having achieved, or being engaged in achieving, certification from a national hub certification program; and

--Third, as a result of local boards of health being authorized by the bill to serve as central clearinghouses, a board may submit a plan approved by the Medicaid Director specifying how it ensures that the children served by it receive the appropriate developmental screenings.

The bill also authorizes Medicaid managed care organizations to provide or arrange for eligible female Medicaid recipients to receive services provided by a public

health nurse (in lieu of or in addition to community health worker services, as provided for under existing law). Moreover, the bill authorizes a public health nurse to recommend that a Medicaid recipient receive such services. (Under existing law, only a physician or other licensed health professional specified in rules may make that recommendation.) For conforming purposes, the bill makes other changes related to the authority of public health nurses and the provision of services to eligible female Medicaid recipients.

Columbus Medicaid pilot

(Section 333.290)

The bill requires the Department of Medicaid, during FY 2018, to operate a pilot program in Columbus. Under the program, the Department must contract with an entity to establish a software program that may be installed on portable electronic devices by Medicaid recipients residing in Columbus, without charge to the recipients.

The purpose of the software program is to remind the user of an appointment with a Medicaid provider and to help, through the use of geolocation, obtain transportation to the appointment. The transportation identified by the program should be either public transportation that is not more than a five-minute walk from the recipient's location or, if no such public transportation is identified, an available rideshare service.

The Department must make the software program available, without charge, to Medicaid providers in Columbus upon request. A provider may explain to Medicaid recipients what the program does and how it is operated. Providers may also, on request, help a Medicaid recipient install the program on a portable electronic device.

STATE MEDICAL BOARD

General

- 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.
- Modifies the schedule governing the renewal of physician licenses, including the dates by which renewal notices must be provided and renewal applications must be submitted.
- Combines the renewal fee and penalty required to reinstate or restore a physician license that has been suspended due to nonrenewal.
- 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.
- Includes radiologist assistants and genetic counselors in the general law governing criminal records checks of applicants for professional licensure and makes conforming changes.
- 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.

Clinical research faculty certificates

- Authorizes the Board to issue a clinical research faculty certificate to a podiatrist licensed in another jurisdiction who wishes to practice podiatric medicine and surgery incidental to teaching or research duties in Ohio.

- Requires the Board to provide a renewal notice at least one month before the expiration of any clinical research faculty certificate.

Medication-assisted treatment – standards for prescribers

- Requires a prescriber to give a patient for whom medication-assisted treatment for drug addiction is clinically appropriate (or that patient's representative) information about all drugs approved by the U.S. Food and Drug Administration (FDA) for use in medication-assisted treatment.

- Imposes referral requirements on prescribers when a patient chooses to be treated with, and meets clinical criteria for, treatment with methadone or a controlled substance containing buprenorphine and the prescriber does not meet federal requirements to prescribe those drugs.

- Requires the Medical and Nursing Boards to adopt rules establishing procedures to be followed by Board-regulated prescribers in the use of all FDA-approved drugs used in medication-assisted treatment and requires the rules to be consistent for all prescribers.

- Limits to 30 the number of patients that a prescriber who fails to comply with the bill's provisions on medication-assisted treatment may treat with medication-assisted treatment at any one time, regardless of where the prescriber practices.

Physician licensure

(R.C. 4731.14 (primary), 4731.09, 4731.091, and 4731.281 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.[183]

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

[183] 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.[184]

English language proficiency

The bill excepts the following from the requirement that an individual educated outside of the U.S. 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.

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.

Renewals

The bill modifies the schedule governing the renewal of physician licenses, including the dates by which renewal notices must be provided by the Board and renewal applications must be submitted by license holders. The bill also eliminates the requirement that a renewal application include a list of names and addresses of advanced practice registered nurses with whom the physician collaborates. It instead requires the application to indicate whether the applicant for renewal currently collaborates with any advanced practice registered nurse.

Reinstatement or restoration

When seeking to reinstate a license that has been suspended for two years or less following an applicant's failure to renew, the bill requires the applicant to pay to the Board a single fee of $405, rather than pay the $305 renewal fee and $100 penalty as under existing law. Similarly, when seeking to restore a license that has been suspended

[184] R.C. 4731.291.

for more than two years due to a failure to renew, the bill requires the applicant to pay to the Board a single fee of $505, rather than the current $305 renewal fee and $200 penalty.

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 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.

Criminal records checks – radiologist assistants and genetic counselors

(R.C. 4776.01 and 4776.20)

The bill includes radiologist assistants and genetic counselors in the general law governing criminal records checks of applicants for professional licensure and makes conforming changes.

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.

Clinical research faculty certificates

(R.C. 4731.293)

The bill authorizes the Board to issue a clinical research faculty certificate to practice podiatric medicine and surgery under similar terms and conditions as a clinical research faculty certificate to practice medicine and surgery or osteopathic medicine

and surgery under current law. A podiatrist who holds such a certificate is permitted to practice podiatric medicine and surgery incidental to teaching or research duties at a college of podiatric medicine and surgery or a teaching hospital affiliated with such a college.

The current application provisions, which are extended to podiatrists under the bill, require an applicant for the certificate to pay $375 and provide all of the following to the Board:

(1) Evidence that the applicant holds a current, unrestricted license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery issued by another state or country; has been appointed to serve on the academic staff of an Ohio medical school, osteopathic medical school, or college of podiatric medicine and surgery; and is an international medical graduate who holds a medical degree from an educational institution listed in the international medical education directory;

(2) An affidavit from the dean of the school or college, or department director of a teaching hospital affiliated with the school or college, that the applicant is qualified to perform teaching and research activities and will work only under the authority of the department director of the teaching hospital;

(3) A description from the school, college, or teaching hospital of the scope of practice in which the applicant will be involved, including the teaching and research in which the applicant will engage;

(4) A description from the school, college, or teaching hospital of the type and amount of patient contact that will occur in connection with the teaching and research activities.

The bill maintains existing revocation and renewal provisions applicable to clinical research faculty certificates and applies those provisions to certificate holders who are podiatrists, except that for all clinical research faculty certificates, the bill requires the Board to provide a renewal notice at least one month before expiration; under current law, the notice must be provided three months before expiration.

Medication-assisted treatment – standards for prescribers

(R.C. 3715.08, 4723.50, 4723.51, 4723.52, 4730.40, 4730.55, 4730.56, 4731.83, and 5119.363)

Information on all FDA-approved drugs

The bill requires a prescriber to give to a patient for whom medication-assisted treatment for drug addiction is clinically appropriate (or that patient's representative) information about all drugs approved by the U.S. Food and Drug Administration for medication-assisted treatment. A "prescriber" for this purpose is an advanced practice registered nurse (APRN) or physician assistant (PA) with prescriptive authority or a physician.

The bill requires that the drug information be provided orally and in writing. The prescriber or the prescriber's delegate must note in the patient's medical record when the information was provided and make the record available to Medical and Nursing Board employees on their request. If the patient chooses treatment with a controlled substance containing buprenorphine and the treatment is clinically appropriate for the patient and meets generally accepted standards of medicine, the prescriber must refer the patient to a prescriber who meets federal requirements.[185] If the patient chooses treatment with methadone and the treatment is clinically appropriate for the patient and meets generally accepted standards of medicine, the prescriber must refer the patient to a community addiction services provider licensed by the Ohio Department of Mental Health and Addiction Services (ODMHAS). In either case, the prescriber or the prescriber's delegate must make a notation in the patient's medical record naming the practitioner or provider to whom the patient was referred and specifying when the referral was made.

Rules on prescribing standards and procedures

The bill requires the Medical and Nursing Boards to adopt rules in accordance with the Administrative Procedure Act[186] establishing standards and procedures to be followed by the prescribers regulated by them in the use of all drugs approved for

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[185] The federal requirements were established by the Drug Addiction Treatment Act of 2000. Under them, a qualified physician may apply for a waiver to treat opioid dependency with approved buprenorphine products. U.S. Substance Abuse and Mental Health Administration, *Qualify for a Physician Waiver*, https://www.samhsa.gov/medication-assisted-treatment/buprenorphine-waiver-management/qualify-for-physician-waiver. The Comprehensive Addiction and Recovery Act, enacted in 2016, authorizes APRNs and PAs to prescribe controlled substances containing buprenorphine in office-based settings until October 1, 2021. U.S. Substance Abuse and Mental Health Administration, *CARA Act*, https://www.samhsa.gov/medication-assisted-treatment/qualify-nps-pas-waivers.

[186] R.C. Chapter 119.

medication-assisted treatment, including controlled substances in schedules III, IV, and V. The rules must address detoxification, relapse prevention, patient assessment, individual treatment planning, counseling and recovery supports, diversion control, and other topics selected by the boards after considering best practices in medication-assisted treatment. Each board may apply the rules to all circumstances in which a prescriber prescribes drugs for use in medication-assisted treatment or limit the application of the rules to prescriptions for medication-assisted treatment issued for patients being treated in office-based practices or other practice types or locations specified by each board. The rules for each type of prescriber must be consistent with each other.

Penalties

A prescriber who fails to comply with the bill's requirements is prohibited from treating more than 30 patients at any one time with medication-assisted treatment even if the facility or location at which the treatment is provided is exempt from possessing a category III terminal distributor of dangerous drugs license with an office-based opioid treatment classification or a community addiction services provider that provides alcohol and drug addiction services that are certified by ODMHAS. The former license is issued by the Pharmacy Board.[187]

Formularies for APRNs and PAs

The bill requires both the exclusionary drug formulary adopted by the Nursing Board that applies to APRNs with prescriptive authority and the PA drug formulary adopted by the Medical Board to permit eligible APRNs and PAs to prescribe both of the following:

--A controlled substance containing buprenorphine used in medication-assisted treatment; and

--Oral and long-acting opioid antagonists.[188]

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[187] R.C. 4729.553, not in the bill.

[188] An "opioid antagonist " is a drug that (1) binds to the opioid receptors and competes with or displaces opioid agonists at the opioid receptor site but does not activate the receptors, effectively blocking the receptor and preventing or reversing the effect of an opioid agonist and (2) is not a controlled substance. Examples are naloxone and naltrexone (brand name, Vivitrol®). National Alliance of Advocates for Buprenorphine Treatment, *Thorough Technical Explanation of Buprenorphine*, available at https://www.naabt.org/education/technical_explanation_buprenorphine.cfm.

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Allocation of continuum of care services funds

- Requires the Department of Mental Health and Addiction Services to allocate to boards of alcohol, drug addiction, and mental health services (ADAMHS boards) in FYs 2018 and 2019 $12 million of the funds appropriated for continuum of care services.

- Requires the Department to allocate to ADAMHS boards in FYs 2018 and 2019 $9 million of the funds appropriated for continuum of care services to be used to establish an acute substance use disorder stabilization center in each of the six state psychiatric hospital regions and in Cuyahoga, Franklin, and Hamilton counties.

- Requires the Department to allocate to ADAMHS boards in FYs 2018 and 2019 $6 million of the funds appropriated for continuum of care services to be used to establish a mental health crisis stabilization center in each of the six state psychiatric hospital regions.

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 an 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.

Voluntary and involuntary mental health treatment; ADAMHS board processes

- Makes permissive an existing provision requiring that the relevant ADAMHS board authorize an individual's involuntary commitment to a public hospital for mental health treatment.

- Requires that the attorney of record where a person is ordered for voluntary mental health treatment or for involuntary placement in an inpatient setting be notified of the order or placement.

- Authorizes the exchange of psychiatric records and other pertinent information about a patient subject to involuntary or voluntary mental health treatment between an ADAMHS board and a probate court.

- Makes other conforming and clarifying changes to existing provisions governing requirements for ADAMHS boards and the process for involuntarily committing an individual to mental health treatment.

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.

Pilot program for mental health courts

- Requires the Department to conduct a pilot program to provide mental health services and recovery supports to criminal offenders with mental health conditions.

- Requires community mental health providers to provide specified mental health services and recovery supports to the pilot program's participants based on the individual needs of each participant.

County Hub Program to Combat Opioid Addiction

- Creates the "County Hub Program to Combat Opioid Addiction," and specifies its purposes.

- Requires each board of county commissioners to designate a hub coordinating agency responsible for organizing and coordinating efforts to address the program's purposes.

- Allocates funds in FY 2018 for the program and requires the Department to distribute the funds equally among all 88 counties.

Opioid addiction treatment website and mobile app

- Requires the Development Services Agency, the Department of Mental Health and Addiction Services, and the Ohio State University to collaborate to develop a website and mobile application that provide resources and information regarding opioid addiction treatment services.

Updated references; clarifications

- 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.

- Clarifies provisions that authorize the Department of Mental Health and Addiction Services to issue waivers to ADAMHS boards regarding the location of the ambulatory detoxification and medication-assisted treatment services that the boards must make available.

Allocation of continuum of care services funds

(Section 337.50)

General allocation

The bill requires the Department of Mental Health and Addiction Services to allocate to boards of alcohol, drug addiction, and mental health services (ADAMHS boards) in FYs 2018 and 2019 $12 million of the funds appropriated for continuum of care services. Each board is to receive $75,000 in each fiscal year for each of the counties that are part of the board's service district. Of the remainder, each board is to receive a percentage determined as follows:

(1) Determine the sum of (a) the state's total population as of January 1, 2017 and (b) the average number of opioid overdose deaths that occurred in the state during the immediately preceding three fiscal years.

(2) Determine the sum of (a) the population of the board's service district as of January 1, 2017 and (b) the average number of opioid overdose deaths that occurred in the board's service district during the immediately preceding three fiscal years.

(3) Determine the percentage that the sum determined for the board's service district is of the sum determined for the state.

The bill does not specify what the allocations are to be used for.

Acute substance use disorder stabilization centers

The bill requires the Department to allocate to ADAMHS boards in FYs 2018 and 2019 $9 million of the funds appropriated for continuum of care services. The boards are required to use their allocations to establish and administer, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region established by the Department, nine acute substance use disorder stabilization centers. One center is to be located in each of the following:

(1) Cuyahoga County;

(2) Franklin County;

(3) Hamilton County;

(4) One of the counties that is part of the Appalachian Behavioral Healthcare Hospital region;

(5) One of the counties that is part of the Heartland Behavioral Healthcare Hospital region;

(6) One of the counties, other than Cuyahoga County, that is part of the Northcoast Behavioral Healthcare Hospital region;

(7) One of the counties that is part of the Northwest Ohio Psychiatric Hospital region;

(8) One of the counties, other than Hamilton County, that is part of the Summit Behavioral Healthcare Hospital region;

(9) One of the counties, other than Franklin County, that is part of the Twin Valley Behavioral Healthcare Hospital region.

Mental health crisis stabilization centers

The bill requires the Department to allocate to ADAMHS boards in FYs 2018 and 2019 $6 million of the funds appropriated for continuum of care services. The boards are required to use their allocations to establish and administer, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region established by the Department, six mental health crisis stabilization centers. One center is to be located in each of the six state psychiatric hospital regions.

Requirements for centers

ADAMHS boards are required by the bill to ensure that each acute substance use disorder stabilization center and mental health crisis stabilization center established with the allocations complies with all of the following:

(1) It must admit individuals before and after they receive treatment and care at hospital emergency departments or freestanding emergency departments.

(2) It must admit individuals before and after they are confined in state correctional institutions, local correctional facilities, or privately operated and managed correctional facilities.

(3) It must have a Medicaid provider agreement.

(4) It must be located in a building constructed for another purpose before the bill's effective date.

(5) It must admit individuals who have been identified as needing the stabilization services provided by the center.

(6) It must connect individuals when they are discharged from the center with community-based continuum of care services and supports.

Medication-assisted treatment in drug courts

(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 must 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 Department must conduct its program in collaboration with those courts of Allen, Butler, Clermont, Clinton, Columbiana, Coshocton, Crawford, Cuyahoga, Franklin, Gallia, Hamilton, Hardin, Highland, Hocking, Jackson, Lake, Lorain, Lucas, Mahoning, Marion, Medina, Mercer, Montgomery, Muskingum, Ottawa, Richland, Ross, Stark, Summit, Trumbull, Tuscarawas, Union, 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 and that uses medication-assisted treatment as part of its program. If any of the counties specified in the bill do not have a MAT drug court program, the Department must conduct its program in collaboration with a court with a MAT drug court program in another county. The Department may also conduct its program in collaboration with 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 in that program. The total number of participants in the Department's 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 the Department's program, a participant must comply with all of the MAT drug court program's requirements.

Treatment

Only a community addiction services provider is eligible to provide treatment under the Department's 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 that are patient-specific and help eliminate barriers to treatment, such as assistance with housing, transportation, child care, job training, obtaining a driver's license or state identification card, and any other relevant matter.

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 people 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.

Program reports

The bill requires the Department, within 90 days of the bill's effective date, to select a research institution to evaluate the Department's program, as conducted during FYs 2018 and 2019. The Department must select an institution that has experience in evaluating multiple court systems across jurisdictions, in both rural and urban regions, experience evaluating the use of agonist and antagonist therapies in MAT drug court programs, a record of producing material for scientific publications, expertise in health economics, experience with patient issues involving ethics and consent, and an internal review board.

The research institution must prepare a report of the findings of its evaluation of the Department's program. The report must be completed by December 31, 2019, and be submitted to the Governor, Chief Justice of the Supreme Court, Senate President, Speaker of the House, Department of Mental Health and Addiction Services,

Department of Rehabilitation and Correction, and any other agency with which the Department of Mental Health and Addiction Services collaborates in conducting the 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.

Voluntary and involuntary mental health treatment; ADAMHS board processes

(R.C. 5122.02, 5122.03, 5122.15, and 5122.31)

Voluntary admission

Under existing law not modified by the bill, an individual who is at least 18 years old may apply in writing to the chief medical officer of a hospital for voluntary admission to that hospital for mental health treatment. If the hospital is a public

hospital, the ADAMHS board of the individual's county of residence must authorize the admission. The bill, instead, makes that authorization permissive.

The bill also makes permissive the notification that a public hospital's chief clinical officer must make, under current law, to the ADAMHS board of the patient's county of residence when a patient admitted on a voluntary basis is released from a public hospital.

Involuntary admission

Under existing law, a probate court that finds that an individual (called the "respondent") is a mentally ill person subject to court order may order the respondent to treatment at one of several settings for not more than 90 days before a full hearing is held. One of those settings is private psychiatric or psychological care and treatment. The bill clarifies that a respondent may be ordered to receive private "psychiatric care or psychological care," as those terms are defined in law[189] governing health coverage for autism spectrum disorder. Under that law, "psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices. "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

If, during the 90-day period that a respondent may be held in involuntary commitment before a full hearing occurs, the entity or person to whom a respondent is involuntarily committed determines that the respondent's needs could be equally met in an available and appropriate less restrictive setting, the bill (1) *requires* that the entity or person notify the respondent's counsel and (2) *permits* the entity or person to notify, on the relevant ADAMHS board's request, the attorney designated by the board. Under current law, the entity or person *must* notify either the respondent's counsel or the ADAMHS board's attorney.

Before placing an unconsenting respondent in an inpatient setting from a less restrictive placement, the person or entity to which the respondent was ordered must, at the request of the relevant ADAMHS board, immediately notify the board's designated attorney.

Patients who transition from involuntary to voluntary admission

The bill requires that, when a respondent who was originally admitted to mental health treatment on an involuntary basis transitions to admission on a voluntary basis, the chief clinical officer of the entity or person to which the respondent was admitted

[189] R.C. 1751.84, not in the bill.

must notify the attorney of record for the person or entity to which the individual was committed and, when requested by the relevant ADAMHS board, the attorney designated by the board. Under current law, the attorney designated by the board must be notified only if that attorney has entered the admission proceedings in writing. The bill also requires notification to the "attorney of record for the person or entity to which an individual was committed" in other circumstances that, under current law, only require notification to an "ADAMHS board-designated attorney." Regarding notification to an ADAMHS board-designated attorney, the bill only requires that when the board requests such notification.

Exchange of confidential psychiatric records

The bill authorizes an ADAMHS board and a probate court to exchange psychiatric records and other pertinent information regarding a patient with each other for the purpose of fulfilling their duties under other existing statutes.

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.[190]

Pilot program for mental health courts

(Section 337.71)

The bill requires the Department to conduct a pilot program to provide mental health services and recovery supports to criminal offenders who are eligible to participate in a certified mental health court program and who are selected because of their mental health conditions. The purpose of the pilot program is to reduce recidivism into criminal behavior by assisting participants in addressing their mental health needs, including providing access to mental health drugs.

In conducting the pilot program, the Department must collaborate with the Ohio Supreme Court, the Department of Rehabilitation and Correction, and any other state agency that may be of assistance in accomplishing the program's objectives. The Department may also 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 Department must conduct the pilot program in the courts of Cuyahoga, Franklin, and Warren counties that are conducting certified mental health court programs. A certified mental health 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 mental health. If any of the counties specified in the bill do not have a certified mental health court program, the Department must conduct the pilot program in a court with a certified mental health court program in another county. The Department also may conduct the pilot program in any other court with a certified mental health court program.

Mental health services and recovery supports

Only a community mental health services provider is eligible to provide mental health services and recovery supports under the Department's pilot program. The provider is required to do all of the following:

[190] 42 U.S.C. 300x *et seq*.

(1) Use an integrated service delivery model that consists of care coordination between a prescriber and the community mental health services provider;

(2) Assess potential participants to determine whether they would benefit from participation in the pilot program;

(3) Based on those assessments, determine the mental health services needs of the pilot program's participants;

(4) Develop individualized goals and objectives for participants;

(5) As part of the mental health services provided under the pilot program, provide access to mental health drugs, including federally approved atypical antipsychotics that are administered or dispensed in a long-acting injectable form;

(6) As part of the recovery supports provided under the pilot program, provide supports that are patient-specific and help eliminate barriers to treatment, including assistance with housing, transportation, child care, job training, obtaining a driver's license or state identification card, and any other relevant matter;

(7) Address any co-occurring disorders;

(8) Monitor the participants' compliance with the pilot program.

Program report

The bill requires the Department, within 60 days after the bill's effective date, to develop a plan for evaluating the pilot program. The evaluation must include performance measures that reflect the pilot program's purpose.

The Department must prepare a report of the findings obtained from its evaluation of the pilot program, including data derived from the performance measures. The report must be completed not later than six months after the conclusion of the pilot program and be submitted to the Governor, Chief Justice of the Ohio Supreme Court, Senate President, Speaker of the House, Department of Rehabilitation and Correction, and any other agency with which the Department collaborated in conducting the pilot program.

County Hub Program to Combat Opioid Addiction

(R.C. 305.40; Sections 337.10 and 337.135)

The bill creates the "County Hub Program to Combat Opioid Addiction." The program has four purposes:

(1) To strengthen county and community efforts to prevent and treat opioid addiction;

(2) To educate youth and adults about the dangers of opioid addiction and the negative effects it has on society;

(3) To promote family building and workforce development as ways of combating opioid addiction in communities; and

(4) To encourage community engagement in efforts to address the purposes in (1) through (3), above.

As part of the program, each county must have an entity that is responsible for organizing and coordinating, in that county, efforts to address the program's purposes. This entity is known as the "hub coordinating agency." A county's board of county commissioners must designate, by resolution, the hub coordinating agency for the county. The bill specifies that any of the following may be such an agency:

--A board of alcohol, drug addiction, and mental health services;

--An opioid prevention coalition or organization;

--A post-prison re-entry coalition or organization;

--A faith-based coalition or organization; or

--A community addiction services provider.

The bill requires that a hub coordinating agency use funds appropriated to it to address the program's purposes. The funds cannot, however, be used to:

--Fund capital improvements or building construction;

--Pay for maintenance of buildings or equipment;

--Make cash payments to service recipients;

--Pay for vehicle purchases or leases;

--Pay for professional or credentialing fees or licenses for any person or entity;

--Pay fines or penalties; or

--Pay for food or beverages.

The bill requires each hub coordinating agency, not later than January 1, 2020, to submit a report to the Department summarizing its work on, and progress toward, addressing each of the program's purposes. The Department must aggregate all reports it has received and submit a statewide report to the Governor and General Assembly.

The bill also appropriates $2.2 million to the program for FY 2018, and requires that such money be distributed equally among all 88 counties.

Opioid addiction treatment website and mobile app

(Section 259.90)

The bill requires the Development Services Agency, the Department of Mental Health and Addiction Services, and the Ohio State University to collaborate to develop a website and mobile application that provide resources and information regarding opioid addiction treatment services.

Technical changes

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 consolidated in 2013 by H.B. 59 of the 130th General Assembly.

Clarification of waiver provisions

(R.C. 5119.221 (primary), 340.033, and 5119.22)

The bill makes changes that clarify existing provisions under which the Department of Mental Health and Addiction Services is authorized to issue to an ADAMHS board a waiver regarding the location of its ambulatory detoxification and medication-assisted treatment services. Without such a waiver, an ADAMHS board must make the services available within its service district beginning July 1, 2017. The bill's clarifications do not alter this requirement.

Unit operation procedures under Oil and Gas Law

- Establishes specific timelines and procedures for consideration of and the hearing on an application for unit operation (meaning the consolidation of control over oil and gas mineral rights), and alters the information that an applicant is required to include in such an application.

- Establishes a one-eighth royalty that must be paid to an unleased mineral rights owner who is included in a plan for unit operation and authorizes the Chief of the Division of Oil and Gas Resources Management to allocate other revenues to an unleased mineral rights owner.

- Requires the Chief to issue an order for unit operation of an underground reservoir of oil or gas or part of a reservoir that encompasses a unit area consisting in whole or in part of oil or natural gas resources owned or controlled by the state or a political subdivision.

- Exempts state parks in operation before January 1, 2017, and nature preserves from the above requirement.

- Prohibits the Chief from authorizing the disruption of surface land in a state forest by an order for unit operation.

- With respect to unit operation, specifies all of the following:

  --An unleased mineral rights owner is an owner who has the right to drill on a tract of land, but who has not leased the owner's mineral rights for oil or gas, unless the Chief separately defines that class of owner in an order for unit operation;

  --An unleased mineral rights owner is not liable for damages associated with oil and gas activities related to a well in the unit, unless the damages arise from a purposeful or grossly negligent act of the unleased mineral rights owner;

  --An order for unit operation does not authorize an owner who is issued a unitization order to use the surface of unleased land unless that use is consistent with a separate agreement between the surface rights owner of that land and the owner; and

--An applicant is not required to begin unit operations sooner than 24 months from the effective date of the Chief's order providing for unit operation if the application for unit operation had a hearing before January 1, 2018.

Property tax valuation of oil and gas reserves

- Specifies that a discounted cash flow formula used to value certain producing oil and gas reserves for property tax purposes be the only method for valuing all oil and gas reserves.

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.

Accounting of Oil and Gas Well Fund use

- Requires the Director of Budget and Management, in consultation with the Chief of the Division of Oil and Gas Resources Management, to establish an accounting code to track expenditures associated with plugging 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.

- Prohibits money credited to the Mining Regulation and Safety Fund that is derived from severance taxes from the mining of limestone, dolomite, sand, or gravel from being used for coal mining and reclamation purposes.

- 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.

Policy for aquatic species

- Requires the Chief of the Division of Wildlife, within one year of the bill's effective date, to establish a risk assessment policy for aquatic species.

- Requires the risk assessment policy to provide for both:

  --An evaluation of overall risk of a species based on best available biological information derived from professionally accepted science and practices in fisheries or aquatic invasive species management; and

  --A determination of whether a species should be listed as an injurious aquatic invasive species.

Increased fees for nonresident deer and wild turkey permits

- Increases the fees for a nonresident applicant for a deer or wild turkey permit.

- Specifies that a person on active duty in the U.S. Armed Forces, while on leave or furlough, is eligible to obtain a deer or wild turkey permit at the resident rate, regardless of whether the person is a resident of Ohio.

Game quadruped includes elk

- Adds elk to the list of game quadruped animals, which effectively allows the Department to regulate and manage the propagation, preservation, and protection of elk.

Surface mining safety inspections

- Eliminates the requirement that the Chief of the Division of Mineral Resources Management conduct at least two inspections of a surface mining operation in a year after a year in which the operation has an accident rate greater than the national average.

- In lieu of the above requirement, requires the Chief to conduct at least two safety inspections of an operation in a year following a year in which an inspection conducted by the U.S. Department of Labor found three or more violations per day.

- Authorizes the Chief of the Division of Mineral Resources Management, in consultation with a statewide association that represents the surface mining industry, to adopt rules establishing exceptions to the new safety inspection requirement.

Oil and Gas Leasing Commission

- Requires the Speaker of the House of Representatives and the President of the Senate to appoint the four members of the Oil and Gas Leasing Commission instead of the Governor as under current law.

Unit operation procedures under the Oil and Gas Law

(R.C. 1509.28; Section 715.10)

Introduction

Unitization is the process by which a person seeking to develop oil or gas resources applies to the Division of Oil and Gas Resources Management for a unitization order to obtain control over the mineral rights of a large area of land. The purpose of unitization is to make oil or gas production more efficient by allowing the joining of mineral rights. The ultimate goal is to create an area of consolidated mineral rights that is large enough and that best suits the shape of an underground oil or gas reservoir to make the most efficient use of those resources. Thus, applicants seeking a unitization order must demonstrate that having control over the oil and gas mineral rights for a large area is reasonably necessary to increase substantially the ultimate recovery of oil, and that the value of the estimated additional recovery of the oil or gas exceeds the estimated costs.

Procedures for a unitization order

Current law requires the Chief of the Division to hold a hearing, on the Chief's motion or on receipt of an application by the owners of 65% of the land area overlying an underground reservoir of oil or gas (pool), to consider the need for the operation as a unit of an entire pool or part of a pool. The bill requires the Chief to hold the hearing not later than 45 days after the Chief's motion or receipt of an application from an applicant that has the assent of the owners of at least 65% of the land area overlying the

pool. The bill authorizes the Chief to grant a continuance of the hearing of not more than 14 calendar days if a person owning an interest in the unit makes such a continuance request not later than ten calendar days before the hearing.

The bill requires an applicant who has the assent of the owners of at least 65% of the land area overlying the pool to include with the application all of the following:

(1) The name, address, and telephone number of the applicant;

(2) An affidavit attesting that the owners of at least 65% of the proposed unit have assented to submission of the application;

(3) An identification of all owners to be included in the unit, including a list specifying which owners are consenting or nonconsenting; and

(4) Maps illustrating the location of the proposed unit, its boundaries, and the planned development of the proposed unit and identifying each county and township in which the proposed unit is to be located.

Under current law retained by the bill, an application by owners must only be accompanied by a nonrefundable fee of $10,000 and such information as the Chief may request.

After an application has been submitted, the bill requires the Chief to review the application and make a completeness determination not later than five business days after receipt of the application. If the application is incomplete, the Chief must provide the applicant notice explaining the deficiency and the additional information needed to remedy the deficiency. The applicant may then submit the additional information. The Chief must review the additional information, determine if it eliminates the deficiency, and provide notice to the applicant if any deficiency remains. However, the bill specifies that if the Chief does not provide notice to the applicant within five business days after the receipt of the application, or within five business days of receiving additional information to cure a deficiency, the application is complete. Notwithstanding these procedures for curing an incomplete application, the Chief is required by the bill to hold a hearing on the application not later than 45 days after the application is submitted unless a continuance is granted, as discussed above.

After the completeness determination, the bill requires the applicant to do all of the following:

(1) Attempt to provide notice of the hearing to all unleased mineral rights owners, all nonconsenting owners, and all working interest owners proposed to be

included in the unit by certified mail at least 14 calendar days prior to the scheduled hearing date;

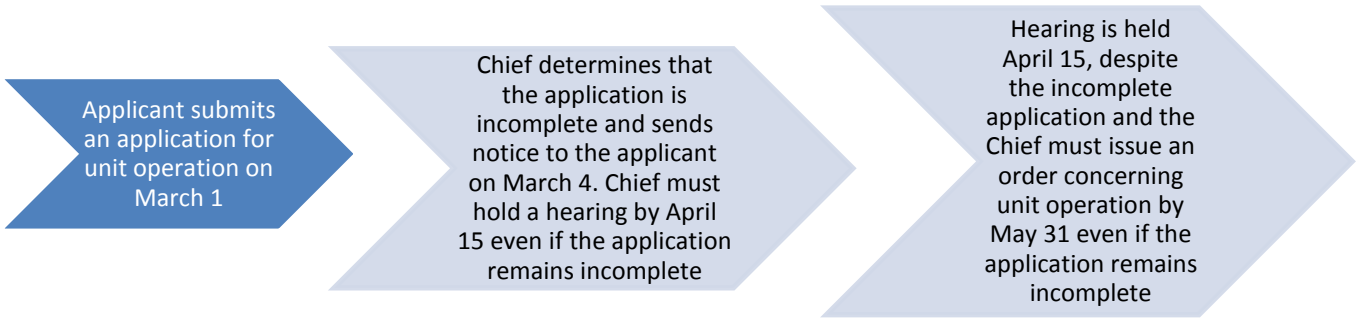
(2) Provide the Chief with proof of the certified mailings at the hearing; and

(3) Publish notice of the hearing in a newspaper of general circulation in the county or counties in which the proposed unit is to be located, or, if such a newspaper is not available in the county or counties, publish the notice in the newspaper of general circulation nearest to the proposed unit.

The bill requires the Chief to make an order approving or denying the application for unit operation of a pool or part of a pool not later than 30 days after the date of the hearing. Under current law retained by the bill, the Chief must issue an order approving the application if the Chief finds that the operation is reasonably necessary to increase substantially the ultimate recovery of oil and gas, and that the value of the estimated additional recovery of oil or gas exceeds the estimated additional cost incident to conducting the operation. Current law does not specify a time by which the Chief must issue the order.

The bill allows the Chief to delay issuing the order providing for unit operation for not more than five business days if the Chief does not receive a transcript of the hearing or substantive information requested from an applicant at the hearing within 30 days of the date of the hearing. However, the bill ultimately requires the Chief to issue the order not later than 45 days after the date of the hearing, unless that period is waived by the applicant in writing and submitted to the Chief.

Because the bill ultimately requires the Chief to issue the order for unit operation not later than 45 days after the hearing, it is possible that the Chief may be required to issue an order even if the application for unit operation remains incomplete. Take, for example, the illustration below:



Plan for unit operation and royalties

Current law requires the Chief's unitization order to prescribe a plan for unit operation that includes specified information and provisions, including a provision, if necessary, for carrying or otherwise financing any person who is unable to meet the person's financial obligations in connection with the unit, allowing a reasonable interest charge for that service. The bill requires the interest charge to be 200% for an unleased mineral rights owner.

The bill also provides for a specified royalty for unleased mineral rights owners included in the unit. The bill does so by requiring the order for unit operation to include a provision that if the unit operation plan includes unleased mineral rights, each unleased mineral rights owner must receive a one-eighth royalty on production that is allocated to each tract, or portions of each tract, included in the unit area in which the unleased mineral rights owner has an interest. However, the bill specifies that nothing included in this provision precludes the Chief from including in the unit operation plan another provision allocating an unleased mineral rights owner its proportionate share of working interest net revenues on production allocated to the tract or portions of the tract, after accounting for the royalty and the recovery of the reasonable interest charge described above. Finally, if an unleased mineral rights owner owns less than the entire undivided mineral interest in a tract, the royalty and working interest net revenues on production allocated to the tract, or portions of the tract, must be paid only in the proportion that the unleased mineral rights owner's interest bears to the entire undivided mineral interest in the tract.

Unitization of state and political subdivision mineral rights

Under current law, the Oil and Gas Leasing Commission is responsible for administering the leasing of formations for the exploration for and development and production of oil and natural gas within land owned or controlled by state agencies. The governing statutes establish procedures for the nomination of parcels of land and for the leasing of formations within nominated parcels. The Commission is required to adopt rules establishing additional procedures and requirements. As of the date of this analysis, members of the Commission have not been appointed. Notwithstanding the authority granted to the Commission, current law requires the Chief to issue an order for unit operation of a pool or part of a pool that encompasses a unit area consisting in whole or in part of oil or natural gas resources owned by the Department of Transportation.

The bill expands on this by requiring the Chief to issue the order for unit operation of a pool or part of a pool that encompasses a unit area consisting in whole or in part of oil or natural gas resources owned or controlled by the state or a political

subdivision of the state. The bill specifically exempts state parks in operation before January 1, 2017, and nature preserves from this authorization.

Because the bill *requires* the Chief to issue an order for unit operation when state or political subdivision owned mineral rights are involved without making reference to any other procedural requirements that generally apply to such an order, it is unclear if either of the following applies to an order for unit operation involving state or political subdivision mineral rights:

(1) The hearing and application procedures established by current law and the bill;

(2) The requirement under current law that the Chief make a finding that unit operation is reasonably necessary to increase substantially the ultimate recovery of oil and gas, and the value of the estimated additional recovery exceeds the estimated additional costs incident to conducting unit operation.

Other unitization provisions

With respect to unit operation, the bill specifies all of the following:

--An unleased mineral rights owner is an owner that has not leased the owner's mineral rights for oil or gas, unless the Chief separately defines that class of owner in an order for unit operation;

--An unleased mineral rights owner is not liable for damages associated with oil and gas activities related to a well in the unit, unless the damages arise from a purposeful or grossly negligent act of the unleased mineral rights owner;

--An order for unit operation does not authorize an owner to use the surface of unleased land unless that use is consistent with a separate agreement between the surface rights owner of that land and the owner; and

--An applicant is not required to begin unit operations sooner than 24 months from the effective date of the Chief's order providing for unit operation if the application for unit operation had a hearing before January 1, 2018.

Property tax valuation of oil and gas reserves

(R.C. 5713.051; Section 757.50)

The bill states that the "only method" for valuing oil and gas reserves is to employ an existing discounted cash flow formula. Under current law, this formula appears to apply only for the purposes of calculating the tax value of oil and gas

reserves exploited by an active well that was not the subject of a recent arm's length sale.

Under continuing law's discounted cash flow valuation method, producing oil and gas reserves exploited by wells that were not recently sold in an arm's length transaction are valued, for real property tax purposes, under a form of net income capitalization valuation. Generally, the gross value of production is computed on the basis of the five-year average price of oil and gas from Ohio wells, and the gross production value is discounted over a ten-year period to determine the net present value of the oil or gas. Production volume is adjusted for "flush" production and production forced by using various secondary recovery methods (such as pressurized injection), and an annual rate of decline in production is stipulated. Gross value is adjusted by netting out royalty expenses, capital recovery expenses, and operating expenses. The unit of production for oil is a barrel; the unit for gas is MCF. No per-well average of production is employed, and extractions from wells that share the same meter must be apportioned according to each well.

The discounted cash flow formula appears under current law to apply only for the purpose of calculating the taxable value of oil and gas reserves exploited by a "developed and producing well that has not been the subject of a recent arm's length sale." Indeed, the formula accepts production inputs only from wells developed and producing for the tax year. Methods that county auditors are required or allowed to use to value undeveloped oil and gas reserves are not explicitly stated in current law, which requires an auditor to increase the value of land or mineral rights if the auditor determines that their value has increased because of the discovery of oil or gas, construction of production facilities, commencement of drilling, or other factors.[191] Under a rule adopted by the Tax Commissioner, oil and gas rights that have been separated from surface rights must be valued in accordance with the Commissioner's "annual journal entry . . . in the matter of adopting a uniform formula in regard to the valuation of oil and gas deposits in the eighty-eight counties of the state."[192] This annual entry likely refers to the discounted cash flow formula, which sets value based on a reserve's production. Thus, under continuing administrative rules, undeveloped oil and gas reserves that have been separated from adjoining land appear to have a taxable value of zero, even though the statutory formula used to calculate that value purports to apply only to reserves exploited by producing and developed wells not recently sold at an arm's length sale.

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[191] R.C. 5713.05, not in the bill.

[192] O.A.C. 5703-25-11(I).

The bill specifies that county auditors may employ no method other than the discounted cash flow formula to determine the tax value of all oil or gas reserves, even in the absence of a developing and producing well. It is not clear how the bill changes the property tax valuation methods of oil and gas reserves that exist under current law, if it changes them at all. The bill may simply confirm the Tax Commissioner's rule that suggests that undeveloped oil and gas reserves may be valued only according to that formula. Conversely, the bill's new language could override continuing law's explicit admonition that the discounted cash value formula applies only to producing oil and gas reserves. It also is not clear whether the bill requires county auditors to apply the discounted cash flow formula to oil and gas reserves exploited by a well and recently sold at arm's length or to undeveloped oil and gas mineral interests recently sold at arm's length.[193]

The bill states that it clarifies the General Assembly's intent that the discounted cash flow formula "continues to represent" the only method of valuing oil and gas reserves for property tax purposes. The valuation changes, if any, apply with respect to property added to the tax list, or charged with past-due tax, on or after the bill's effective date.

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 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:

[193] Article XII, Section 2 of the Ohio Constitution requires that, for property tax purposes, "[l]and and improvements thereon shall be taxed by uniform rule according to value." This provision is generally referred to as the "uniform rule." The Ohio Supreme Court has repeatedly held that the best method of determining a property's tax value for purposes of complying with the uniform rule is the actual price paid for property in an arm's-length transaction. Only in the absence of such a sale has the Court held that the uniform rule permits the use of other factors to determine a property's taxable value. See *State ex rel Park Inv. Co. v. Bd. of Tax Appeals*, 170 Ohio St. 410 (1964), *Berea City Sch. Dist. v. Cuyahoga Cty. Bd. of Revision*, 106 Ohio St.3d 269 (2005), and *Cummins Property Services, L.L.C. v. Franklin Cty. Bd. of Revision*, 117 Ohio St.3d 516 (2008).

(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.

Accounting of Oil and Gas Well Fund use for plugging idle and orphaned wells

(R.C. 1509.071)

The bill requires the Director of Budget and Management, in consultation with the Chief of the Division of Oil and Gas Resources Management, to establish an accounting code to track expenditures made 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.[194]

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

[194] R.C. 1509.02, not in the bill.

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; (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;	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.

Funds being consolidated into the new Mining Regulation and Safety Fund		
Existing fund name	**Source of revenue**	**Authorized uses**
	(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	100% to the Mining Regulation and Safety Fund

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
		consolidated under the bill*)	
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.

The bill also prohibits money credited to the Mining Regulation and Safety Fund that is derived from severance taxes from the mining of limestone, dolomite, sand, or gravel (aggregates) from being used for coal mining and reclamation purposes. Therefore, such money may only be used for the purpose of reclaiming areas of land affected by surface or in-stream mining related to aggregates and for operating expenses of the ODNR Division of Mineral Resources Management.

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.

Policy for aquatic species

(R.C. 1533.06)

The bill requires the Chief of the Division of Wildlife, within one year of the bill's effective date, to establish both of the following:

(1) A definition of injurious invasive aquatic species; and

(2) A risk assessment policy regarding aquatic species that provides for both of the following:

--An evaluation of overall risk of a species based on best available biological information derived from professionally accepted science and practices in fisheries or aquatic invasive species management; and

--A determination of whether a species should be listed as an injurious aquatic invasive species.

The bill requires the Chief to adopt rules necessary to administer the bill's provisions regarding aquatic species.

Increased fees for nonresident deer and wild turkey permits

(R.C. 1533.11 and 1533.12)

The bill increases the fees for nonresident applicants for a deer or wild turkey permit so that the applicable fees are as follows:

Type of permit	Fee under:		Effect
	Current law	The bill	
Deer permit – resident, ages 18-65	$23	$23	No change
Deer permit – nonresident, ages 18-65	$23	$250	Increase of $227
Youth deer permit – resident	$11.50	$11.50	No change
Youth deer permit – nonresident	$11.50	$250	Increase of $238.50
Senior deer permit – resident	$11.50	$11.50	No change
Senior deer permit – nonresident	$23	$250	Increase of $227
Wild turkey permit – resident, ages 18-65	$23	$23	No change
Wild turkey permit – nonresident, ages 18-65	$23	$75	Increase of $52
Youth wild turkey permit – resident	$11.50	$11.50	No change
Youth wild turkey permit – nonresident	$11.50	$75	Increase of $63.50
Senior wild turkey permit – resident	$11.50	$11.50	No change
Senior wild turkey permit – nonresident	$23	$75	Increase of $52

Current law does not delineate between a nonresident and a resident deer and wild turkey permit. Therefore, the bill creates a nonresident deer permit and wild turkey permit for nonresidents of all ages. The bill also specifies that a person on active duty in the U.S. Armed Forces, while on leave or furlough, is eligible to obtain a deer or wild turkey permit at the resident rate, regardless of whether the person is a resident of Ohio. Under continuing law, a resident is any individual who has resided in Ohio for not less than six months preceding the date of making application for a permit and a nonresident is any individual who does not qualify as a resident.

Game quadruped includes elk

(R.C. 1531.01)

The bill adds elk to the list of game quadruped animals, which effectively allows the Department to regulate and manage the propagation, preservation, and protection of elk.

Surface mining safety inspections

(R.C. 1514.41)

The bill replaces the current requirement that the Chief of the Division of Mineral Resources Management conduct at least two inspections of a surface mining operation

during a year following a year in which a safety inspection identifies a lost-time accident rate greater than the national average. Instead, the bill requires that the Chief conduct a minimum of two safety inspections of a surface mining operation during a year following a year in which an inspection by the U.S. Mine Safety and Health Administration found three or more violations per day.

The bill also authorizes the Chief, in consultation with a statewide association that represents the surface mining industry, to adopt rules establishing exceptions to the safety inspection requirement.

Oil and Gas Leasing Commission

(R.C. 1509.71)

The bill requires the Speaker of the House of Representatives and the President of the Senate to appoint four of the five members of the Oil and Gas Leasing Commission instead of the Governor as under current law. The Governor was required to appoint the four members by October 30, 2011, but has not yet done so. The bill specifies that the Speaker must appoint two members from a list of not less than four persons recommended by a statewide organization representing the oil and gas industry. The President must appoint one member of the public with expertise in finance or real estate and one member representing a statewide environmental or conservation organization. The bill retains the Chief of the Division of Geological Survey as the Chairperson of the Commission. Because the Governor has not appointed the members of the Commission, and the Commission generally is the legal means by which state lands may be leased for oil and gas exploration, it appears there currently is not a mechanism by which the state may enter into oil and gas leases with respect to state land.

Under current law, the Commission is tasked with receiving nominations of parcels of state land from persons interested in developing oil and gas resources on that land. Upon receiving a nomination, the Commission must conduct a meeting regarding the nomination and review the nomination. After review, the Commission must approve or disapprove the nomination based on specified factors, including the economic benefits that would result from an oil and gas lease on the land, the environmental and geological impact of such a lease, comments for or against the nomination, and other factors. If the Commission approves the nomination, and the land meets specified criteria, the Commission must offer for lease each oil or gas formation within the parcel of land.

- 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.

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.

- Permits the Ohio Consumers' Counsel to assist consumers with utility complaint calls or forward the calls to the PUCO's call center.

Consumer complaints

(R.C. 4911.021)

The bill permits the Ohio Consumers' Counsel (OCC) to assist consumers who call with utility complaints or to forward the calls to the PUCO's call center. Under current law, the OCC is required to forward consumer complaint calls to the PUCO's call center.

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 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;[195]

- 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.

[195] 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.

- Allows for members of the General Assembly to receive mileage reimbursement if the member travels to and from a location outside the seat of government if the legislature convenes for session at that location.
- Specifies that if session is held at the seat of government and at a location outside the seat of government in the same week, a member is entitled to reimbursement only for whichever is the farther distance for the member to travel.
- Allows members to decline mileage reimbursements.

Mileage reimbursement

(R.C. 101.27)

The bill allows for members of the General Assembly to receive mileage reimbursement if the member travels to and from a location outside the seat of government if the legislature convenes for session at that location. Under current law, a member is only entitled to mileage reimbursement for travel from and to the member's home to and from the seat of government once a week during session.

The bill also specifies that if session is held at the seat of government and at a location outside the seat of government in the same week, a member is entitled to reimbursement only for travel to either the session held at the seat of government or at a location outside the seat of government, whichever is the farther distance for the member to travel.

Under the bill, a member may decline any travel reimbursement the member is entitled to for travel to and from the seat of government or a location outside the seat of government if session is convened at that location.

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 a drug court program participant if requested by a judge of a certified drug court.

- Requires the Board to provide OARRS information related to a deceased person if requested by the examining coroner.

- Requires the Board to provide a health care entity's peer review committee with OARRS information regarding a health care professional for evaluation, supervision, or disciplinary purposes.

- 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 a pharmacy with a summary of the pharmacy's dispensing record from OARRS.

- Authorizes the Board to provide OARRS information to a prescriber or pharmacist without request.

- 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.

- Authorizes the Board to require a licensed terminal distributor of dangerous drugs to submit to the Board data fields recognized by the American Society for Automation in Pharmacy.

- Authorizes the Board to accept for inclusion in OARRS information from other sources, including other state agencies.

- 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 – medical marijuana

- 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.

Medical marijuana patient or caregiver registration

- Eliminates the requirement that the physician statement on an application to register a patient or caregiver certify that the physician has informed the patient that the benefits of medical marijuana outweigh its risks.

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

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 that 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. 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.

The requirements to query the Board's roster 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. For agreements pertaining to manufacturers, outsourcing facilities, third-party logistics providers, repackagers, and wholesale distributors, the bill also specifies that information received is subject to confidentiality and disclosure provisions that are generally applicable to the Board's investigations under the bill (see "**Investigative records**," below).

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, and 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, 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 any of the following: the Pharmacists and Dangerous Drug Law, the Medical Marijuana Control Program, or laws concerning drugs, drug offenses, or controlled substances, (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. 4729.75, 4729.77, 4729.772, 4729.80, 4729.82, 4729.84, 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 provides the following:

(1) The Board may provide 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) The Board must provide 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) The Board must provide information requested by the examining coroner, deputy coroner, or coroner's delegate about a deceased person. The bill permits a coroner, deputy coroner, or coroner's delegate to share information received with a drug overdose fatality review committee.

The bill requires the Board to provide a peer review committee of a health care entity, upon request, with OARRS information regarding a health care professional who is subject to the committee's evaluation, supervision, or discipline if the information is to be used for one of those purposes. This provision applies to a peer review committee of a hospital, long-term care facility, health insurer, medical society, or any other health care entity that conducts professional credentialing or quality review activities involving health care providers.[196]

The bill also permits the Board to provide (1) a prescriber with a summary of the prescriber's prescribing record if such a record is created by the Board and (2) a pharmacy with a summary of the pharmacy's dispensing record if such a record is created by the Board. The summary information is subject to the confidentiality requirements of existing law.

The bill permits the Board to provide OARRS information to a prescriber or pharmacist authorized to use OARRS without being requested to do so.

Records of 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.

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[196] See R.C. 2305.25, not in the bill.

Submission of database information by terminal distributors

In addition to the information a licensed terminal distributor of dangerous drugs must submit to the Board under current law, the bill requires submission of any other data fields recognized by the American Society for Automation in Pharmacy if specified in rules adopted by the Board.

Submission of database information by other sources

The bill permits the Board to accept for inclusion in OARRS information from other sources, including other state agencies, so long as the information is related to monitoring the misuse and diversion of drugs. Such information must be transmitted as specified in rules adopted by the Board.

To the extent information submitted by other sources is personal health information, the bill specifies that it may be provided by the Board only as authorized by the submitter and in accordance with rules adopted by the Board.

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.[197]

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 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.[198]

Application to register as medical marijuana patient or caregiver

(R.C. 3796.08)

With respect to a physician statement required as part of an application to register with the Board as a medical marijuana patient or caregiver, the bill eliminates the requirement that the statement include certification that the physician has informed the patient that, in the physician's opinion, the benefits of medical marijuana outweigh its risks.

[197] R.C. 3796.13, not in the bill.

[198] R.C. 3796.12, not in the bill.

OHIO PUBLIC DEFENDER

Indigent Defense Support Fund

- 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.

Affidavit of indigency

- Removes the requirement that a sworn and notarized affidavit of indigency accompany the financial disclosure form for indigent defense.

Reimbursement for indigent defense

- Requires the State Public Defender to reimburse county governments 50% of the expenses they incur in providing indigent defense in cases other than capital cases, and 100% of the expenses incurred for indigent defense in capital cases.

- Eliminates the allowance for proportional reduction of reimbursement if the General Assembly's appropriation to the State Public Defender is insufficient to cover the counties' costs 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.

Reimbursement for indigent defense

(R.C. 120.18, 120.28, 120.33, 120.34, 120.35, and 2941.51)

The bill requires the State Public Defender to reimburse county governments 50% of the expenses they incur in providing indigent defense in cases other than capital cases, and 100% (increased from 50%) of the expenses incurred for indigent defense in capital cases. Current law requires 50% reimbursement for indigent defense in capital and noncapital cases, but the reimbursement percentage may be reduced by an amount equal for all counties if the General Assembly's appropriation to the State Public Defender is insufficient to cover the counties' costs for indigent defense. The bill eliminates this allowance for a proportional reduction of the state's reimbursement to the counties. It also eliminates a provision in existing law that the amount to be reimbursed for indigent defense in capital cases in any fiscal year cannot exceed the total amount appropriated by the General Assembly for that year.

DEPARTMENT OF PUBLIC SAFETY

Public safety funds related to seizures of money

- 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.

Security at Vern Riffe Center, Rhodes Tower, and Capitol Square

- Requires the Department of Public Safety to coordinate security measures and operations at the Vern Riffe Center, Rhodes Tower, and Capitol Square, and requires the Department of Administrative Services and the Capitol Square Review and Advisory Board to implement security measures and operations DPS requires.

Driver's education course content

- Requires driver's education courses to include instruction on substance abuse and prescription drug abuse, the science related to addiction, and the effect of psychoactive substances on the brain and on a person while operating a motor vehicle.

State Board of Emergency Medical, Fire, and Transportation Services

- Requires the Governor to appoint an additional member to the State Board of Emergency Medical, Fire, and Transportation Services who is a member of a third-service emergency medical service agency or organization.

Grants from the Drug Law Enforcement Fund

- Requires any drug task force for which a grant is awarded from the Drug Law Enforcement Fund to comply with all grant requirements, including reporting its activities through the El Paso Intelligence Center (EPIC) information technology systems.

Registration fees for vehicles subject to International Registration Plan

- Eliminates a $30 registration fee that is charged for the in-state registration of commercial cars that are subject to the International Registration Plan (IRP) and an $11 registration fee that is charged for the in-state registration of commercial buses that are subject to the IRP.

- Exempts commercial cars and buses that are subject to the IRP from the local motor vehicle registration taxes (which are up to $25 per taxing district).

- Increases the base rates charged for the registration of a commercial car or bus that is subject to the IRP and equalizes those rates so that the base rates charged to vehicles registered in Ohio and vehicles that are registered outside of Ohio but that are subject to taxation in Ohio under the IRP are the same.

- Eliminates a provision of the transportation budget act (H.B. 26) that establishes a commercial motor vehicle pilot program within specified counties, which reduces the $30 registration fee for applicable vehicles.

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

New public safety funds	
Name	**Source**
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

Security at Vern Riffe Center, Rhodes Tower, and Capitol Square

(R.C. 105.41, 123.01, 5502.01, and 5503.02)

The bill requires the Department of Public Safety to coordinate security measures and operations at the Vern Riffe Center, Rhodes Tower, and Capitol Square and allows the Department of Public Safety to direct DAS and the Capitol Square Review and Advisory Board (CSRAB) to implement security measures and operations the Department of Public Safety requires. Under current law, DAS is generally responsible for the provision of security to Vern Riffe Center and Rhodes Tower, and CSRAB is generally responsible for the Capitol Square.

Driver's education course content

(R.C. 4508.02)

The bill requires driver's education courses to include instruction on substance abuse and prescription drug abuse, the science related to addiction, and the effect of psychoactive substances on the brain and on a person while operating a motor vehicle. Generally, under current law, the required content of driver's education courses is established by the Director of Public Safety by rule. However, current law also specifically requires driver's education courses to include instruction on the dangers of driving a motor vehicle while using an electronic wireless communications device (for example, a cell phone) to write, send, or read a text-based communication.

State Board of Emergency Medical, Fire, and Transportation Services

(R.C. 4765.02)

The bill requires the Governor to appoint an additional member to the State Board of Emergency Medical, Fire, and Transportation Services who is a member of a third-service emergency medical service agency or organization. The member must be from among three persons nominated by the Ohio EMS Chiefs Association. A third-service emergency medical service agency or organization provides only emergency medical services and is separate from police and fire departments.

The Board presently consists of 20 members who are required to be involved in providing emergency medical services in a specified capacity. For example, several of the members of the Board must be an EMT, AEMT, or paramedic.

Grants from the Drug Law Enforcement Fund

(R.C. 5502.68)

The bill requires any drug task force for which a grant is awarded from the Drug Law Enforcement Fund to comply with all grant requirements established by the Department of Public Safety, Division of Criminal Justice Services. This specifically includes a requirement that the drug task force report its activities through the El Paso Intelligence Center (EPIC). Grants from the Drug Law Enforcement Fund are provided to defray the expenses that a drug task force incurs in performing its functions related to the enforcement of Ohio's drug laws and laws related to illegal drug activity.

Registration fees for vehicles subject to the International Registration Plan

(R.C. 4503.65, 4503.042, 4503.10, and 4504.201, with conforming changes in other R.C. sections)

Background

Under the International Registration Plan (IRP), a commercial car[199] or bus that travels within two or more states pays an apportioned registration tax to each jurisdiction that the vehicle travels within. The tax is based on the percent of the vehicle's mileage within each state. For example, if a vehicle travels 50% of its miles in Ohio, the operator would pay 50% of the Ohio registration taxes. Under current law, the base rates charged for IRP vehicles registered outside of Ohio are higher than the base rates charged for IRP vehicles registered in Ohio (ranging from $1 more to $33.50 more, depending on the weight of the vehicle). However, in-state IRP vehicles pay an additional $30 registration fee (applicable to commercial cars) or an $11 registration fee (applicable to commercial buses) and local registration taxes (up to a maximum total of $25 depending on the district of registration). Those fees do not apply to out-of-state IRP vehicles. The additional registration fees and taxes that are charged to in-state IRP vehicles are also not apportioned, meaning a registrant pays the full fee amount. Accordingly, in-state vehicles pay a higher overall rate for registration under current law, because of the additional unapportionable fees that apply only to in-state vehicles.

[199] A commercial car generally is a motor vehicle that is used for carrying merchandise or freight (R.C. 4501.01, not in the bill).

Changes to registration fees under the bill

The bill eliminates the additional $30 and $11 registration fees for in-state IRP vehicles and excludes in-state IRP vehicles from all local registration taxes (up to $25 depending on the district of registration). In lieu of those fees and taxes, the bill increases the base rates charged for the registration of an IRP vehicle and equalizes the rates so that the base rates charged to IRP vehicles registered in Ohio and out-of-state IRP vehicles are equivalent. The following table reflects the rates of taxation for an IRP vehicle as modified by the bill:

Rates of taxation for commercial vehicle registration*		
Type of registration	**Base rate under current law**	**Base rate under the bill**
In-state IRP commercial car	$45 - $1,340 (plus a $30 public safety fee and up to $25 in local registration taxes)	$100 - $1,395
Out-of-state IRP commercial car	$47 - $1,373.50	$100 - $1,395
In-state IRP commercial bus	$10 - $1,630 (plus an $11 public safety fee and up to $25 in local registration taxes)	$46 - $1,666
Out-of-state IRP commercial bus	$11 - $1,644.50	$46 - $1,666

* All rates of taxation are based on vehicle weight. This table does not include service fees, late registration fees, or taxes that may be levied within a transportation improvement district or regional transportation improvement project, all of which apply to vehicles registered in Ohio only.

Please note that although the increase to the base rate is equal to the total maximum eliminated fees and taxes for in-state IRP vehicles ($55 for commercial cars and $36 for commercial buses), the effective tax rate for such vehicles may be lower than under current law. This is because the existing fees are not apportioned, whereas the base rate is apportioned. The tax rate will be higher than under current law for out-of-state IRP vehicles, which currently do not pay any unapportioned fees or taxes.

Elimination of commercial motor vehicle registration pilot

The bill also repeals a provision of the transportation budget act (H.B. 26) that establishes a multi-county commercial motor vehicle registration pilot program. Under the pilot program, the $30 additional registration fee (referenced above) that applies to a commercial car is reduced to $15 if the commercial car is registered under the IRP within Clinton, Franklin, Lucas, Mahoning, Montgomery, or Stark counties. The pilot program begins January 1, 2018, and ends December 31, 2019.

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 technological, regulatory, and marketplace 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.

Renewable energy

- Modifies the definition of renewable energy resources and qualifying renewable energy resources under the competitive retail electric service law to include power produced by a small hydroelectric facility and excludes small hydroelectric facilities from standards defining hydroelectric facilities.

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.[200] 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)

[200] R.C. 3704.03(G), not in the bill.

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.[201] The certificate is 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

[201] R.C. 4906.04, not in the bill.

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.[202] 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.[203]

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 technological, regulatory, and marketplace innovations in the electric distribution system. It 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 the research. Current law includes several provisions within the state competitive retail electric service policy, one of which is the policy to ensure the availability to

[202] The calculations are based on 2017 U.S. Department of Health & Human Services guideline figures, available at https://aspe.hhs.gov/poverty-guidelines.

[203] O.A.C. 4901:1-6-19(H)(1).

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;
- 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.

Renewable energy

(R.C. 4928.01 and 4928.64)

The bill modifies the definition of renewable energy resources under the competitive retail electric service law to include power produced by a small hydroelectric facility, which is a facility that operates, or is rated to operate, at an aggregate capacity of less than six megawatts. Further, the bill adds small hydroelectric facilities to the definition of qualifying renewable energy resources for purposes of the renewable energy resource mandates of that law. Their addition makes the facilities eligible for renewable energy credits.

The bill excludes small hydroelectric facilities from meeting the standards used to define a "hydroelectric facility."

- 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

- Provides that, generally, subject to several specified exemptions, a person sentenced to a prison term of 12 months or less for a fifth degree felony (a short-term fifth degree felony prison term) may not serve the term in an institution under the control of DRC.

- Specifies the types of local correctional facilities where a person described in the preceding dot point will serve that prison term.

- Provides a local confinement exemption under which counties may send a limited number of offenders sentenced to a short-term fifth degree felony prison term to DRC to serve the term in prison instead of in local confinement, with the county's exemption being a number determined under a specified formula.

- Specifies that the number of offenders from a county confined in prison as described in the preceding dot point at any point in time may not exceed the county's local confinement exemption.

- Provides a local confinement waiver under which a common pleas court may send an offender sentenced to a short-term fifth degree felony prison term to DRC for service of the term in state prison under specified circumstances.

Sentencing mechanism for maintaining desired capacity

- Provides that, if a judge sentences an offender to a prison term or jail term in a local correctional facility and the sentence would increase the facility's inmate population beyond its desired capacity, the person responsible for operating a local correctional facility may notify the judge.

- Requires a judge who receives such notice to either modify the sentence by sentencing the offender to another local correctional facility or imposing a community control sanction or order the release of another inmate from the facility whom the judge previously sentenced, so long as the inmate is not serving a mandatory sentence.

- Permits the person operating the facility, if the judge fails to act within 24 hours, to release an inmate serving at the facility who has served at least 90% of the inmate's sentence, so long as the inmate has not been convicted of any offense of violence or sex offense, and is not serving a mandatory sentence.

Memorandum of understanding regarding local confinement

- Requires counties, either separately or jointly, to submit to DRC a memorandum of understanding that specifies plans for using T-CAP program grant money, reimbursing local correctional facilities for certain offenders, and the desired inmate capacity for local correctional facilities in the county.

- Specifies the procedure for determining the *per diem* cost of housing offenders sentenced to a short-term fifth degree felony prison term in local correctional facilities and the preferred inmate capacity of those facilities.

Time to be served before judicial release application

- Reduces the time that an eligible offender confined under a prison term of less than two years must serve before applying for judicial release.

Community corrections program subsidy priorities

- Revises the priorities for use of community corrections subsidies provided by DRC to eligible political subdivisions.

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.

- Adds community-based correctional facilities to the list of probation departments eligible for probation improvement grants and probation incentive grants.

- Imposes the same requirements for community-based correctional facilities to receive the grants that apply to common pleas, municipal, and county court probation departments.

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 with 90 days of earned credit toward satisfaction of the person's prison term or a 10% reduction of the person's prison term, whichever is less, upon successful completion of a high school education.

- Prohibits earned credit for completion of a high school education if the offender is serving a mandatory prison term or a prison term for an offense of violence or a sexually oriented offense.

Warden's report to the parole board

- Requires the warden of an institution in which a person eligible for parole is incarcerated to submit a report on the prisoner to the parole board prior to any hearing to determine whether or not that prisoner should be paroled.

Notice to sheriff of felony offender release from prison

- Requires the Adult Parole Authority (APA) to notify the sheriff of the county in which the offender was convicted and the sheriff of the county in which the offender will reside of the offender's release or transfer under a specified time frame.

- Requires the APA to provide notice to the sheriff at least 60 days before recommending a pardon or commutation for an offender or at least 60 days before an APA hearing regarding parole.

Use of former Ohio River Valley Juvenile Correctional Facility (ORVF)

- Provides that if the Lawrence County sheriff is using a portion of the ORVF as a jail pursuant to a contract under existing law, and if either party has failed to comply with the contractual terms, on the provision's effective date, control of that portion of the ORVF reverts to the state and the sheriff cannot use it as a jail.

- Authorizes the use of the ORVF or a portion of it as a multicounty, municipal-county, or multicounty-municipal correctional center under specified circumstances.

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, 5120.116, and 5120.117)

In general; local confinement for short-term fifth degree felony prison terms

The bill modifies existing law by providing an exception, for certain prison terms imposed for a fifth degree felony, to the law that specifies that a person who is sentenced to a prison term for a felony must serve that term in an institution under DRC's control (hereafter, "DRC institution"). Under the bill's exception, on and after July 1, 2018, no person sentenced to a prison term that is 12 months or less for a fifth degree felony may serve that term in an institution under DRC's control. 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 in a community-based correctional facility (a CBCF), except that if the person is sentenced for multiple offenses and the total term for all of those offenses exceeds 12 months, the person must serve the term in a DRC institution. The bill specifies that nothing in this provision or in the provisions described below regarding local confinement exemptions relieves the state of its obligation to pay for the cost of confinement of the person in a CBCF.

The bill's exception 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.

(4) The sentence is required to be served concurrently to any other sentence imposed upon the person for a felony that is required to be served in a DRC institution.

(5) The person's sentence is authorized to be served in a DRC institution under the county's local confinement exemption that applies in the state fiscal year in which the sentence was imposed, determined as described below, or under an initial or continuing local confinement waiver with respect to that person, also determined as described below.

Local confinement exemption for counties

The bill provides a local confinement exemption for counties under which a person sentenced to a "short-term fifth degree felony prison term" (see below), and with respect to whom the exemption is available, may be sent to DRC to serve the term in state confinement instead of in local confinement.

Calculation of exemption

The bill requires DRC, not later than October 1, 2017, to determine the local confinement exemption for each county through use of a four step formula. DRC must do the following:

(1) Determine the total number of "short-term fifth degree felony inmates" (see below) statewide and determine, for each county in the state, the number of those inmates sentenced by the common pleas court of that county.

(2) Calculate the total statewide local confinement exemption, which is equal to 15% of the total number of short-term fifth degree felony inmates statewide.

(3) Calculate, for each county in the state, the county apportioned percentage, which is equal to the number of short-term fifth degree felony inmates sentenced by the common pleas court of that county divided by the total number of short-term fifth degree felony inmates statewide, both as determined under (1).

(4) Calculate, for each county in the state, the county's local confinement exemption, which is equal to the total statewide local confinement exemption calculated under (2) multiplied by the county's county apportioned percentage calculated under (3), except that if the exemption number so determined would be five or fewer, the county's local exemption is five.

In determining and calculating numbers under the formula in (2) and (4), DRC must round up any fraction to the next higher whole number. After completing the determinations under the formula, DRC must notify each county in the state of the county's local confinement exemption and that the county's local confinement exemption applies for each state fiscal year commencing with FY 2018.

Use of exemption by county

Upon receipt from DRC of the notice of its local confinement exemption for state fiscal years commencing with FY 2018, as described above, a county may send offenders sentenced by the county's common pleas court to a short-term fifth degree felony prison term to DRC for service of the term in state confinement instead of in local confinement. The local confinement exemption determined by DRC for a county constitutes the total

number of offenders sentenced to a short-term fifth degree felony prison term by the county's common pleas court, in each state fiscal year commencing with FY 2018, that may be confined at any one point in time in state confinement instead of in local confinement. A county may send offenders to DRC in a state fiscal year for service of a short-term fifth degree felony prison term in state confinement instead of in local confinement under this provision as long as the number of offenders confined from the county at that point in time for such a prison term in such a manner is fewer than the county's local confinement exemption. In no case may a county send offenders to DRC in any state fiscal year for service of a short-term fifth degree felony prison term in state confinement instead of local confinement under this provision if the number of offenders confined from the county at that point in time for such a term in such a manner equals the number of offenders that corresponds to the county's local confinement exemption. The local confinement exemption DRC determines for a county applies only for that county and no part of it may be transferred to or used by any other county.

Definitions

For purposes of the determination and use of a county's local confinement exemption:

"**Local confinement**" means service of a prison term 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 in a CBCF that is required to be served in such a facility by the provision described above in "**In general; local confinement for short-term fifth degree felony prison terms**."

"**Short-term fifth degree felony inmate**" means any offender who was sentenced to a short-term fifth degree felony prison term in FY 2017, who served the prison term in state confinement, and who, had the offender committed the offense on or after the exemption provision's effective date, would have been required to serve the term in local confinement.

"**Short-term fifth degree felony prison term**" means a prison term that is 12 months or less that is imposed for a fifth degree felony.

"**State confinement**" means service of a prison term in a DRC institution; it does not include service of a prison term in a CBCF.

Local confinement waiver for counties

The bill provides a local confinement waiver mechanism for counties in specified circumstances under which an offender sentenced to a "short-term fifth degree felony prison term" (see below) may be sent to DRC to serve the term in state confinement instead of in local confinement under the provisions described above.

County eligibility for initial waiver

Under the bill, a common pleas court is eligible for an initial local confinement waiver with respect to a particular offender it sentences to a short-term fifth degree felony prison term on or after July 1, 2018, and to the local correctional facility to which the offender will be sent to serve that term in local confinement, if the following three criteria are satisfied:

(1) At the point in time that offender is to commence service of that term, the number of offenders confined from the county for such a term in state confinement equals the number of offenders that corresponds to the county's local confinement exemption determined by DRC, as described above in "**Local confinement exemption for counties**."

(2) The "local correctional facility" (see below) to which the offender will be sent to serve that term in local confinement notifies the court that, at that point in time, the facility's inmate population is at or exceeds 110% of its "desired inmate capacity" (see below).

(3) The court is not operating under a continuing local confinement waiver, as described below, with respect to the local correctional facility.

Application for, and use of, initial waiver

Upon determining that it is eligible for an initial local confinement waiver with respect to a particular offender, as described above, a common pleas court promptly may submit to DRC a request for an initial waiver of local confinement with respect to the offender. The request must specify that the court has sentenced the offender to a short-term fifth degree felony prison term and that the court is eligible for the initial waiver with respect to the offender under the criteria described above, and must include information supporting that eligibility. Not later than ten days after receipt of such a request from a common pleas court for an initial local confinement waiver with respect to a particular offender, DRC must grant the initial waiver and accept the offender for state confinement.

Continuing waiver – existence and termination

If a court of common pleas has been granted an initial local confinement waiver as described above with respect to a local correctional facility, the waiver remains in effect with respect to that facility, as a continuing local confinement waiver, until the facility certifies to DRC that the facility's inmate population has fallen below 110% of its desired inmate capacity and DRC notifies the court that the facility has so certified.

If the inmate population of a local correctional facility that is the subject of a continuing local confinement waiver falls below 110% of the facility's desired inmate capacity, the sheriff, administrator, jailer, or other person responsible for operating the facility, within ten days of the inmate population falling below that number, must certify to DRC that the facility's inmate population has so fallen. Upon receipt of a certification from a local correctional facility that the facility's inmate population has fallen below 110% of its desired inmate capacity, DRC promptly must notify the common pleas court that has been granted the waiver with respect to that facility of that fact. Upon the court's receipt of the notification from DRC, the continuing local confinement waiver terminates. If a court's continuing local confinement waiver with respect to a local correctional facility has terminated under this provision, the court may become eligible for a new initial local confinement waiver, and may be granted the new waiver, as described above in "**County eligibility for initial waiver**" and "**Application for, and use of, initial waiver**."

Use of continuing waiver

If a common pleas court is operating under a continuing local confinement waiver with respect to a local correctional facility, if the court sentences an offender on or after July 1, 2018, to a short-term fifth degree felony prison term, and if at the point in time that offender is to commence service of that term, the number of offenders confined from the county for such a term in state confinement equals the number of offenders that corresponds to the county's local confinement exemption determined by DRC, as described above in "**Local confinement exemption for counties**," the court may send the offender to DRC for service of the term in state confinement instead of in local confinement in the local correctional facility. When a court sends an offender to DRC under this provision, DRC must accept the offender for state confinement. The court may continue sending such offenders to DRC for service of their term in state confinement instead of in local confinement in the local correctional facility under these criteria until the court's continuing local confinement waiver with respect to that facility is terminated as described above.

DRC reduction of T-CAP grant money

If DRC accepts an offender for state confinement under either an initial or a continuing local confinement waiver, DRC may reduce the amount of the grant money to be provided to the county under the targeting community alternatives to prison (T-CAP) program by an amount equal to DRC's cost of confining the offender in state confinement.

Definitions

For purposes of the determination and use of a county's local confinement waiver:

"**Local confinement**," "**short-term fifth degree felony prison term**," and "**state confinement**" have the same meanings as described above with respect to county local confinement exemptions.

"**Local correctional facility**" means a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a community alternative sentencing center or district community alternative sentencing center, or a CBCF.

"**Desired inmate capacity**" of a local correctional facility is the desired inmate capacity of the facility as specified in the memorandum of understanding established under the bill's provisions (see below) by the officials of the county or counties served by courts of common pleas that sentence offenders to the facility for fifth degree felonies.

Sentencing mechanism for maintaining desired capacity

(R.C. 2929.341)

The bill provides that, if a judge sentences an offender to a prison term or jail term to be served in a local correctional facility and the sentence would increase the facility's inmate population beyond its desired inmate capacity, the person operating the facility may notify the judge that the sentence would have such an effect. The desired inmate capacity of a local correctional facility is the capacity specified in a memorandum of understanding approved by DRC or, if the memorandum is not approved within a specified time period, the capacity previously determined by DRC (see "**Memorandum of understanding regarding local confinement**," below). When a judge receives such notice, the judge must either (1) modify the sentence by sentencing the offender to another local correctional facility or, unless the offense requires a mandatory prison term or jail term, by imposing a community control sanction, or (2) order the release of an inmate from the facility whom the judge previously sentenced,

so long as the inmate is not serving a mandatory prison term or jail term. If the judge fails to act upon the notice within 24 hours, the bill permits the person responsible for operating the facility to release an inmate serving at the facility who has served at least 90% of the inmate's sentence, so long as the inmate has not been convicted of any offense of violence or sex offense, and is not serving a mandatory prison term or jail term.

Memorandum of understanding regarding local confinement

(R.C. 5149.38)

Development, approval, and amendment

The bill specifies that in each county, unless the county enters into an affiliation as described below and not later than 30 days after the provision's effective date, a county commissioner representing the county's board of county commissioners, the administrative judge of the general division of the county's common pleas court, the county's sheriff, and an official from any municipality operating a local correctional facility in the county to which courts of the county sentence offenders must agree to, sign, and submit to DRC for its approval a memorandum of understanding (MOU) that must do three things.

First, it must set forth the plans by which the county will use grant money provided to the county in FY 2018 and succeeding state fiscal years under the Targeting Community Alternatives to Prison (T-CAP) program. Second, it must specify the manner in which the county will address a *per diem* reimbursement of local correctional facilities for prisoners who serve a prison term in local confinement in the facility under the provision described above in "**In general; local confinement for short-term fifth degree felony prison terms**." The *per diem* reimbursement rate must be at the rate determined as described below in "***Per diem* reimbursement rate determination**." Third, it must specify the desired inmate capacity of each local correctional facility in the county to which courts of the county sentence offenders to serve a prison or jail term, which is the inmate population that would enable the facility to operate in the most efficient and effective manner. The sheriff, administrator, jailer, or other person responsible for operating each such facility will determine the facility's desired inmate capacity, and the amount so determined will be the desired inmate capacity specified in the MOU.

Two or more counties may join together to jointly establish an MOU of the type described in the preceding paragraph. Not later than 30 days after the provision's effective date, a county commissioner from each of the affiliating counties representing the county's board of county commissioners, the administrative judge of the general

division of each affiliating county's common pleas court, each affiliating county's sheriff, and an official from any municipality operating a local correctional facility in the affiliating counties to which courts of the counties sentence offenders must agree to, sign, and submit to DRC for its approval the MOU. The MOU must set forth the plans by which, and specify the manner in which, the affiliating counties will complete the tasks described in the preceding paragraph, and must specify the desired inmate capacity as described in that paragraph of each local correctional facility in the affiliating counties to which courts of those counties sentence offenders to a prison or jail term.

The bill requires DRC to adopt rules establishing standards for approval of MOUs submitted to it as described above. DRC must review the MOUs submitted to it and may require the county or counties that submit an MOU to modify the MOU. DRC's Director is required to approve MOUs submitted to it that the Director determines satisfy the adopted standards. For purposes of the bill's provisions regarding maintaining desired capacity in local correctional facilities, as described above in "**Sentencing mechanism for maintaining desired capacity**," if DRC does not approve an MOU within 30 days of its submission, the "desired capacity" of a local correctional facility is to be considered the capacity of the facility previously determined by DRC.

Any person responsible for agreeing to, signing, and submitting an MOU as described above may delegate the person's authority to do so to an employee of the agency, entity, or officer served by the person. The persons signing an MOU, or their successors in office, may revise the MOU as they determine necessary. They must revise the MOU whenever the sheriff, administrator, jailer, or other person responsible for operating any facility covered by the MOU with respect to its desired inmate capacity informs the persons that the sheriff, administrator, jailer, or other person has changed the facility's desired inmate capacity. Any revision of the MOU must be signed by the required parties and submitted to DRC for its approval within 30 days after the beginning of the state fiscal year.

Per diem reimbursement rate determination

The bill requires that, in each county, the sheriff must determine the *per diem* costs for local correctional facilities in the county for the housing of prisoners who serve a term in the facility under the bill's provisions described above in "**In general; local confinement for short-term fifth degree felony prison terms**." To determine that figure in calendar year 2017, not later than the date on which the county's appropriate representatives enter into a contract with DRC under the targeting community alternatives to prison (T-CAP) program, the sheriff must determine the *per diem* costs for each of the facilities for the housing in the facility of prisoners serving a prison term for

a felony in calendar year 2016 – the *per diem* cost so determined will apply in calendar year 2017.

To determine that amount commencing in calendar year 2018 and going forward, on or before February 1 of each calendar year, the sheriff must determine the *per diem* costs for the preceding calendar year for each of the facilities for the housing in the facility of prisoners who serve a term in it under the bill's provisions described above in "**In general; local confinement for short-term fifth degree felony prison terms**" – the *per diem* cost so determined will apply in the calendar year in which the determination is made. The *per diem* costs of housing determined under these provisions for a facility must be the actual costs of housing the specified prisoners in the facility, on a *per diem* basis. Under these provisions, a "local correctional facility" is a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a community alternative sentencing center or district community alternative sentencing center, or a CBCF.

For each county, the *per diem* cost determined as described above that applies with respect to a facility in a specified calendar year will be the *per diem* rate of reimbursement in that calendar year, under the targeting community alternatives to prison (T-CAP) program, for prisoners who serve a term in the facility under the bill's provisions described above in "**In general; local confinement for short-term fifth degree felony prison terms**."

Time to be served before judicial release application

(R.C. 2929.20)

The bill reduces the time that an "eligible offender" (see below) confined under a prison term of less than two years must serve before applying for judicial release. Under the bill, an eligible offender serving an aggregated nonmandatory prison term or terms of less than two years may file the motion at any time after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, at any time after the expiration of all of the mandatory terms. Currently, an eligible offender serving such a term may file the motion not earlier than 30 days after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, not earlier than 30 days after the expiration of all of the mandatory terms. Under existing law, unchanged by the bill, an eligible offender serving a longer aggregated nonmandatory prison term or terms must serve a longer period of time before the offender may file a judicial release application.

Community corrections program subsidy priorities

(R.C. 5149.36)

Existing law authorizes DRC to establish and administer a program of subsidies for eligible counties and groups of counties for felony offenders and one for eligible municipal corporations, counties, and groups of counties for misdemeanor offenders for the development, implementation, and operation of community corrections programs. DRC must provide standards for community corrections programs, with one of the purposes of the standards being reducing the number of persons committed to prisons and local jails and workhouses for offenses for which the Criminal Sentencing Law authorizes community control sanctions. Existing law establishes criteria that a municipal corporation, county, or group of counties must satisfy to be eligible for funds from the subsidy programs.[204]

Subject to appropriations by the General Assembly, DRC may award subsidies to eligible municipal corporations, counties, and groups of counties under the subsidy programs only in accordance with criteria that DRC specifies by rule. The criteria must be designed to provide for subsidy awards only on the basis of demonstrated need and the satisfaction of specified priorities. The law requires that the criteria set priorities for funding under the programs in a specified manner. Under the bill, the criteria must require that priority be given to the community corrections programs that reduce the number of persons committed to prisons or the number of persons committed to local jails or workhouses. Currently, the criteria must: (1) first require that priority be given to the continued funding of existing community corrections programs that satisfy DRC's standards and that are designed to reduce the number of persons committed to prisons, and (2) give second priority to new community corrections programs designed to reduce the number of persons committed to prisons or the number of persons committed to local jails or workhouses.

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, county court probation departments *and community-based correctional facilities* 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

[204] R.C. 5149.31 and 5149.32, not in the bill.

offsetting costs incurred by political subdivisions in relation to offenders who are prohibited from serving the term of imprisonment in a DRC institution pursuant to R.C. 2929.34(B)(3)(a) (see "**In general; local confinement for short-term fifth degree felony prison terms**," above).

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)

The bill allows an incarcerated person to receive 90 days of earned credit toward completion of the person's stated prison term or a 10% reduction of the person's stated prison term, whichever is less, 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. An offender may not earn credit under this provision if the offender is serving a

mandatory prison term or a prison term for an offense of violence or sexually oriented offense. Under existing law, unchanged by the bill, the Ohio Central School System must provide education programs to all correctional institutions under DRC's control.[205]

Warden's report to the parole board

(R.C. 5120.68 and 5149.10)

The bill requires the warden of a correctional institution to submit a report to the parole board prior to any hearing to determine whether or not a prisoner incarcerated in that institution should be paroled. The report must contain information concerning the prisoner's ability to seek and obtain employment upon release, the prisoner's participation in programs, and the prisoner's compliance or noncompliance with rules while at the institution. The parole board must adopt rules that provide procedures for considering the warden's report in a parole hearing.

Notice to sheriff of felony offender release from prison

(R.C. 2967.122)

At least two weeks before a felon is released from confinement in a state correctional institution or at least 60 days before a felon is transferred to transitional control, the bill requires the Adult Parole Authority (APA) to provide notice of the release or transfer to the sheriff of the county in which the offender was convicted and to the sheriff of the county in which the offender will reside. The APA must also provide notice to these sheriffs at least 60 days before recommending a pardon or commutation of sentence for an offender or at least 60 days before an APA hearing regarding parole.

These notices must contain the offender's name, the date of the offender's release, the offense committed by the offender that resulted in the offender's conviction and incarceration, the date of the offender's conviction, the sentence imposed for that conviction, the length of any supervision that the offender will be under, the contact information of the offender's supervising officer if the offender will be supervised, and the address at which the offender will reside.

The notice required under the bill may be contained in a weekly list of all offenders who are scheduled for release and does not apply to an offender who will serve less than 14 days of a sentence in a state correctional institution.

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[205] R.C. 5145.06(A), not in the bill.

Use of former Ohio River Valley Juvenile Correctional Facility (ORVF)

(R.C. 307.93, 341.12, and 341.121)

Use as Lawrence County jail

Under existing law, the Lawrence County Board of County Commissioners and the Director of DAS may enter into a contract pursuant to which the Lawrence County sheriff may use a specified portion of the ORVF, which is in Scioto County, as a jail for Lawrence County. The contract may not provide for transfer of ownership of any portion of the ORVF to Lawrence County. Existing law sets forth parameters and criteria for the use of the ORVF under the contract. If Lawrence County has a shortage of jail space or staff, the sheriff may confine persons in the portion of the ORVF specified under the contract. Other counties may contract with the Lawrence County sheriff to allow them to also have persons confined in the portion of the ORVF specified under the contract, if they have a shortage of jail space or staff. If the Lawrence County sheriff uses the portion of the ORVF specified under the contract for confinement of persons and subsequently ceases to use the specified portion for those purposes, the sheriff must vacate the ORVF and control of the specified portion immediately reverts to the state.

The bill provides for the potential reversion to the state of any portion of the ORVF that is the subject of the contract, in specified circumstances. Under the bill, if, prior to the provision's effective date, the Lawrence County Board of County Commissioners and the Director of DAS have contracted for the Lawrence County sheriff's use of a portion of the ORVF as a county jail and if either party has failed to comply with the contractual terms, on that effective date, control of that portion of the ORVF immediately reverts to the state, the sheriff cannot use it as a jail, and neither Lawrence County nor any other county may have persons confined in the ORVF.

Use as a multi-jurisdictional local correctional center

Under existing law, the county commissioners of two or more adjacent counties may contract to jointly establish a multicounty correctional center, and the county commissioners of a county or of two or more counties and one or more municipal corporations in that county or those counties may contract to jointly establish a municipal-county or multicounty-municipal correctional center. Such a center is to augment county and municipal jail programs and facilities by providing custody and rehabilitative programs for persons under the charge of the sheriff or municipal corrections officer of any of the contracting counties or municipal corporations who, in the opinion of the sentencing court, need custody and rehabilitation programs not available at the county or municipal jail. The contract for the center may include provisions regarding the acquisition, construction, maintenance, repair, termination of

operations, and administration of the center. The involved political subdivisions prescribe the manner of funding of, and debt assumption for, the center and the standards and procedures to be followed in its operation and generally form a corrections commission to oversee its administration. The standards and procedures must include certain specified items.

The bill provides that the acquisition of a multi-jurisdictional local correctional center, to the extent appropriate, may include the leasing of the ORVF or a specified portion of it, in specified circumstances. Under the bill, subject to the limitation described below, the county commissioners that contract or have contracted for the joint establishment of a multicounty correctional center, or the county commissioners and municipal legislative authorities that contract or have contracted for the joint establishment of a municipal-county or multicounty-municipal correctional center, may enter into a contract with the Director of DAS pursuant to which the contracting counties and municipal corporations will use the ORVF or a specified portion of it as the correctional center covered by the contract. A contract with the Director of DAS may be entered into under this provision only if one or more of the contracting counties is adjacent to Scioto County. DAS may enter into such a contract at any time on or after the provision's effective date or, if DAS had entered into an agreement with the Lawrence County Board of County Commissioners as described above in "**Use as Lawrence County jail**" for the use by that county's sheriff of a specified portion of the ORVF as a jail for Lawrence County, at any time on or after the date that control of the specified portion of the ORVF reverts to the state as described above in "**Use as Lawrence County jail**."

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.

SECRETARY OF STATE

Uncontested primary races

- Specifies that an uncontested race in a primary election must not appear on the ballot and that the candidate or candidates who have filed to run automatically receive certificates of nomination.

- Requires the race to remain on the ballot if the ballots have already been prepared and a primary election is still to be held for the party, but specifies that any votes cast in that race are void and requires the board of elections to notify voters of that fact.

- Specifies that, if a primary candidate in an uncontested race dies, withdraws, or is disqualified before the tenth day before the primary election, the political party may select a new candidate to fill the ballot vacancy.

- Specifies that, if a primary candidate in an uncontested race dies, withdraws, or is disqualified on or after the tenth day before the primary, the candidate is considered to have received the nomination, and the party may fill the ballot vacancy for the general election.

- Eliminates the requirement that the state hold a special primary election to replace a party's candidate for Congress if the special primary is uncontested.

Increase in notary fees

- Authorizes notaries to set their own fees with regard to certain services.

Electronic notary

- Allows for a commissioned notary public to become an electronic notary public by submitting a registration form to, and being approved by, the Secretary of State.

- Authorizes the Secretary, with assistance from the Office of Information Technology in the Department of Administrative Services, to establish standards for approving electronic communications devices to be used by an electronic notary.

- Specifies that the requirement that a person acknowledging an instrument appear before a notary public taking the acknowledgement may be done through an electronic communications device approved by the Secretary.

- Specifies that an electronic signature, using an electronic communications device approved by the Secretary, may be used to acknowledge the execution of an instrument.

Uncontested primary races

(R.C. 102.02, 3513.02, 3513.30, 3513.301, and 3513.312)

Generally

Under the bill, if a race in a primary election is uncontested – that is, the number of candidates for the nomination does not exceed the number of candidates to be nominated – then the race does not appear on the ballot, and the candidate or candidates who have filed to run automatically receive the nomination. The candidate or candidates must receive their certificates of nomination from the Secretary of State or the board of elections, depending on the race, as of the 65th day before the primary election. (By the 65th day before the primary, all declarations of candidacy and declarations of intent to be a write-in candidate have been filed and all protests against those declarations have been filed.) A candidate who receives an automatic nomination still must file a financial disclosure statement under the Ethics Law no later than 30 days before the primary election in the same manner as a primary candidate who appears on the ballot.

If a contested primary race becomes uncontested because one or more candidates die, withdraw, or are disqualified before the day of the primary election and those candidates are not replaced, then the race likewise does not appear on the ballot and the remaining candidate or candidates receive certificates of nomination. If the ballots have already been prepared and a primary election is to be held for that party for the purpose of nominating or electing candidates for other offices, the race is not removed from the ballot, but any votes cast in that race are void and must not be counted. The board of elections must post a notice of that fact at each polling place on Election Day and must enclose a copy of the notice with each absent voter's ballot given or mailed after the race becomes uncontested.

Existing law generally requires uncontested primary races to appear on the ballot, and votes cast in those races are counted, although those votes do not affect the outcome. However, in an odd-numbered year, if no contested primary races are to appear on the ballot, then the primary election is canceled and the candidates who filed automatically receive certificates of nomination. Only candidates who file declarations of candidacy are considered for that purpose; if, for example, one declaration of

candidacy and one declaration of intent to be a write-in candidate is filed, no primary is held and the person who filed the declaration of candidacy receives the nomination.

Under continuing law, a primary election must be held in even-numbered years for each major political party for the purpose of electing the members of the parties' controlling committees, even if no contested primary races appear on the ballot. (Minor political parties also may choose to elect their controlling committees at primary elections in even-numbered years.)[206]

Ballot vacancies

Primary candidates in uncontested races

Under the bill, if a primary candidate in an uncontested race who would have automatically received the nomination dies, withdraws, or is disqualified before the tenth day before the primary election, the candidate's party may select another candidate to fill the vacancy using the standard procedure that parties use under continuing law to fill ballot vacancies. And, any other major political party that does not have a candidate for that office may select a candidate under the ballot vacancy filling procedure.

If a primary candidate in an uncontested race dies, withdraws, or is disqualified on or after the tenth day before the primary election, that candidate is considered to have received the nomination. The candidate's political party then may fill the ballot vacancy for purposes of the general election using the continuing law procedure.

Under current law, the procedures described above apply only if a primary candidate in an uncontested race dies. If the candidate withdraws or is disqualified, the candidate's party is not provided an opportunity to replace the candidate and consequently does not have a candidate for that office on the ballot at the general election.

The bill also clarifies that the primary ballot vacancy filling procedure applies to races in which more than one candidate is to be nominated and that a write-in candidate may withdraw in the same manner as a candidate who filed a declaration of candidacy.[207]

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[206] See also R.C. 3513.041, 3513.05, and 3517.03, not in the bill.

[207] See also R.C. 3513.31, not in the bill.

Congressional candidates

The bill eliminates the requirement of holding a special primary election to replace a party's candidate for Congress if the special primary is uncontested. Under continuing law, ballot vacancies in congressional primary and general elections are filled by special election instead of using the typical process by which political parties' controlling committees select a candidate to fill the vacancy. If the sole candidate in an uncontested congressional primary race dies or withdraws before the primary, continuing law requires the state to hold a special election to nominate that party's candidate for Congress and also to nominate the candidate of any other major political party that does not have a candidate for that office.

When such a special primary is held, the bill clarifies that the Secretary of State must designate both the date of the special primary and the deadlines for filing declarations of candidacy and declarations of intent to be a write-in candidate for the special primary, since the usual deadlines are not applicable in that situation. And, under the bill, if only one person, or no one, has filed a valid declaration of candidacy, then no special primary is held, and the sole candidate, if there is one, automatically receives the nomination. The bill does not require a primary to be held between one candidate who files a declaration of candidacy and one or more write-in candidates – in that case, the candidate who filed a declaration of candidacy would receive the nomination.

Similarly, continuing law requires the state to hold a special primary election if a party's congressional candidate dies or withdraws after the primary but before the 90th day before the general election. The bill requires the Secretary of State to designate the deadlines for filing declarations of candidacy and declarations of intent to be a write-in candidate for the special primary. And, under the bill, if only one person, or no one, has filed a valid declaration of candidacy, then no special primary is held, and the sole candidate, if there is one, automatically receives the nomination.

Increase in notary fees

(R.C. 147.08)

The bill authorizes notaries to set their own fees with regard to certain services. Under current law, a notary is entitled to charge a fee of $2 for taking and certifying acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments of writing, administering oaths, and performing other official services – the same fees clerks of the courts of common pleas may charge for like services. The bill removes this cap on notary fees for these services.

Electronic notary

(R.C. 147.541, 147.542, and 147.543)

The bill allows for a commissioned notary public to become an electronic notary public at the discretion of the Secretary of State. An electronic notary is authorized to use electronic communications devices, approved by the Secretary, to fulfill the acknowledgement and signature requirements of a notary. The Secretary is required to establish standards for approving electronic communications devices that may be used by an electronic notary. Under the bill, a notary may not use an electronic communications device to meet requirements for a notarial act that is a deposition.

To be approved to become an electronic notary, the bill requires a commissioned notary to submit a registration form to the Secretary. If approved, an electronic notary's commission expires and may be renewed at the same time the notary's underlying commission expires. Under the bill, the Secretary may deny a registration if any of the required information is missing or incorrect or if the notary identifies technology to be used that is not approved by the Secretary. The registration form must include the following:

--The notary public's full legal name and official notary public name;

--A description of the technology the notary public will use to create an electronic signature in performing official acts;

--Certification of compliance with electronic notary public standards developed by the Secretary;

--The electronic mail address of the notary public;

--The signature of the notary public applying to use the electronic signature described in the form;

--Any decrypting instructions, codes, keys, or software that allow the registration to be read; and

--Any other information the Secretary may require.

Additionally, the bill specifies that the current requirement that the person acknowledging an instrument appear before a notary public taking the acknowledgement may be done by visually appearing through an electronic communications device approved by the Secretary. Under current procedures, a person acknowledging an instrument is required to physically appear before a notary taking

the acknowledgement.[208] The bill also specifies that an electronic signature, using an electronic communications device approved by the Secretary, may be used to satisfy the current requirement that a notary acknowledge the execution of an instrument.

[208] *See Keck v. Keck*, 54 Ohio App.2d 128 (Ohio Ct. App., Fairfield County 1977), http://www.cbalaw.org/cba_prod/Main/Resources/Public/Notary/FAQ.aspx, and http://ohionotaries.org/ohio-notary-101.

DEPARTMENT OF TAXATION

Income taxes

- Eliminates the bottom two income tax brackets applicable to individual nonbusiness income and, correspondingly, repeals the low-income taxpayer credit.
- 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.
- Repeals the "throw-back rule" used in determining what amount of a business' income is apportioned to a particular municipal corporation, beginning in 2019.
- Allows businesses to file a single annual or estimated tax return through the Ohio Business Gateway on which the business can report and pay the total tax due to all of the municipalities in which the business earned net profits.
- Permits the penalty imposed on employers that do not timely remit municipal income tax withholdings to be less than 50% of the unpaid amount.
- Requires that the Office of Budget and Management separately state in its reports of actual and estimated revenues the amount of income tax revenue arising from business income versus nonbusiness income.
- Requires the Department of Taxation to study the feasibility of accepting municipal income tax returns through the existing joint federal/state Modernized e-File (MeF) program.
- 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

- Provides short-term 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.
- Requires an out-of-state seller with annual Ohio sales in excess of $100,000 or 200 or more annual Ohio transactions to collect and remit use tax.

- Allows counties and transit authorities to increase their local sales and use tax rates in increments of 0.05%, rather than 0.25%.

- Exempts prescription optical aids (e.g., eyeglasses and contact lenses) and their components from sales and use tax beginning July 1, 2019.

- Exempts from sales and use taxation digital music or multimedia purchased from, and electronically delivered by a jukebox, arcade machine, or similar amusement or entertainment device.

- Modifies the standard for determining when the sales and use tax applies to business-related electronic services that are provided together with other services.

- Requires the Tax Commissioner to prescribe a single return on which both sales tax and use tax may be reported by retailers that must remit both.

- Allows county sales tax revenue raised for community improvements and granted to a school district to be spent outside the county as long as the improvements are within the school district.

- 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.

Lodging taxes

- Requires a county that increased its lodging tax rate by 3.5% in 2002 (Hamilton) to distribute annual revenue in excess of $6 million to townships and municipal corporations.

- Authorizes a charter county (Summit) to extend an expiring 1% lodging tax for an additional ten years.

- Authorizes a county with a population between 375,000 and 400,000 and that currently levies a 3% lodging tax to increase the rate of the tax by up to an additional 3%.

- Authorizes a county with a population between 190,000 and 200,000 and that currently levies a 3% lodging tax (Clermont) to increase the rate of the tax by up to an additional 1%.

- Authorizes a city that currently levies a 3% municipal lodging tax and that is located in a county with a population between 300,000 and 350,000 that currently levies a 3% county lodging tax (Lorain County) to increase the municipal lodging tax rate by up to an additional 3%.

- Authorizes a county with a population between 175,000 and 225,000 that levied a lodging tax rate of 3% in 2014 and that has an amusement park with annual attendance of more than two million (Warren) to use the tax revenue to pay the construction and maintenance costs of a port authority-owned sports facility.

Severance tax

- 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

- Requires that cigarette tax returns be filed monthly instead of semiannually.

- Exempts from alcoholic beverage excise tax the first 310,000 gallons of cider sold or distributed annually by a permit holder.

- Authorizes an exemption from the kilowatt-hour tax for the distribution of electricity to consumers who use that electricity in a chlor-alkali manufacturing process.

- Requires stickers to be affixed on retail gas station pumps displaying the rates of state and federal tax on gasoline and diesel fuel.

- 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.

Property taxation

- Prescribes in statute certain additional factors that must be considered in computing the current agricultural use value (CAUV) of agricultural land for property tax purposes, and deletes reference to one existing factor.

- Prescribes in statute that the method used to compute CAUV values must employ a capitalization rate and prescribes certain factors that must be included in the calculation of the rate.

- Places a ceiling on the taxable value of CAUV land if the land is also used for conservation purposes by requiring the land to be valued as though it included soil of the least productive type.

- Phases-in the CAUV formula changes in all counties over two reassessment cycles.

- Requires the Tax Commissioner to publish an annual report of CAUV values that can be sorted by county and by school district.

- 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.

- Authorizes a property tax exemption for property that is owned by a municipal corporation, that must be transferred to a community improvement corporation (CIC) before it is developed, and that meets other criteria.

- Requires that, if a political subdivision or public official appeals a decision of a county board of revision and the property owner prevails in the appeal, the subdivision or official must pay the property owner's attorney's fees and court costs with respect to that appeal.

- Increases the time within which county boards of revision must decide property tax complaints.

- 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, by 18 months, the deadline by which manufactured and mobile homeowners may apply for the homestead exemption, from June of the year before the tax year for which the exemption is sought, to December 31 of the tax year.

- Removes a requirement that a taxing authority receive approval from a court of common pleas before transferring revenue between certain funds of the subdivision.

- Requires a township to obtain the approval of affected school districts before extending the term of a tax increment financing (TIF) property tax exemption originally granted before 1995.

- Authorizes, under certain circumstances, extension of a community reinvestment area (CRA) property tax exemption without requiring the CRA to conform to various requirements and limitations enacted in 1994.

- 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.

- Revises the schedule for the fees exacted from taxes collected by county treasurers.

- Requires a resolution proposing to levy a property tax to include additional details on the scope and nature of the levy.

- Eliminates several superfluous provisions in current law pertaining to the property tax exemption for burial grounds.

Tax credits and exemptions

- 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.

- Allows employers that apply for a job creation tax credit (JCTC) to count compensation paid to certain "work-from-home" employees for the purposes of qualifying and complying with the terms of the JCTC agreement.

- Makes several changes to Ohio's motion picture tax credit.

- 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.

- Authorizes local governments to enter into an enterprise zone agreement with a business after October 15, 2017.

- Increases from five to six the number of years that some operators of computer data centers have to meet the capital investment requirement associated with an existing sales and use tax exemption.

- Extends by two years a provision temporarily authorizing owners of a historic rehabilitation tax credit certificate to claim the credit against the CAT if the owner cannot claim the credit against another tax.

- 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

- Prohibits the Department of Taxation from taking action to collect taxes on something allegedly taxable unless the Department has signaled that thing was taxable within the first three years after the thing allegedly became taxable because of a change in the law.

- 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.

- Reduces the percentage of commercial activity tax (CAT) revenue devoted to offset the Department of Taxation's administrative expenses from 0.85% to 0.75% beginning July 1, 2017.

- 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

- Makes permanent a monthly $1 million set-aside of Local Government Fund (LGF) funds for villages with a population of less than 1,000 and for townships.

- 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.

- Withholds LGF payments to the city of Columbus if it imposes certain conditions or requires certain payments before extending water and sewer service extraterritorially or withdraws or threatens to withdraw such service for the failure to meet such conditions or make such payments.

- Reduces Local Government Fund (LGF) payments to the city of Columbus if it does not timely publish a plan to cease charging, or actually charges, different sewer and water rates to residents and nonresidents.

- Beginning in FY 2020, slows the phase-out of payments that school districts receive as reimbursement for their loss of tangible personal property (TPP) tax revenue.

- Provides for biannual payments to joint fire districts that have a nuclear power plant located within their territory as of January 1, 2017.

Special taxing districts

- Modifies the requirements to create a tourism development district (TDD).

- Requires subdivisions to use lodging tax revenues collected from a hotel located in a TDD to foster and develop tourism in the TDD.

- Changes a reporting date relative to businesses subject to a gross receipts tax levied in a TDD.

- Authorizes a county and other political subdivisions and private parties to enter into cooperative agreements to fund the construction and maintenance of certain permanent improvements located in a TDD designated by a municipal corporation.

- Specifically authorizes an LED sign to be located within a TDD next to an interstate highway, provided the sign meets all applicable state and federal standards.

- Allows municipal corporations to pledge their income tax revenue and counties and transit authorities to pledge their sales tax revenue for Regional Transportation Improvement Projects (RTIPs).

- Limits the duration of an RTIP to 15 years or, if the governing board is authorized to issue securities, 20 years after the first such issuance.

- Creates a default requirement that unencumbered funds held by the governing board on the date an RTIP is dissolved are distributed proportionally to the state and to each political subdivision that contributed revenue to the RTIP.

- Authorizes counties participating in an RTIP to create a Transportation Financing District (TFD) that generates revenue by exempting improvements to nonresidential parcels from property taxation and collecting in-lieu service payments.

Income taxes

Elimination of income tax brackets and low-income taxpayer credit

(R.C. 5747.02, 5747.056, 5747.06, 5747.08, and 5747.98)

The bill eliminates the bottom two tax brackets applicable to individuals' nonbusiness income, and, correspondingly, repeals the low-income taxpayer credit. Under continuing law, the 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; the bill reduces this number to seven.

The change has no practical effect for most taxpayers. Currently, the bottom two brackets apply to nonbusiness income of $0 to $5,000 and $5,000 to $10,000, respectively. However, current law also provides a low-income taxpayer credit that erases the liability of taxpayers with Ohio adjusted gross income of $10,000 or less. Under the bill, the bottom two brackets are repealed, so that the new lowest tax bracket begins at $10,001, rather than $0, and taxpayers may no longer claim the low-income taxpayer credit. Similar to current law, most taxpayers with an OAGI of $10,000 or less would not owe any tax.

However, the bill may increase the tax due from a presumably small class of taxpayers with business income. Under continuing law, in computing OAGI, taxpayers may deduct up to $250,000 of their business income. Because the low-income tax credit is allowed for taxpayers with an OAGI of less than $10,000, a taxpayer with business income of between $250,000 and $260,000 and no other taxable income can currently claim the $88 low-income tax against the 3% tax on their $10,000 of OAGI, reducing the $300 liability to $212. The bill's repeal of the low-income credit would disallow the credit for this group of taxpayers.

The bill may also lower the tax due from certain taxpayers with both business and nonbusiness income. For example, a taxpayer with $7,000 of nonbusiness income and $30,000 of taxable business income (i.e., $280,000 total business income) would pay taxes on the $7,000 of nonbusiness income under current law, but not under the bill because the bill eliminates the brackets that currently apply to nonbusiness income under $10,000.

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.

Municipal income taxes

Throw-back rule

(R.C. 718.02)

The bill removes current law's "throw-back rule," beginning with the 2019 taxable year. 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 third criterion, so that sales of goods will be apportioned to a municipality only if either the first or second criterion is met. As a consequence, if goods are shipped from one municipality to another, and the seller does not regularly solicit sales in that other municipality, the sale will not be included in the seller's "sales factor" and will not influence the seller's apportionment of income.

Filing of single municipal tax return for multiple tax liabilities

(R.C. 718.051; Section 803.100)

Under current law, businesses that operate in multiple municipal corporations that levy an income tax must file separate tax returns for each municipality. The returns may be filed electronically, through the Ohio Business Gateway or by another electronic means, by mail, or in person.

The bill allows businesses to file a single tax return, through the Ohio Business Gateway, on which the business can report and pay the total tax due to all of the municipalities to which the business' net profit was apportioned during that period. This option will be allowed to businesses filing estimated and annual returns beginning in 2019. The single return is not mandatory – businesses may continue filing separate returns with each municipality if they choose.

Under the bill, the Tax Commissioner must distribute the tax revenue collected from returns that reflect multiple tax liabilities to the appropriate municipalities on or before the fifteenth and last day of each month.

Withholding tax penalty

(R.C. 718.27 and 803.100)

The bill modifies the computation of the penalty imposed on employers that do not timely remit municipal income tax withholdings. Currently, state law mandates that the penalty equal 50% of the unpaid amount. The amendment authorizes municipal corporations to impose a penalty not exceeding 50% of the unpaid amount.

Under continuing law, employers must withhold municipal income taxes from employees according to a fixed schedule whereby the frequency of the withholding depends on the withholding amount for the municipal corporation in the preceding year. If the employer's withholdings do not exceed $2,399 in the preceding calendar year or do not exceed $200 in any month of the preceding calendar quarter, the employer is required to remit the withholdings on a quarterly basis. For larger withholding amounts, monthly remission of withholdings is required.

Study on electronic filing through MeF program

(Section 757.60)

The bill also requires the Department of Taxation to study the feasibility of allowing taxpayers to file municipal income tax returns through the joint federal and state Modernized e-File (MeF) program. The MeF is a web-based electronic tax filing

system developed and maintained by the Internal Revenue Service and made available to taxpayers through approved private sector tax filing software providers.

Under the bill, the Department must estimate the costs of accepting municipal income tax returns through the MeF program and establish a timeline for the incorporation of municipal returns. The Department must submit a report on its findings to the General Assembly not later than December 31, 2017.

Separate reporting of business and nonbusiness income tax revenues

(R.C. 5747.031)

The bill requires that the Department of Taxation separately compute and report to the Office of Budget and Management (OBM), and that OBM separately state in its reports of actual and estimated revenues, the amount of income tax revenue arising from business income (taxed at a flat rate of 3%) and the amount of such revenue arising from nonbusiness income (taxed under the graduated rate schedule).

Under continuing law, OBM is required to compile estimates of revenues and expenditures on or before the first day of January preceding the convening of each General Assembly. Currently, reports of income tax revenues are not subdivided based on type of income.

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

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.

Out-of-state seller use tax collection

(R.C. 5741.01 and 5741.17; Section 803.150)

Continuing law imposes use tax on tangible personal property and certain taxable services purchased outside of, but used, consumed, or stored in Ohio. Use taxes are levied at the same rate as state and local sales taxes, and all revenue from the tax is credited to the General Revenue Fund. Under a 1992 U.S. Supreme Court case, *Quill Corp. v. North Dakota*, 504 U.S. 298, a state may not compel a seller to collect and remit a state's use tax unless that seller has a physical presence in, or substantial nexus with, the state. Thus, current law only requires an out-of-state seller to collect and remit use tax on sales into Ohio if that seller has some specified connection with Ohio sufficient to give the seller substantial nexus with the state.[209] An Ohio-based consumer is required to report and remit directly to the state any use tax not collected and remitted by a seller.

Beginning January 1, 2018, the bill requires an out-of-state seller with annual sales in Ohio in excess of $100,000 or with 200 or more transactions in Ohio to register with the Tax Commissioner each year to collect and remit use tax. This collection obligation applies to such a seller whether or not the seller has a substantial nexus with Ohio as appears to be required by the *Quill* decision.

Local sales and use tax rate increments

(R.C. 5739.021, 5739.023, and 5739.026)

The bill allows counties and transit authorities to increase their local sales and use tax rates in increments of 0.05%, rather than 0.25%.

Continuing law authorizes counties and transit authorities to levy local sales and use taxes that "piggyback" on the state sales and use tax. Currently, all of Ohio's counties, plus eight transit authorities, levy a sales and use tax, at rates ranging from 02.5% to 1.5%. Under current law, a county or transit authority may increase its tax rate in increments of 0.25%. The bill allows for smaller increases, at increments of 0.05%.

Exemption for optical aids

(R.C. 5739.01(C) and 5739.02(B)(55); Section 803.140)

The bill creates a sales and use tax exemption for optical aids that are prescribed by a licensed physician or optometrist and for components of such optical aids. The

[209] See R.C. 5741.01(I).

exemption would take effect July 1, 2019. "Optical aid" is defined to include eyeglass frames and lenses, contact lenses, and other devices that assist or correct human vision. The exemption applies only to optical aids and components that are purchased from an optometrist or physician who is authorized to dispense optical aids under Ohio law or the law of another state, country, or province.

The purchase or use of nonprescription items and cosmetic eyewear would remain subject to taxation. Eyeglass frames without prescription lenses installed in them also would remain taxable.

Exemption for amusement devices

(R.C. 5739.02(B)(56); Section 803.140)

The state and local sales tax was recently extended to "specified digital products," i.e., music, multimedia, and digital books, that are transferred to the purchaser electronically. Beginning October 1, 2017, the bill exempts from sales tax specified digital products purchased and delivered electronically via an amusement or entertainment device that accepts direct payments. An example of such a machine is a jukebox that accepts cash or credit card payments to play digital music or an arcade machine that accepts such payments to play a digital arcade game.

The bill does not exempt purchases from an amusement or entertainment device that operates by playing "tangible storage media" – e.g., vinyl records, compact discs, or a circuit board. Such purchases would not be delivered electronically and are not subject to sales tax under continuing law.

Sales tax on electronic services

(R.C. 5739.01(B)(3); Section 803.260)

The bill modifies the sales and use taxation of business-related automatic data processing, computer services, electronic information services, and electronic publishing services (hereinafter referred to collectively as "electronic services"). Specifically, the bill addresses "mixed" transactions, in which an electronic service is provided together with some other kind of service.

Under continuing law, an electronic service is not taxable if it is part of a mixed transaction and the receipt of the electronic service is only "incidental or supplemental" to the receipt of the other service. The bill removes this standard, and instead provides that receipt of an electronic service is not taxable if the service is provided "primarily for the delivery, receipt, or use" of the other service.

The bill applies this change retrospectively, to sales of electronic services made on or after December 21, 2007 (the effective date of H.B. 157 of the 127th General Assembly, which modified the taxation of electronic publishing services).

Consolidated sales and use tax return

(R.C. 5739.12)

The bill requires the Tax Commissioner to prescribe a consolidated sales tax and use tax return so that a vendor obligated to remit or pay both taxes may report those payments on a single return. Continuing law generally authorizes the Commissioner to prescribe tax returns, and the Commissioner currently requires that vendors submit separate returns for the two taxes through the Ohio Business Gateway.[210]

The sales tax applies to sales transacted in Ohio according to law governing the location of transactions. The use tax applies to purchases transacted outside Ohio according to that law (e.g., online sales) when the purchased item or service is used in Ohio. Some businesses perform both kinds of transactions if they have locations both in and outside Ohio.

County sales and use tax for community improvements

(R.C. 307.283 and 5739.026; Section 803.280)

The bill creates an exception to the general rule requiring revenue derived from a county sales and use tax that funds grants for permanent improvements to be spent only on projects located within the county. Under the bill, grants for school districts may be spent for projects outside the county so long as the improvements are within the school district and a part of the school district is within the county.

Under continuing law, a county may levy a local sales tax (and a corresponding use tax) at a rate of up to 0.5% for certain purposes specified by state law. One of those purposes is to fund grants for local governments or the state for their permanent improvement projects, which, generally, include buildings and other real property improvements and tangible personal property having at least a five-year lifetime. Such a tax may be levied for a specified number of years or for a continuing period of time. The tax is subject to voter approval.

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[210] See "Sales and Use Tax Electronic Filing," Ohio Department of Taxation, http://www.tax.ohio.gov/online_services/business_taxes_sales_filing.aspx (last accessed April 21, 2017); see also O.A.C. 5703-9-13 and 5703-9-61.

The grants are administered by a community improvements board which must be created by the board of county commissioners that imposes the tax. It has nine members – six appointed by the board and three appointed by the mayor of the most populous municipal corporation in the county – and must include at least one mayor and one township trustee.

Currently, all permanent improvements funded by community improvements board grants must be located in the county. The bill retains this requirement for all government agencies other than school districts. The school district exception would apply both prospectively and to existing tax levies if the exception is not inconsistent with the resolution that authorized the levy or the ballot language approved by voters.

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)

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.[211] 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.[212])

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.[213] Ohio is a member of the SSUTA, which generally requires member states to conform their sales and use tax law to its uniform guidelines.

Lodging tax

Counties, townships, municipal corporations, and certain convention facilities authorities are authorized to levy lodging taxes. In general, the maximum lodging tax rate permitted in any location is 6%. Municipalities and townships may levy a lodging tax of up to 3%, plus an additional 3% if they are not located, wholly or partly, in a county that already levies a lodging tax. Counties may levy a lodging tax of up to 3%, but only in municipalities or townships that have not already enacted an additional 3%

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[211] R.C. 5739.031, not in the bill.

[212] "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.

[213] 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.

levy. On occasion, the General Assembly has authorized certain counties to levy additional lodging taxes for special purposes.

Unless specifically authorized otherwise, a county that levies a lodging tax must return up to one-third of its net lodging tax revenue to the municipalities and townships within the county that do not levy a lodging tax. The remaining revenue must be used to support a convention and visitors' bureau. The bureau must generally use the revenue for tourism sales, marketing, and promotion.

Allocation of revenue in Hamilton County

(R.C. 5739.09(A)(4))

In 2002 the General Assembly temporarily authorized counties that, at that time, levied a 3% lodging tax to increase the rate of the tax by up to an additional 3.5% for the purposes of constructing, expanding, maintaining, operating, or promoting a convention center. Two counties – Hamilton and Ashtabula – increased their lodging tax rates within the time period allotted by that act (H.B. 518 of the 124th General Assembly). Currently, all revenue derived from the increase in rate must be pledged and contributed to a convention facilities authority. No portion need be returned to the municipal corporations and townships within the county.

The bill requires a county that increased its tax rate by the full 3.5% in 2002 (i.e., Hamilton County) to distribute annual revenue in excess of $6 million that is derived from the increased rate to townships and municipal corporations in proportion to the tax generated by lodging in each subdivision.

The bill specifies that the first distribution of lodging tax revenue would occur March 31, 2019, based on collections from the 2018 calendar year. Thereafter, distributions would occur annually on the last day of March. Municipal corporations and townships would be required to use the revenue to promote travel and tourism and fund related projects. Beginning in 2018, the county would be prohibited from spending or encumbering annual lodging tax revenue in excess of $6 million that is derived from the increase in rate for any other purpose.

The bill's distribution requirements would not apply to Ashtabula County since that county increased its lodging tax rate by only 3% in 2002.

Extension in Summit County

(R.C. 5739.09(A)(6))

In 2007 the General Assembly temporarily authorized a charter county that, at the time, levied a 4.5% lodging tax (i.e., Summit County) to increase the rate of the tax

by up to an additional 1%. Currently, the duration of that rate increase is limited to ten years. The bill authorizes the county to extend the term of the rate increase for an additional ten years by vote of the county legislative authority. Revenue from the tax must be used to finance and operate a convention center by a convention and visitors bureau.

Rate increase in Stark County

(R.C. 5739.09(A)(11))

The bill authorizes a county having a population of between 375,000 and 400,000 and that currently levies a 3% lodging tax (i.e., Stark County) to increase the rate of the tax by up to an additional 3%. As with the original tax, the revenue derived from the increase in rate would primarily be allocated to the county's convention and visitor's bureau. The county would be permitted, but not required, to designate a portion of the revenue to each township or municipal corporation in which lodging transactions occurred.

Rate increase in Clermont County

(R.C. 5739.09(A)(12))

The bill authorizes a county with a 2010 population of between 190,000 and 200,000 and that currently levies a 3% lodging tax (i.e., Clermont County) to increase the rate of the tax up to an additional 1%. The revenue derived from the increase in rate must be used to fund the construction and maintenance of sports and recreation facilities and to promote tourism through the county's convention and visitors' bureau. Unlike the tax currently levied, no portion of the revenue from the revenue derived from the increase in rate would be returned to the townships and municipal corporations in which the lodging transaction occurred.

Rate increase in an eligible city

(R.C. 5739.09(B)(3))

The bill authorizes a city that currently levies a 3% lodging tax and that is located in a county having a population of between 300,000 and 350,000 and that currently levies a 3% county lodging tax (Lorain County) to increase the rate of the municipal lodging tax by up to an additional 3%. The revenue derived from the increase must be used for economic development and tourism-related purposes.

Use of revenue in Warren County

(R.C. 5739.09(A)(1) and (8))

The bill specifies that the proceeds of a 1% lodging tax that may be levied only by a county with a population between 175,000 and 225,000, that levied a lodging tax rate of 3% in 2014, and has an amusement park with annual attendance of more than two million (i.e., Warren County) may be used to pay the construction and maintenance costs of a sports facility owned by a port authority. Currently, the revenue may only cover the costs of a county-owned sports facility.

The bill also authorizes that county to use or pledge any or all of the proceeds from its special 1% or its general 3% lodging tax to service securities issued to construct, operate, or maintain such sports facilities, including any portion of the general lodging tax currently required to be returned to townships and municipal corporations in the county that do not levy a lodging tax.

Severance tax

Exemption and fee for small gas wells

(R.C. 5749.03; Section 803.220)

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 primarily 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 levied on the mining or other severance of oil, natural gas, coal, gravel, clay, salt, and sand. These changes apply beginning October 1, 2017.

Severance tax permits

(R.C. 5749.04; Section 803.220)

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; Section 803.220)

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); Section 803.220)

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; Section 803.220)

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.

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.

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.

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 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.

Kilowatt-hour tax: chlor-alkali manufacturing process exemption

(R.C. 5727.80 and 5727.81)

The bill allows an exemption from the kilowatt-hour tax for the distribution of electricity to consumers who use that electricity in a chlor-alkali manufacturing process. A "chlor-alkali manufacturing process" is a "process that uses electricity to produce chlorine and other chemicals through the electrolysis of a salt solution."

The kilowatt-hour tax is a tax imposed on the distribution of electricity to end users in Ohio, at rates depending on the kilowatt-hour consumption of the end user. Current law exempts the distribution of electricity used in a "qualifying manufacturing process" – i.e., an "electrochemical reaction in which electrons from direct current electricity remain a part of the product being manufactured" – but that exemption only applies to consumers who use at least 3 million kilowatt-hours of electricity in the process per day.

The bill's exemption applies to any consumer, without regard to the amount of kilowatt-hours used in the process per day. However, unlike the existing exemption, the exemption for electricity used in a chlor-alkali manufacturing process does not apply to electricity provided by a municipal or rural cooperative electric company.

Most revenue from the kilowatt-hour tax is credited to the GRF. The remainder is distributed to municipal corporations for taxes paid on the basis of electricity distributed by municipal utilities to users within municipal territory.

Motor fuel tax sticker

(R.C. 5735.50)

The bill requires stickers to be placed on retail gas station pumps showing the federal and state excise taxes imposed on each gallon of gasoline and diesel fuel. The Director of Agriculture would design and produce the stickers according to specifications prescribed by the bill. The first stickers would have to be designed and produced within 60 days after the provision's effective date. The stickers would be placed on pumps by the local officials who currently are charged with inspecting those pumps, i.e., a county auditor or municipal sealer (collectively referred to herein as "local sealers"). After producing the stickers, the Director must notify local sealers and, upon the order of each sealer, deliver enough to the sealer to allow for the stickers to be placed on each retail service pump that the sealer is charged with inspecting.

Each local sealer must affix the stickers within 14 months after receiving the stickers. A sealer is required to replace a sticker if it becomes unreadable or if the same sticker has been displayed on a pump for three years. The sealer may obtain additional stickers from the Director upon request. A retail gas station operator is not liable for affixing or maintaining the stickers.

If the federal or state excise tax rate on gasoline or diesel changes, the Director of Agriculture is required to produce new stickers reflecting the change within 60 days after the rate change takes effect, and local sealers would have 14 months after receiving the new stickers to place them on fuel pumps.

The bill prescribes several design attributes of the sticker. For example, the bill specifies its minimum dimensions (neither side can be greater than 4½" or less than 3½") and several visual requirements, e.g., how information is to be arranged and the colors that may be displayed on the sticker (red, white, or blue).

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.

Property taxation

Current agricultural use value (CAUV) changes

(R.C. 5713.31, 5713.34, and 5715.01)

The bill changes the state's policy for valuing agricultural land for property tax purposes (known as current agricultural use valuation, or CAUV). Specifically, it prescribes two elements of a capitalization rate that must be used to calculate CAUV values. The bill also effectively places a ceiling on the taxable value of CAUV land that is also used for conservation purposes, thereby reducing the taxable value of any such land not currently valued according to the lowest-valued soil type.

Codification of aspects of administrative formula

Current law does not prescribe the specific method for determining CAUV values. Instead, it requires the Tax Commissioner to adopt a formula by administrative

rule that "reflect[s] standard and modern appraisal techniques."[214] The formula adopted by the Commissioner is published annually in CAUV "land tables," which apply to CAUV land in counties undergoing reappraisal or update that year and continue to apply in those counties for the following two years until the ensuing reappraisal or update year.

The bill codifies the inclusion of some of the factors currently used in the CAUV formula. It states that the valuation method must take into consideration "typical cropping and land use patterns" and "typical production costs," both of which are required by the current administrative rules but are not currently required by statute. The bill deletes a current statutory requirement that market value of land for agricultural purposes be taken into consideration, but doing so is not expressly prohibited. (In the administrative rules, it is the objective to be achieved by the valuation method.[215])

Capitalization rate

Current law does not expressly provide for the capitalization rate; it is incorporated into the CAUV method by administrative rule. The capitalization rate is intended to represent the rate of return that an investor would expect to earn on an average Ohio farm, considering only agricultural factors (i.e., the farm's income-producing potential). The calculation of the capitalization rate takes into account typical farm mortgage terms, the average return on equity for investors, the expected depreciation or appreciation of agricultural land values, and average tax rates.

The bill expressly requires the Tax Commissioner to determine the CAUV capitalization rate using "standard and modern appraisal techniques" and to change the current determination in two specific ways explained below. The bill also expressly requires the capitalization rate (before considering taxes) to be added to a "tax additur," which reflects the statewide effective property tax rate on agricultural land. (The current CAUV calculation includes such a tax additur.) The bill states that the sum of the pre-tax capitalization rate and the tax additur "shall represent as nearly as possible the rate of return a prudent investor would expect from an average or typical farm in [Ohio] considering only agricultural factors."

The computation of the capitalization rate employed in the current formula adopts a real estate valuation formulation known as the "Akerson mortgage-equity method," and is computed as follows (the 2015 inputs are in square brackets):

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[214] R.C. 5715.01(A).

[215] O.A.C. 5703-25-31(C).

Debt factor

(Loan % [80%] × Annual payments as % of loan amount [6.15% interest rate loan for a 25-year term – the 6.15% is referred to in the bill as the "loan interest rate"])

plus

Equity factor

(Equity % [20%] × Owner's required rate of return [5.25% – referred to in the bill as the "equity yield rate"]) *minus*

Equity build-up factor

(Equity build-up over 5-year holding period – i.e., Loan % × % of loan paid off × Sinking fund factor)

(The equity build-up factor is meant to account for the increasing equity a landowner gains as part of the loan principal is paid off over a given period of the loan term (assuming, as is typical, that part of the loan principal is being paid – i.e., amortized – with each loan installment). The rationale for the equity build-up factor is that, since the loan principal is partly repaid by the time the land is eventually sold, the part of principal that has been repaid by that time – the built-up equity – is a positive cash flow to the landowner realized at the time the landowner sells the land.)

minus

Appreciation factor

(Land value appreciation over 5-year holding period × Sinking fund factor)

(The land value appreciation deduction reflects changes in farm values in Ohio as measured by the U.S. Department of Agriculture. The administrative rules call for this measure to be adjusted to disregard the influence of speculation so that it indicates land value changes brought about by improvements in technology and farming practices.)

plus

Tax additur

Effective tax rate as % of land market value[216]

Under the CAUV calculation, taxable land value is computed by dividing net income by the capitalization rate. Accordingly, any factor that increases the capitalization rate reduces taxable land value, and vice versa. In turn, a decrease in taxable CAUV land value will tend to reduce property tax revenue derived from unvoted levies ("inside millage"), shift some tax liability to all non-CAUV property (both real and utility tangible personal) to the extent of fixed-sum levies, and shift some tax liability from other levies to residential property and non-CAUV agricultural land through the operation of the "H.B. 920" tax reduction factor mechanism. An increase in taxable CAUV land value arising from a reduction in the capitalization rate would have the opposite effects.

Equity yield rate

The bill statutorily prescribes the manner in which the equity yield rate is calculated. Under current CAUV methodology, the equity yield rate equals the seven-year average of the prime rate plus 2% from the Wall Street Journal's bank survey with the highest and lowest rates for those years disregarded, a method that rendered an equity yield rate of 5.25% for 2015. The bill instead specifies that the equity yield rate equals the 25-year average of the "total rate of return on farm equity" published by the U.S. Department of Agriculture (or another source) – a rate that would have equaled 7.9% if used for 2015 – but cannot exceed the loan interest rate used in the debt factor of the capitalization rate computation, which was 6.15% for 2015.[217]

Changing the method of calculating the equity yield rate affects not only the equity factor, but also the equity build-up and appreciation factors. Had this new method been in effect for 2015, the equity yield rate would have increased, ultimately increasing the capitalization rate and decreasing the calculated taxable value of CAUV land for that year.

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[216] "Explanation of the Calculation of Values for Various Soil Mapping Units for Tax Year 2015," Ohio Department of Taxation, May 28, 2015, available at http://www.tax.ohio.gov/Portals/0/personal_property/Explanation2015.pdf.

[217] The 7.9% rate was calculated from annual rates available from the USDA's Economic Research Service.

Holding period

The bill statutorily sets the period for which farmland is assumed to be held (holding period) for purposes of the equity build-up and appreciation factors at 25 years. The assumed holding period under the current CAUV formula is five years. Had the increased holding period been in effect for 2015, the equity build-up factor would have increased and the appreciation factor would have decreased, and the net effect of the adjustments to these two factors would have ultimately increased the capitalization rate and decreased the calculated taxable value of CAUV land for that year.[218]

Conservation land

One of the factors that influence a farm's CAUV is the soil type or types underlying the farm. There are about 3,500 soil types, each with an associated productivity, plotted according to a soil map of Ohio. A given farm's soil type is determined according to where the farm appears on that map. Each year, the Tax Commissioner determines the value associated with each soil type.[219]

The bill requires land devoted to conservation practices or enrolled in a federal land retirement or conservation program on the first day of a tax year to be valued as though the land's soil type is the lowest valued of all soil types according the Tax Commissioner's annual determination. For the purposes of the formula, such land would be considered to consist of that soil type even if the soil map indicated otherwise. This change effectively reduces the CAUV of such lands that overlie any soil type other than the soil type or types with the least associated value for the year. If a county auditor discovers that such land has ceased to be used for those purposes, the bill requires the county auditor to levy a charge on the land equal to the extra tax savings for the most recent three years that the land was valued at the lowest-valued soil type.

Under continuing law, farmland in a federal land retirement or conservation program is eligible for CAUV. Land used for conservation practices is eligible for CAUV if such land comprises 25% or less of the landowner's total CAUV land. Conservation practices are farm management practices to abate soil erosion, including the installation, construction, development, planting, or use of grass waterways,

[218] The net effect of the holding period changes on the equity build-up and appreciation factor for 2015 was calculated by LSC fiscal staff.

[219] Several recent CAUV soil value tables are available on the Ohio Department of Taxation's website at http://www.tax.ohio.gov/real_property/cauv.aspx.

terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops.[220]

Publication of capitalization rate

The bill explicitly requires the Tax Commissioner to annually publish the capitalization rate and tax additur and the individual components used in computing those amounts at the same time the Commissioner publishes the values for each soil type. Under current practice, the Commissioner publishes this information annually in the land tables.[221]

Phase-in of CAUV formula changes

The bill requires that the changes to the CAUV formula be phased in over two reassessment cycles, beginning with counties undergoing a reappraisal or triennial update in 2017.

Under continuing law, any change in the CAUV valuation method applies in a county for the first time when that county undergoes a reappraisal or update, which occurs every three years in each county. The bill requires, however, that instead of the full effect of the bill's changes applying at a county's first reappraisal or update after the bill is enacted, values for that reassessment cycle will reflect only one-half of that effect. Then, at the next reappraisal or update, the bill's changes will be fully applied.

As an example, consider a parcel of farmland that is reappraised at $100,000 in 2015. Suppose that, at the 2018 update, the bill's changes would otherwise result in a decrease in the value of that parcel to $80,000. Under the bill, the parcel would be valued for purposes of that update at $90,000, to reflect only one-half of the effect of the new formula. Then, at the 2021 reappraisal, assuming no other changes, the parcel would be valued at $80,000. (In actuality, changes in the CAUV formula inputs – e.g., the average interest rate, tax rate, crop prices – after the 2018 update would be reflected in the 2021 reappraisal, so the value would likely vary somewhat from $80,000.)[222]

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[220] R.C. 5713.30, not in the bill.

[221] Ohio Department of Taxation, "Current Agricultural Use Value (CAUV)," http://www.tax.ohio.gov/real_property/cauv.aspx.

[222] The bill's phase-in of the CAUV formula changes imposes an artificial "brake" on the effect of the new formula. It is possible that this artificial valuation could violate Article II, Section 36 of the Ohio Constitution, cited above, because, it could be argued, the land is not being valued solely according to the "current value such land has for agricultural use." There is no case law that specifically addresses this issue, so it is unclear how a court would interpret the valuations assigned during this phase-in period.

Publication of CAUV values

(R.C. 5713.33)

The bill requires the Tax Commissioner to combine the information included in these agricultural land tax lists into one state wide report. The report – which would be published annually – must be compiled in such a manner that the information can be sorted by county and by school district.

Continuing law requires county auditors to make and maintain agricultural land tax lists listing CAUV parcels. The lists include the following information with respect to each such parcel: the name of the owner, a description of the land, the CAUV value, the true value (if CAUV did not apply), the dollar amount of property taxes actually levied against the land, the dollar amount of property taxes that would have been levied if the land were taxed on the basis of true value, and the difference between those amounts.

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 exemption for certain municipal property

(R.C. 5709.101; Section 803.250)

The bill authorizes a property tax exemption for property that meets all of the following criteria: (a) the property is owned by a municipality, was conveyed to that municipality by a community improvement corporation (CIC), and was conveyed to

that CIC by a federal agency, (b) the property is subject to an agreement under which the municipality is required to convey the property back to the CIC before it is developed, and (c) less than 75% of the rentable square footage of the property is currently rented to tenants.

The exemption applies to tax year 2016 and thereafter. Because the deadline for applying for tax exemptions for the 2016 tax year has passed, the bill allows the property owner, until August 1, 2017, to apply for an exemption for that year. If the owner has already paid taxes for the 2016 tax year with respect to the property and the exemption application is approved, the owner is entitled to a refund of those taxes.

Property tax appeals: payment of court costs

(R.C. 5717.07)

The bill requires that, if a political subdivision or public official appeals a decision of a county board of revision (BOR) in a property tax case and the property owner prevails in the appeal, the subdivision or official must pay the property owner's attorney's fees and court costs with respect to that appeal.

Under continuing law, property tax complaints are heard by county boards of revision (BOR). Most complaints challenge the valuation of property, though BORs may hear complaints on other property tax issues, such as the classification of property. Complaints may be filed by the property owner, the owner's spouse, an agent of the owner or spouse, or a representative of the school district, township, municipal corporation, or county in which the property is located. The BOR's decision may be appealed to the board of tax appeals (BTA) or the local court of common pleas. The decision of either of those bodies may be appealed to the court of appeals and to the Supreme Court.

Generally, in property tax cases, each party is responsible for its own attorney's fees and court costs. The bill creates an exception to this rule specifically for appeals that a political subdivision or public official initiates, but does not win. If more than one subdivision or public official appeals a BOR decision, and the property owner prevails, the attorney's fees and court costs must be split between all of the parties that appealed.

Property tax complaint procedure

(R.C. 5715.19; Section 803.240)

The bill increases the time within which boards of revision must decide property tax complaints. Currently, all boards of revision are required to resolve complaints within 90 calendar days (which include weekends and holidays). The bill extends this

deadline for all counties to 90 business days (i.e., weekdays excluding legal holidays) and allows the ten most populous counties an additional 90 business days (for a total of 180 business days). The extended resolution period applies to complaints filed on or after the provision's 90-day effective date.

Under continuing law, a property owner and certain other interested parties may file a complaint with the county board of revision to challenge specific determinations regarding real property, usually the tax value assessed by the county auditor. The number of days a board of revision has to render a decision begin tolling on the date the complaint or, if applicable, a response, is filed.

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.

Homestead exemption: application deadline for mobile homeowners

(R.C. 4503.066; Section 803.330)

The bill extends, by 18 months, the deadline by which manufactured and mobile homeowners may apply for the homestead exemption, from June of the year before the tax year for which the exemption is sought, to December 31 of the tax year.

Homestead exemption background

Continuing law authorizes a homestead exemption for homeowners, including manufactured and mobile homeowners, who are aged 65 or older, permanently and totally disabled, or at least 59 years old and the surviving spouse of an individual who previously received the exemption. The exemption reduces the taxes that would be charged on up to $25,000 of the fair market value of the homeowner's property ($50,000 in the case of qualified disabled veterans). This essentially exempts $25,000 (or $50,000) of the value of the homestead from taxation.

Extension of application deadline

Currently, manufactured and mobile homeowners must apply for the homestead exemption on or before the first Monday in June of the year before the tax year for which the exemption is sought. So, for example, in order to receive the homestead exemption in tax year 2017, the homeowner must have applied before June 6, 2016.

The bill extends the application deadline for such homeowners to December 31 of the year for which the exemption is sought. Using the example above, a homeowner would have until December 31, 2017, to apply for the exemption.

Overpayments

Under continuing law, if a manufactured or mobile home is located in Ohio on January 1 of a tax year, the homeowner's property taxes for that tax year are due on or before March 1 and July 31. Consequently, the bill's deadline extension allows homeowners to apply for the homestead exemption after they have paid taxes for a tax year. (Following the example above, the owner would pay taxes in March and July of 2017, but would have until December 31, 2017, to apply for the exemption.) Consequently, the bill allows homeowners whose applications are approved after they have paid their taxes to receive a refund of the amount overpaid.

Extension of deadline for reporting change in circumstances

The bill correspondingly extends, by the same dates, the deadline by which such homeowners must report changes in circumstances that would affect the owner's homestead exemption. In addition, the bill requires that the county auditor provide such homeowners with the form for reporting changes in circumstances in February, rather than January, of each year.

Application date

The bill's changes apply beginning in the 2017 tax year, meaning that homeowners will have until December 31, 2017, to apply for a reduction in the first half installment of taxes that were due this past March 1 and the second half installment falling due July 31, 2017.

Transfer of taxing authority funds

(R.C. 5705.16)

The bill removes a requirement that a subdivision authorized to levy property tax (a "taxing authority") petition and receive approval from a court of common pleas before transferring revenue between certain of the subdivision's funds, but maintains

the requirement that the taxing authority receive approval of the Tax Commissioner before making such a transfer.

Continuing law regulates a taxing authority's ability to transfer revenue between its funds. Some funds may not be transferred at all, e.g., proceeds of funds derived from a tax or license fee imposed for a specific purpose.[223] In contrast, a taxing authority may make certain fund transfers unilaterally, without obtaining approval from any official or court – e.g., transfers from the subdivision's general fund to another fund.[224]

Under current law, any other type of fund transfer must be approved by both the Tax Commissioner and a common pleas court. Under this process, the taxing authority petitions the Commissioner and the court to allow the transfer. If the Commissioner approves the transfer, the petitioned court is required to hold a hearing and accept comments and may approve the transfer upon finding it is justified or necessary and that no injury will result.

The bill removes the requirement that the taxing authority obtain permission from a court before making such a funds transfer, but continues to require the Commissioner to approve a transfer, provided the Commissioner finds that the transfer is justified or necessary and that no injury will result.

Pre-1995 township TIF extension

(R.C. 5709.73(L); Section 803.320)

Under current law, townships may grant property tax exemptions under a tax increment financing (TIF) resolution that enables the township to essentially divert the property tax revenue from increased property values on parcels (i.e., the increment) to finance public infrastructure improvements that benefit the parcels. The tax exemptions may be for up to 30 years, but continuing law authorizes the board of trustees of a township with a population of at least 15,000 to extend a TIF exemption originally granted before December 31, 1994, for up to 15 additional years. The township must notify the affected school district board and the board of county commissioners at least 14 days before taking formal action to approve the extension.

The bill requires the township, before extending the term of such a pre-1995 TIF, to obtain the approval of each school board whose property tax collections will be affected by that extension. To do so, the township must notify each affected school board not later than 45 days before adopting the TIF extension of its intention to do so.

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[223] R.C. 5705.15.

[224] R.C. 5705.14.

A board may adopt a resolution approving or disapproving the extension, or the board may condition its approval on a mutually agreeable arrangement with the township under which the township compensates the school district for all or a portion of property tax collections that the district will forgo because of the extension. The procedures for obtaining school district approval largely mirror a process under continuing law for a township to obtain school district approval for a TIF exemption that is for a term longer than ten years or that exempts more than 75% of a parcel's value. Ultimately, the township may not proceed with the extension unless it receives an approval resolution from each affected school board.

However, the township is not required to obtain the approval of an affected school board that, under a provision of continuing law, adopts or has adopted a resolution waiving the need for its approval to be obtained. In that case, the township is only required to give that school board 14-day notice before taking formal action to approve the extension, as under current law.

Pre-1994 community reinvestment area term extension

(R.C. 3735.661)

The bill authorizes a county or municipal corporation, under certain circumstances, to extend the term of a CRA property tax exemption without triggering an existing law requiring that the CRA conform to various requirements and limitations enacted in 1994.

Under continuing law, a CRA is a geographic area designated by a municipal corporation or county in which new construction or improvements to existing structures are exempted from taxation. CRAs created after mid-1994 are subject to various limitations and requirements such as school board approval in some circumstances, standardized agreements, and clawbacks, among others, which would apply even to pre-existing CRAs altered later. However, certain pre-1994 CRAs were given limited ability to be altered by up to two amendments before the post-1994 provisions would be triggered.[225] Current law specifies the substance of amendments that would or would not count towards triggering application of the 1994 limitations and requirements. One such action counts as one of those triggering amendments is any increase in the term of any CRA tax exemption or category of exemptions.

H.B. 463 of the 131st General Assembly increased the maximum CRA exemption term for improvements to 15 years from what had been 10 or 12 years depending on the type of property and the cost of renovations. The bill allows a municipal corporation or

[225] Section 3(B) of Am. Sub. S.B. 19 of the 120th General Assembly.

county to amend its CRA resolution to increase the term of a CRA exemption for improvements without the change counting as an amendment that could trigger the 1994 law, provided the increase is no more than the 15-year term authorized in H.B. 463, and that the CRA's prior maximum term was the 10 or 12 maximum year term authorized before H.B. 463.

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.

County treasurer tax collection compensation

(R.C. 321.26)

The bill revises the schedule for the fees that are exacted from taxes collected by county treasurers by increasing the fee amounts, by establishing a minimum fee when collections are less than $5 million per semiannual settlement, by reducing the number of fee brackets, and by causing the fees to be adjusted upward if and as statewide taxes charged on real property and public utility property increase.

Under the revised schedule there would be two fee brackets beginning in 2018: 0.9495% on collections up to $5 million and 0.1996% on collections in excess of $5 million; the first $5 million would generate $47,475 in fees, and this amount would be set as the minimum initial fee when collections are less than $5 million. After 2018, the $5 million threshold would be increased to the nearest $10,000 each year by the same percentage (to the nearest 0.1%) by which total statewide real and public utility property taxes charged increase.

Currently there are four brackets: 0.29947% on collections up to $100,000, 0.9982% on $100,000 to $2.1 million, 0.7986% on $2.1 million to $4.1 million, and 0.1996% on collections in excess of $4.1 million; thus, the first $5 million would generate $38,032 in fees. There is no adjustment for increases in taxes charged as there is in the bill.

The fees are subtracted from the tax distributions to local taxing units and credited to the county general fund. They are not directly related to the county treasurers' compensation, which is a fixed salary.

Contents of property tax resolutions

(R.C. 5705.03)

The bill requires a subdivision proposing to submit the question of a property tax to voters ("taxing authority") to provide additional details on the scope and nature of the tax to the appropriate county auditor and board of elections. To initiate the process under continuing law, a taxing authority is required to certify a resolution to the county auditor of each county in which the subdivision has territory to obtain the tax rate required to generate a certain amount of revenue or the amount of revenue that a particular tax rate will generate, based on the current tax valuation within the subdivision's territory.

Under current law, the taxing authority's initial resolution is required only to state the purpose of the tax, the law authorizing submission of the tax, and whether the tax is an additional tax or the renewal or replacement of an existing tax. The bill requires the following additional information:

(1) If the proposed tax is a renewal or replacement of an existing tax, whether the tax also increases or decreases the rate of the existing tax;

(2) The term of the tax;

(3) The subdivision's territory in which the tax will be voted upon and levied;

(4) The date of the election;

(5) The first tax year to which the tax will apply;

(6) Each county in which the subdivision has territory.

Under current law, after obtaining rate information from the county auditor, the taxing authority may proceed to submit the tax to voters by certifying a resolution, a copy of the auditor's rate certification, and the proposed rate of the tax to the appropriate board of elections. The bill explicitly requires the taxing authority to adopt and certify a second resolution stating the proposed rate and that the taxing authority will proceed with submitting the tax to voters. The taxing authority also must submit its

original tax resolution and a copy of the county auditor tax rate certification to the board of elections.[226]

Property tax exemption for burial grounds

(R.C. 1721.01 and 5709.17; repealed 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 and exemptions

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.

[226] Current law does not clearly distinguish between the initial resolution seeking the auditor's rate certification and the resolution submitted to the board of elections. The Secretary of State's Ballot Questions and Issues Handbook refers to them as district resolutions (pp. 2-9 to 2-11).

Job creation tax credit

(R.C. 122.17; Section 803.270)

The bill allows employers that apply for a job creation tax credit (JCTC) after the bill's 90-day effective date to count compensation paid to certain "work-from-home" employees for the purposes of qualifying for and complying with the terms of the JCTC agreement.

Under continuing law, the Tax Credit Authority (TCA) is authorized to enter into JCTC agreements with employers to foster job creation and capital investment in the state. The amount of the credit equals an agreed-upon percentage of the amount by which the employer's "Ohio employee payroll" (i.e., the compensation paid by the employer and used in computing the employer's tax withholding obligations) exceeds the employer's "baseline payroll" (i.e., Ohio employee payroll for the 12 months preceding the JCTC agreement). The credit may be claimed against the commercial activity tax (CAT), financial institutions tax (FIT), petroleum activity tax (PAT), domestic or foreign insurance company premiums taxes, or personal income tax. If the amount of the credit exceeds the tax otherwise due, the excess is refundable.

Current law allows employers to receive a JCTC based on "home-based employees," but special conditions and reporting requirements apply. For example, all of the employees must reside in Ohio and be paid at least 130% of the federal minimum wage. Furthermore, the JCTC agreement must not include any employees who work at the project location and must expire before 2019.

Under the bill, a new category of "work-from-home" employees is created. They are treated the same as employees who work at the project location as long as the work-from-home employees reside in Ohio and are supervised from the project location. The bill also specifies that the movement of a work-from-home employee to another residence or the migration of their work duties to the project location does not trigger a provision under continuing law that requires employers subject to a JCTC agreement to notify the impacted political subdivisions before relocating a substantial number of employment positions.

Motion picture tax credit

(R.C. 122.85)

The bill makes the following changes to Ohio's motion picture tax credit:

(1) Requires that, to be eligible for the credit, a motion picture company must show that it has already secured funding equal to at least 50% of the motion picture's

total production budget. This requirement is more specific than current law, which requires only that the company document its "financial ability" to "complete the motion picture."

(2) Provides that, if the amount of credits allowed in any fiscal year is less than current law's annual $40 million credit cap, the difference may be carried forward and added to the cap in the following fiscal year.

(3) Requires the Director of Development Services to charge a tax credit application fee equal to 1% of the estimated value of the credit or $10,000, whichever is less. Under current law, the Director is authorized, but not required, to charge an application fee. The Director has exercised this discretion to charge a fee equal to .5% of the estimated value of the credit or $10,000, whichever is less.

(4) States that the Director must give priority to tax credit-eligible productions that are television series or miniseries. It is unclear how this requirement will affect the current practice of reviewing tax credit applications in the order in which they are received.

Continuing law authorizes the refundable motion picture tax credit for companies that produce at least part of a motion picture in Ohio and incur at least $300,000 in Ohio-sourced expenditures. The credit is allowed against the commercial activities tax, financial institutions tax, or personal income tax.

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.

Enterprise zone agreement extension

(R.C. 5709.62, 5709.63, and 5709.632)

The bill removes the October 15, 2017, sunset on local governments' authority to enter enterprise zone agreements. Under current law, counties and municipal corporations may designate areas within the county or municipal corporation as "enterprise zones." After designating an area as an enterprise zone, the county or municipal corporation must petition the Director of Development Services for certification of the designated enterprise zone. If the Director certifies a designated enterprise zone, the county or municipal corporation may then enter into enterprise zone agreements with businesses for the purpose of fostering economic development in the enterprise zone, but the authority to do so is set to expire October 15, 2017. Under an enterprise zone agreement, the business agrees to establish or expand within the enterprise zone or to relocate its operations to the zone in exchange for property tax exemptions and other incentives.

Exemption for computer data center equipment

(R.C. 122.175)

The bill increases, from five to six, the number of years that the operator of a 2013 computer data center project has to meet the capital investment requirement associated with an existing sales and use tax exemption. Continuing law authorizes the Tax Credit Authority (TCA) to fully or partially exempt from taxation the purchase of certain computer data center equipment if the operator of the data center agrees to make a $100 million capital investment at a site in this state within a specified number of years. The exemption applies to computer equipment, cooling systems, electricity management devices, construction materials, and other tangible personal property to be used in the construction and operation of a data center.

The extension applies only to such projects that began in 2013. For projects beginning in 2014, the capital investment must continue to be made within four years, and for all subsequent projects the investment must continue to be made within three years.

Temporary historic rehabilitation CAT credit

(Section 757.70)

The bill extends, to July 1, 2019, the temporary authorization for owners of a historic rehabilitation tax credit certificate to claim the credit against the commercial activity tax (CAT) if the owner cannot claim the credit against another tax and the

certificate becomes effective after 2013 but before June 30, 2019 ("qualifying certificate owner"). Additionally, the bill authorizes a qualifying certificate owner that is not a CAT taxpayer to file a CAT return for the purpose of claiming the historic rehabilitation tax credit. This enables a business with less than $150,000 in taxable gross receipts that is not a sole proprietor or a pass-through entity composed solely of individual owners, or is a nonprofit organization, to claim a tax "credit" as if the business or organization were a CAT taxpayer.

Uncodified law enacted in 2014 by H.B. 483 of the 130th General Assembly authorized certificate owners to claim a similar credit against the CAT only for tax periods ending before July 1, 2015. H.B. 64 of the 131st General Assembly extended the authorization for tax periods ending between July 1, 2015, and June 30, 2017. Except for these prior temporary provisions, a certificate holder may claim the credit against the personal income tax, financial institutions tax, or foreign or domestic insurance company premiums tax.

Required filing of tax credit certificates

(R.C. 122.17, 122.171, 122.175, and 5703.0510)

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.)

Tax Administration

Tax enforcement limitations

(R.C. 5703.94)

The bill limits the Department of Taxation's enforcement authority by prohibiting the Tax Commissioner or an employee or agent thereof ("tax officials") from taking action to assess or collect a tax or fee administered by the Department against certain categories of persons, income, goods, services, receipts, or property (collectively referred to for the purposes of this analysis as "things"). Specifically, a tax official may not take enforcement action that would subject a thing to tax unless a tax official had explicitly signaled the category was taxable, either by issuing formal guidance to that effect or by attempting to enforce the collection of tax on that thing, within the first three years after the thing allegedly became taxable because of a change in the law. Such formal guidance includes an administrative rule adopted by or an opinion or information release issued by the Commissioner.

The Tax Commissioner may continue to issue formal guidance subjecting things to tax outside that three-year period, but assessments or other collection actions based on that guidance may be applied only prospectively to tax reporting periods beginning after the issuance of such guidance.

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.

CAT administrative expense earmark

(R.C. 5751.02; Section 812.20)

The bill reduces the percentage of commercial activity tax (CAT) revenue to be credited to the Revenue Enhancement Fund from the current 0.85% to 0.75% beginning July 1, 2017. The fund is used to defray the Department of Taxation's expenses in administering the CAT and "implementing tax reform measures."

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.[227]

[227] R.C. 128.42 (wireless 9-1-1 fee) and 3734.901 (tire fee), not in the bill.

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.

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: township and village set-aside

(R.C. 131.44, 131.51, 5747.50, and 5747.502 (amended); R.C. 5747.503 (enacted); Sections 757.20 and 803.210)

The bill codifies and makes permanent a monthly $1 million set-aside of Local Government Fund (LGF) money for townships and smaller villages that was allowed in temporary law for FYs 2016 and 2017. Under the bill, the $1 million is paid each month 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 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.

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). A smaller portion of the funds are used to make direct payments to municipal corporations.

The $1 million used to make the bill's set-aside payments each month is subtracted from the LGF money that would otherwise be used to make direct payments to municipal corporations. Those funds were also used to make the set-aside payments in FYs 2016 and 2017.

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 General Assembly).

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 FY 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%.

Columbus water and sewer LGF penalties

(R.C. 5747.504, 5747.51, 5747.53; Section 803.210)

The bill penalizes a municipal corporation with a population in excess of 700,000 for engaging in certain actions related to its provision of water and sewer services outside of its territory by reducing or withholding payments the municipal corporation receives from the LGF. Currently only Columbus meets this population threshold.

LGF payment forfeiture

The bill requires the Tax Commissioner to withhold all LGF payments that would otherwise be made to the city of Columbus if it takes any of the following actions after 2017 with respect to providing sewer and water service to an area outside its territory (referred to for purposes of this analysis as "offending conditions or actions"):

(1) Requires as a condition of providing such services that such an area be annexed to Columbus;

(2) Requires as a condition of providing such services that the township or municipal corporation in which such an area is located make direct payments to Columbus in excess of those reasonably related to the cost of providing sewer or water services in that territory;

(3) Requires as a condition of providing such services that the township or other municipal corporation comply with any condition not reasonably related to the cost of providing sewer or water services in that territory;

(4) Withdraws or threatens to withdraw sewer or water service from the territory of a township or another municipal corporation if that subdivision fails to make any direct payment or comply with any condition described in (2) or (3), above.

LGF payment reduction

The bill also reduces LGF payments to the city of Columbus by 20% if Columbus either (1) fails to develop and publish, within two years after the provision's 90-day effective date, a plan to equalize the sewer and water rates it charges to residents and nonresidents by 2022 and continues to charge different sewer and water rates for residents and nonresidents after the publication deadline or (2) charges different sewer and water rates for residents and nonresidents after 2021.

Penalty procedures

The bill requires Columbus to notify the Tax Commissioner if it fails to meet the requirements or imposes one of the offending conditions or actions described above. The Commissioner, upon receiving that notification or upon otherwise learning of such a failure, is required to reduce by 20% or withhold all of Columbus' LGF funding, as applicable, until such time as the Commissioner finds that Columbus has met all such requirements or has stopped imposing any offending condition or action. LGF money forgone by Columbus is redistributed to each township or municipal corporation with at least one resident who is subject to Columbus sewer or water rates different from the rates it imposes on Columbus' residents or is affected by or has residents affected by the offending condition or action, as applicable, in proportion to each affected subdivision's population.

Notice to EPA

Additionally, upon notification or discovery of an offending condition or action, the Commissioner must forward to the Director of Environmental Protection the name of any township or municipal corporation affected by the condition or action, and the Director must send a letter to each affected subdivision explaining the procedures subdivisions may undertake to form a regional water and sewer district.

School district tangible personal property tax reimbursements

(R.C. 5709.92)

Beginning in FY 2020, the bill slows down the phase-out of payments that school districts receive as reimbursement for their loss of tangible personal property (TPP) tax revenue. The payments compensate districts for the revenue lost due to legislated reductions in the taxable value of utility company TPP and by the repeal of taxes on TPP used in business.

The bill affects payments that are based on tax losses from local operating levies that are imposed at a fixed millage rate (i.e., not emergency levies or bond levies). Such levies constitute the largest class of reimbursable levies (about 75% of all school district and JVSD reimbursement payments).

Under both current law and the bill, reimbursement payments for such levies are scheduled to phase-down each year according to a fixed percentage of each district's taxable property valuation. Specifically, payments will begin to decline in FY 2018 by 1/16 of 1% of a district's taxable property valuation averaged over the three-year period from 2014 to 2016. (1/16 of 1% is the equivalent of 5/8 mills per dollar of valuation, or 0.0625%). Under current law, in FY 2019 and thereafter, each year's payment will equal the preceding year's payment minus 0.0625% of the three-year average valuation, until the payment amount reaches zero.

The bill retains this phase-out schedule for FYs 2018 and 2019, then replaces it in FY 2020. Beginning with that fiscal year, payments will equal the preceding year's payment minus 1/4 of one mill (or 0.025%) of the district's average taxable property valuation averaged over the three-year period from 2016 to 2018. The use of this 1/4 mill reduction, rather than the 5/8 mill reduction, will generally result in a slower phase-out of payments to school districts in FY 2020 and thereafter.

Payments to joint fire districts containing a nuclear power plant

(R.C. 5751.02 and 5751.021; Sections 387.10, 387.20, and 812.20)

The bill provides for payments to joint fire districts that have a nuclear power plant located within their territory as of January 1, 2017. The payments are based on the district's reimbursement payments for tangible personal property (TPP) tax revenue losses (Fund 7081 is the source of TPP reimbursement payments to local taxing units). The initial year's payment, in FY 2018, is calculated to equal 97% of the difference between the fire district's FY 2017 TPP reimbursement and its FY 2018 TPP reimbursement; in each succeeding year this percentage declines by three percentage points. Under continuing law, TPP reimbursements are being phased out at an

increasing rate each year, so the bill's payment offsets the decreasing reimbursements but to a lesser degree each year.

The payments are to begin in FY 2018, with one-half of each payment made in July and the second half paid in January of each fiscal year, and are to last for 30 years. The district may use the payments for its general operations. As with current law's TPP tax reimbursement payments, money from the commercial activity tax (CAT) is allocated to make the payments.

Special taxing districts

Tourism development district modifications

A township or municipal corporation located in a county with a population between 375,000 and 400,000 that levied a county sales tax rate of 0.50% or less in September 2015 (currently only Stark County) may designate a special district within which the municipal corporation or township may levy certain taxes or fees or receive certain revenue to fund tourism promotion and development in that district. Such a district is referred to as a "tourism development district" or a TDD. The bill makes several modifications to the requirements for creating and financing a TDD.

Tourism development district creation

(R.C. 503.56(B) and 715.014)

Under current law, a TDD may consist of no more than 200 contiguous acres, and new TDDs may not be designated after 2018. The bill increases the maximum permissible size of a TDD to 600 contiguous acres and allows municipal corporations and townships in Stark County to designate new TDDs through 2020.

Tourism development district lodging taxes

(R.C. 5739.09(N))

The bill requires a county, township, or municipal corporation in which a TDD is located (again, only Stark County and townships and municipalities therein under current law) to use the proceeds collected from its lodging tax on hotels located in the TDD exclusively to foster and develop tourism in that TDD. Stark County is required to divert such revenue for all lodging taxes it levies, including the special lodging tax increase authorized by the bill (see "**Rate increase in Stark County**"). The bill also requires any municipal corporation or township that designates a TDD to use all lodging tax proceeds collected from hotels located in the TDD to foster and develop tourism in that TDD.

The bill requires the county's convention and visitors' bureau (CVB) to approve the expenditure of such lodging tax proceeds before a county, township, or municipal corporation may make use of such proceeds to foster and develop tourism in the TDD. In addition, the county, township, or municipal corporation, after obtaining the CVB's approval, may pay such proceeds to the CVB for it to use for that purpose in the agreed-upon manner.

Under current law, county lodging tax proceeds are generally used to fund the county's convention and visitors' bureau, though up to one-third of the proceeds may be paid to municipal corporations and townships where hotels are located but that have not levied a lodging tax. Current law authorizes Stark County to use up to $500,000 of lodging tax proceeds annually to finance the cost of constructing or maintaining a stadium or pay the debt charges on obligations issued for that purpose. One-half of municipal and township lodging tax revenue is required to be used, under current law, to make contributions to the county's convention and visitors' bureau, while the other one-half supplements the subdivision's general fund.

Tourism development districts

The bill changes a reporting date concerning businesses located in a TDD. 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.

Tourism development district infrastructure financing

(R.C. 307.678 and 5739.09(A)(1) and (J)(2); Section 803.290)

The bill modifies a provision that had, until the end of 2015, authorized Stark County to enter into a cooperative agreement with the county's convention and visitors' bureau under which parties agreed to use up to $500,000 of annual revenue from the county's existing lodging tax to fund the improvement of a stadium, including by issuing bonds for that purpose. Additional parties to the agreement could have included: the municipal corporation and school district within which the stadium was located, a port authority, and a nonprofit corporation that has authority under its organization documents to acquire, construct, renovate, or otherwise improve a stadium.

The bill removes that date restriction and essentially transforms this cooperative stadium financing mechanism into an authorization for local governments and private

parties to enter into a cooperative agreement to finance the costs of constructing, renovating, or maintaining any permanent improvements located in a TDD designated by a municipal corporation. As part of that transformation, the bill expands the types of subdivisions that may be parties to a cooperative agreement to include a transit authority whose territory overlaps with the TDD, which may agree to contribute proceeds from the growth of its sales tax from sales within the TDD, or a new community authority, which may agree to pledge bond proceeds to support the construction or maintenance of such improvements.

For the county and other subdivisions that may be parties to a cooperative agreement under current law, the bill further specifies the revenue sources that may be pledged or contributed to finance such permanent improvements, including by the servicing of debt obligations. For example, while current law allows a county to contribute up to $500,000 of lodging tax annually for that purpose, the bill also permits a county to contribute its sales tax growth from sales within the TDD, and allows a municipal corporation, county, or transit authority to contribute revenue from a tax imposed by that subdivision to the extent such revenue is derived from property located or activities conducted in the TDD and is not prohibited from being used for such purpose.

The bill's modifications to cooperative infrastructure financing agreements apply to any future TDD project and any TDD project that has already commenced or been completed.

Tourism development district interstate signage

(R.C. 5516.20)

The bill specifically authorizes a sign incorporating LED lights to be located within a TDD next to an interstate highway, provided the sign complies with all state and federal interstate highway signage requirements and limitations prescribed under continuing law.

Regional Transportation Improvement Projects (RTIPs)

Continuing law authorizes the boards of county commissioners of two or more counties to enter into a cooperative agreement creating a regional transportation improvement project (RTIP). The purpose of an RTIP is to complete transportation improvements within the territory of the participating counties. The improvements may include construction, repair, maintenance, or expansion of streets, highways, parking facilities, rail tracks and necessary related rail facilities, bridges, tunnels, overpasses, underpasses, interchanges, approaches, culverts, and other means of transportation.

The improvements may also include the erection and maintenance of traffic signs, markers, lights, and signals.

An RTIP is governed by a cooperative agreement that describes the scope of the project and includes a comprehensive plan for its completion. The agreement is administered by a governing board consisting of one county commissioner and the county engineer from each participating county.

Revenue pledges

(R.C. 5595.06, 5709.45, 5739.021, 5739.023, 5739.026, 5741.021, and 5741.022; Section 803.300)

The governing board of an RTIP does not have direct taxing authority, but it may solicit and receive pledges of revenue and issue securities backed by that revenue for the purpose of funding the transportation improvements. Currently, the state, participating counties, and political subdivisions or taxing units located within the participating counties may pledge revenue to the governing board. The revenue may come from the state General Revenue Fund, payments in lieu of taxes derived from tax increment financing (TIF), income tax revenue derived from a joint economic development zone (JEDZ) or joint economic development district (JEDD), revenue derived from special assessments levied in a special improvement district (SID), and revenue derived from an income source of a new community district.

The bill allows municipal corporations to pledge contributions of income tax revenue and counties and transit authorities to pledge contributions of sales tax revenue to the governing board if the revenue may lawfully be spent for that purpose. The bill also specifies that contributions of revenue to an RTIP by the state, a political subdivision, or a taxing unit may take any form and may be made subject to any terms that are mutually agreeable to the revenue contributor and the governing board of the RTIP.

Dissolution

(R.C. 5595.03 and 5595.13; Section 803.300)

The bill limits the duration of an RTIP to 15 years or, if the governing board is authorized to issue securities, 20 years after the first such issuance. The governing board is required to fulfill all contractual duties and repay all bonds before that date. Currently, an RTIP may continue for any number of years specified in the cooperative agreement.

Upon the dissolution of an RTIP, the bill requires unencumbered funds that are held by the governing board to be distributed proportionally to the state and to each political subdivision and taxing unit that contributed revenue to the RTIP (unless the cooperative agreement provides otherwise). Under continuing law, the boards of county commissioners that created the RTIP assume title to all real and personal property acquired by the governing board upon its dissolution. That property is divided and distributed in the manner specified by the cooperative agreement.

Transportation financing districts

(R.C. 5595.06, 5709.48, 5709.49, and 5709.50)

The bill establishes a procedure by which one or more counties participating in an RTIP may designate "Transportation Financing Districts" (TFDs) for the purpose of funding the transportation improvements described in the cooperative agreement for the RTIP. The rules and procedures associated with TFDs are similar to those that apply, under continuing law, to tax increment financing (TIF) incentive districts. Under the bill, the counties are authorized to exempt a percentage of the increased value of parcels located within the TFD from property taxation and require the owners of the parcels to make service payments in lieu of taxes. The revenue derived from the service payments must be dispensed to the governing board of the RTIP.

Prerequisites to creation

Creating a TFD is a four-step process that starts with notifying and obtaining the approval of each subdivision and taxing unit within the proposed district. The boards of county commissioners may, in the process of seeking approval, negotiate compensation agreements with any or all of the subdivisions and taxing units. The agreements may provide for any form of mutually agreeable compensation including reimbursement for a portion of the diverted property tax revenue. A subdivision or taxing unit would express approval or disapproval of the proposed TFD by ordinance or resolution. The bill expressly permits subdivisions and taxing units to adopt an ordinance or resolution waiving the right to approve or receive notice of forthcoming TFDs.

Second, the boards of county commissioners would be required to notify and obtain the approval of each owner of property within the proposed TFD.

Third, the boards of county commissioners may adopt a resolution creating the district. The resolution must describe the area included in the district, the percentage of improvements to be exempted from taxation, the number of years the district will exist (which cannot exceed the remaining life of the RTIP), and a plan describing the transportation improvements and how they will benefit the property owners.

Fourth, one of the participating boards of county commissioners must submit a copy of the resolution and supporting documentation to the Director of Development Services for approval. The Director is required to evaluate the proposed district and determine if the boards of county commissioners have met all substantive and procedural TFD requirements. Following this determination, the Director is required to send notice of approval or denial to each participating county.

Area of the district

A TFD may include territory in more than one county as long as each such county has adopted the resolution creating the district and is a participant in the RTIP. A TFD may not include areas used exclusively for residential purposes or exempted from taxation under an existing TIF or Downtown Redevelopment District (DRD) ordinance. The district need not be enclosed by a continuous boundary. The resolution creating the TFD may designate excluded parcels located within the general boundary of the district that are not included in the district and noncontiguous parcels that are outside the general boundary of the district to be included in the district.

Service payments

A TFD generates revenue in the same manner as a TIF. The boards of county commissioners that adopted the TFD resolution may exempt up to 100% of improvements to parcels located within the district. As a result, no taxing authority may collect property taxes on that portion of the increased property value.

In lieu of the taxes on the exempted portion of increased property value, the counties receive annual payments, called "service payments," from the owners of the exempted property. Service payments equal the amount of real property taxes that would have been charged on the value exempted from taxation. They are collected and distributed at the same time and in the same manner as real property taxes, but the entire amount must be distributed to the regional transportation improvement project fund (RTIP Fund) of the county in which the exempted parcel is located.

As with TIFs, revenue from certain special-purpose levies may not be diverted; the revenue continues to be received by the taxing unit that imposes it. This applies to certain levies enacted after January 1, 2006, and after the date the resolution authorizing the TFD is adopted. These levies are not actually imposed on the exempted portion of the property – it is legally tax-exempt – but the TFD service payments are paid to the taxing unit as if the levy were imposed, instead of being diverted to the RTIP Fund. The special levies that qualify for this treatment are the same levies prescribed for county TIF incentive districts: community mental retardation and developmental disabilities programs and services; senior citizens services or facilities; county hospitals; alcohol, drug

addiction, and mental health services; library purposes; children services; zoos; parks; joint recreation districts; public assistance, health and social services; and general health districts.

Service payments deposited to a county's RTIP Fund are first diverted to the appropriate subdivisions and taxing units in accordance with compensation agreements adopted during the formation of the TFD (see "**Prerequisites to creation**" above). All remaining revenue is then dispensed to the governing board of the RTIP for use in completing the transportation improvements described in the cooperative agreement.

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.

- Prohibits the Director of Transportation from closing any rest area that is located along a scenic byway.

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.

Rest areas along scenic byways

(R.C. 5515.07)

The bill prohibits the Director of Transportation from closing any rest area that is located along a scenic byway. There are presently 27 scenic byways designated within Ohio.[228]

[228] A map of Ohio's scenic byways is available at: https://www.dot.state.oh.us/OhioByways/Pages/Byways-Map.aspx.

TREASURER OF STATE

Credit unions as public depositories

Linked deposit programs

- Creates the Business Linked Deposit Program under which the Treasurer of State may purchase share certificates issued by credit unions to facilitate lending to eligible small businesses.

- Permits credit unions to participate in the existing Agricultural Linked Deposit Program.

Administration by Treasurer

- Requires the Treasurer to adopt rules addressing the participation of credit unions in these linked deposit programs, including the manner in which the linked deposits are placed, held, and collateralized.

- Permits the Treasurer to require a credit union that holds public deposits under a linked deposit program to pay interest at a rate not lower than the product of the "prevailing interest rate" multiplied by the sum of one plus the "treasurer's assessment rate."

- Defines "prevailing interest rate" as a current interest rate benchmark selected by the Treasurer that banks are willing to pay to hold deposits for a specific time period, as measured by a third-party organization.

- Defines "treasurer's assessment rate" as a number not exceeding 10% that is calculated in a manner determined by the Treasurer and that seeks to account for the effect that varying tax treatment among different types of financial institutions has on the ability of financial institutions to pay competitive interest rates to hold deposits.

Ohio Pooled Collateral Program

- Authorizes the Treasurer to impose reasonable fees upon public depositories participating in the Ohio Pooled Collateral Program to defray the costs of the Program.

- Specifies that certain information obtained or created about a public depository for purposes of the Program is confidential.

- Permits the Treasurer to adopt rules necessary for the implementation of the Program in connection with the other methods by which public depositories provide security for the repayment of public deposits.

Separately managed and pooled accounts

- Permits the Treasurer of State to invest money held in the Ohio Subdivision Fund also in separately managed accounts, and pooled accounts of that Fund, rather than just in the Treasurer's investment pool, as under current law.

- Requires a treasurer, governing board, or investing authority of a subdivision to have an agreement with the Treasurer of State in order to invest subdivision public money in the separately managed account or pooled account of the Ohio Subdivision Fund.

- Prohibits subdivision public money investment in a pooled account of the Ohio Subdivision Fund that does not maintain the highest rating if no agreement has been entered into with the State Treasurer.

- Provides that the current law 25% investment limit on debt interests other than commercial paper does not apply to investments of subdivision excess reserves under the agreement.

- Relieves the Treasurer and the Treasurer's bonders or surety for the loss of any state or subdivision interim moneys invested as the bill provides if the loss is due to (1) a public depository failure or (2) an investment made pursuant to law.

- Requires the Treasurer of State to adopt rules to implement the separately managed account and pooled account requirements.

Credit unions as public depositories

Linked deposit programs

(R.C. 1733.04 and 1733.24)

The bill expands the financial institutions that are authorized to hold public money by allowing credit unions to participate in the Business Linked Deposit Program, which is created by the bill, and in the existing Agricultural Linked Deposit Program.

Business linked deposits

(R.C. 135.77, 135.771, 135.772, 135.773, and 135.774)

The bill creates the Business Linked Deposit Program under which the Treasurer of State may purchase share certificates issued by credit unions (which the bill refers to as "eligible lending institutions") to facilitate lending to eligible small businesses. The stated purpose for the Program is to foster economic growth and development within Ohio's small businesses and to protect Ohio jobs.

The bill adopts the following definitions for this purpose:

"**Business linked deposit**" means share certificates issued by an eligible lending institution that are purchased by the Treasurer in accordance with the bill.

"**Eligible lending institution**" means any of the following:

(1) A federal credit union located in Ohio;

(2) A credit union that is chartered under the laws of another state, is located in Ohio, and is licensed by the Superintendent of Credit Unions as a foreign credit union;

(3) An Ohio-chartered credit union located in Ohio.

"**Eligible small business**" means any person that:

(1) Is domiciled in Ohio;

(2) Maintains offices and operating facilities exclusively in Ohio and transacts business in Ohio;

(3) Employs fewer than 150 employees, the majority of whom are Ohio residents;

(4) Is organized for profit; **and**

(5) Is able to save or create one full-time job or two part-time jobs in Ohio for every $50,000 borrowed.

"**Full-time job**" means a job with regular hours of service totaling at least 40 hours per week or any other standard of service accepted as full-time by the employee's employer.

"**Part-time job**" means a job with regular hours of service totaling fewer than 40 hours per week or any other standard of service accepted as part-time by the employee's employer.

Loan application, package, and agreement

An eligible lending institution that desires to receive a business linked deposit is to accept and review applications for loans from eligible small businesses, and forward to the Treasurer a linked deposit loan package. The Treasurer may accept or reject the package, or any portion of the package, and then enter into a deposit agreement with respect to any package that is accepted. The bill sets the monetary limit of a loan issued under the Program at $400,000.

Loan rates

Once the business linked deposit has been placed with an eligible lending institution, the institution is required to lend the funds to each approved and eligible small business listed in the linked deposit loan package in accordance with the deposit agreement. The loan must be at a rate that reflects the following percentage rate reduction below the present borrowing rate applicable to each eligible small business:

(1) 3% if the present borrowing rate is greater than 5%;

(2) 2.1% if the present borrowing rate is equal to or less than 5%.

Administration of program and compliance

The bill requires the Treasurer to take any and all steps necessary to implement the Program and monitor compliance of eligible lending institutions and eligible small businesses, including the development of guidelines as necessary. The Treasurer also must require eligible lending institutions to complete a certification of compliance in the form and manner prescribed by the Treasurer.

Immunity for payment of loans

The state of Ohio and the Treasurer are not liable to any eligible lending institution in any manner for payment of the principal or interest on a loan made to an eligible small business under the bill. Any delay in payments or default on the part of an eligible small business does not in any manner affect the deposit agreement between the eligible lending institution and the Treasurer.

Agricultural linked deposits

(R.C. 135.71)

The bill expands the definition of "eligible lending institution" for purposes of the existing Agricultural Linked Deposit Program to include all of the following:

(1) A federal credit union located in Ohio;

(2) A credit union that is chartered under the laws of another state, is located in Ohio, and is licensed by the Superintendent of Credit Unions as a foreign credit union;

(3) An Ohio-chartered credit union located in Ohio.

Administration by Treasurer

(R.C. 135.78)

The bill requires the Treasurer of State to adopt internal management rules addressing the participation of credit unions in these linked deposit programs, including the manner in which a credit union is designated and the manner in which the linked deposits are placed, held, and collateralized. Participation of credit unions in the programs cannot begin until those rules have been adopted.

The Treasurer, in the Treasurer's sole discretion, may require a credit union that holds public deposits under either linked deposit program to pay interest at a rate not lower than the product of the "prevailing interest rate" multiplied by the sum of one plus the "treasurer's assessment rate." For this purpose:

"**Prevailing interest rate**" is defined as a current interest rate benchmark selected by the Treasurer that banks are willing to pay to hold deposits for a specific time period, as measured by a third-party organization.

"**Treasurer's assessment rate**" means a number not exceeding 10% that is calculated in a manner determined by the Treasurer and that seeks to account for the effect that varying tax treatment among different types of financial institutions has on the ability of financial institutions to pay competitive interest rates to hold deposits.

Further, the bill authorizes the Treasurer to adopt rules under the Administrative Procedure Act that are necessary for the implementation of this provision.

State interim funds

(R.C. 135.143 and 135.63)

The existing Uniform Depository Law authorizes the Treasurer of State to invest the interim funds of the state in specified classifications of obligations. Under that authority, the Treasurer may invest in certificates of deposit of eligible institutions applying for interim moneys under the Law. The bill expands these permissible investments to include the new business linked deposits.

Ohio Pooled Collateral Program

(R.C. 135.182)

Existing law requires the Treasurer of State to create the Ohio Pooled Collateral Program not later than July 1, 2017. Under the Program, a public depository may pledge to the Treasurer a single pool of securities to secure the repayment of all uninsured public deposits at that public depository. The total market value of the pledged securities must equal at least:

(1) 102% of the total amount of uninsured public deposits; or

(2) An amount determined by rules adopted by the Treasurer that set forth criteria for determining the necessary aggregate market value, such as prudent capital and liquidity management by the public depository and its safety and soundness.

Confidentiality of information

The bill states that the following information is confidential and not a public record:

- All reports or other information obtained or created about a public depository for purposes of the determination made under (2), above;
- The identity of a public depositor's public depository;
- The identity of a public depository's public depositors.

The bill does not, however, prevent the Treasurer from releasing or exchanging such confidential information as required by law or for the operation of the Program.

Fees to defray cost of Program

The bill permits the Treasurer to impose reasonable fees, including late fees, upon public depositories participating in the Program to defray the actual and necessary expenses incurred by the Treasurer in connection with it.

Rulemaking

The Treasurer is authorized by the bill to adopt rules under the Administrative Procedure Act necessary for the implementation of the Program in connection with the other methods by which public depositories provide security for the repayment of public deposits.

Ohio Subdivision's Fund: separately managed and pooled accounts

Investment in pooled and separately managed accounts

(R.C. 135.45(A) and (G))

The bill permits the Treasurer of State to invest the public moneys of a subdivision held in the Ohio Subdivision's Fund in separately managed accounts and pooled accounts, including the Treasurer's investment pool. A "subdivision" in this context generally refers to local authorities such as municipal corporations, counties, school districts, and "any governmental entity for which the fund is a permissible investment."[229] "Public moneys of a subdivision" includes all moneys lawfully in the subdivision treasurer's possession.

Current law requires the Treasurer to invest the Ohio Subdivision's Fund as the Treasurer's investment pool.

Subdivision investments: less than highest rating

(R.C. 135.45(B))

The bill prohibits a treasurer, governing board, or investing authority of a subdivision from investing public money of the subdivision in a pooled account of the Ohio Subdivision's Fund if the pool does not maintain the highest letter or numerical rating provided by at least one nationally recognized standard rating service. This limitation does not apply if the subdivision has an agreement with the Treasurer (described below). Phrased differently, the bill requires the highest rating only when (1) the subdivision invests its public money in such a *pooled* account, and (2) the subdivision does not have an agreement with the Treasurer. Current law simply prohibits investment of public moneys of a subdivision in the Ohio Subdivision's Fund if the Fund does not maintain the highest letter or numerical rating.

Agreement with the Treasurer

(R.C. 135.45(C) and (G))

The bill permits a treasurer, governing board, or investing authority of a subdivision that wishes to invest public moneys of the subdivision in a separately managed account or pooled account of the Ohio Subdivision's Fund to enter into an agreement with the Treasurer that establishes the manner in which the money is to be invested.

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[229] Presumably the "Fund" referred to is the "Ohio Subdivision's Fund," but this may need further clarification (R.C. 135.45(G)).

The bill also provides that the current law 25% investment limit on debt interests other than commercial paper does not apply to investments of subdivision excess reserves under the agreement. "Excess reserves" means the amount of a subdivision's public moneys that exceed the average of a subdivision's annual operating expenses in the immediately preceding three fiscal years.

Relief from liability

(R.C. 135.45(F))

The bill relieves the Treasurer and the Treasurer's bonders or surety for the loss of any state or subdivision interim moneys invested as the bill provides if the loss is due to (1) the failure of the public depository, or (2) an investment made pursuant to law.[230]

Rules

(R.C. 135.45(D))

The bill requires the Treasurer to adopt rules to implement the separately managed account and pooled account requirements in the bill.

[230] R.C. 135.19, not in the bill.

- Authorizes the Department of Veterans Services to establish a physician recruitment program.
- Creates a veteran peer counseling network administered by the Department.

Veterans' physician recruitment program

(R.C. 5907.17)

The bill authorizes the Department of Veterans Services to establish a physician recruitment program. Under the program, the Department agrees to repay all or part of the principal and interest of a governmental or other educational loan incurred by a physician who agrees to provide services to the institutions designated under the Department's rules.

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.

A physician is eligible to participate if the physician attended a medical or osteopathic medical school that either was (1) located in the U.S. and accredited by the Liaison Committee on Medical Education or the American Osteopathic Association or (2) located outside the U.S. and acknowledged by the World Health Organization and verified by a member state of that Organization.

The Department and the physician must 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 governmental 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.

Veteran peer counseling network

(R.C. 5902.20)

The bill creates a veteran peer counseling network. The purpose of the network is to offer veterans the opportunity to work with other veterans in order to assist with overcoming the issues unique to veterans in Ohio. The bill authorizes the Director of Veterans Services to adopt rules under the Administrative Procedure Act to administer the network.

CONSOLIDATION OF HEALTH-RELATED BOARDS

Creation of new boards via consolidation

- Creates the State Vision Professionals Board and the State Speech and Hearing Professionals Board by consolidating several existing health professional licensing boards.

- Establishes regulatory procedures for the two new boards that are similar to current law's provisions that apply to the boards abolished under the bill.

- Requires the two 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 Board of Dietetics.

- 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 two 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 members.

Abolishment of State Board of Orthotics, Prosthetics, and Pedorthics

- Abolishes the State Board of Orthotics, Prosthetics, and Pedorthics and eliminates the requirement that individuals practicing orthotics, prosthetics, or pedorthics be licensed and regulated in Ohio.

- Specifies that all Board employees cease to hold their positions of employment on January 21, 2018, or as soon as possible thereafter.

- Requires any of the Board's unfinished business to be completed by DAS or the DAS Director.

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. Chapters 4725. and 4744.; Sections 515.30, 515.33, and 515.35; conforming changes in numerous other R.C. sections)

The bill creates the State Vision Professionals Board and the State Speech and Hearing Professionals Board by consolidating four 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 Professionals Board	**State Speech and Hearing Professionals Board**
State Board of Optometry	Hearing Aid Dealers and Fitters Licensing Board
Ohio Optical Dispensers Board	Board of Speech-Language Pathology and Audiology

Membership

The boards consist of the following members:

State Vision Professionals Board	
Four licensed optometrists	Two licensed dispensing opticians
	One individual representing the general public

State Speech and Hearing Professionals Board	
Two licensed speech-language pathologists	Three licensed audiologists
Two licensed hearing aid fitters	Two individuals 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 on March 23 and end on March 22.

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 either 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 two 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, as applicable;
- 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 board 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;
- Requiring the board to permit the health care professionals it regulates to satisfy a portion of their continuing education requirements by providing health care services without compensation to indigent and uninsured persons.

Code of ethics

The bill requires the two 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, the licensing law governing optometrists, dispensing opticians, and hearing aid dealers or fitters does not include these provisions.

Regulation of dietitians and respiratory care therapists

(R.C. 4729.021, 4759.011, and 4761.011; Sections 515.31, 515.34, and 515.35; 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 Board of Dietetics. 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 DAS Director, 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 (except for the State Board of Orthotics, Prosthetics, and Pedorthics) will continue in effect as if issued by one of the two 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 (except for the State Board of Orthotics, Prosthetics, and Pedorthics) are transferred to one of the two 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 (except for the State Board of Orthotics, Prosthetics, and Pedorthics) 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.

Abolishment of State Board of Orthotics, Prosthetics, and Pedorthics

(Repealed R.C. Chapter 4779.; Sections 515.32 and 515.35; conforming changes in numerous other R.C. sections)

Effective January 21, 2018, the bill abolishes the State Board of Orthotics, Prosthetics, and Pedorthics and eliminates the requirement that individuals practicing orthotics, prosthetics, or pedorthics be licensed and regulated in Ohio. Any licenses, certificates, permits, registrations, or endorsements issued before January 21, 2018, by the Board are void as of that date. All Board employees cease to hold their positions of employment on that date, or as soon as possible thereafter.

The bill includes the standard transition provisions. Any business commenced but not completed by January 21, 2018, by the Board or its Executive Director will be completed by DAS or the DAS Director as if completed by the Board or its Executive Director. On that date, all records, documents, files, equipment, assets, and other materials of the Board will be transferred to DAS.

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 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.

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 and certificates be written:

- All of the following initial licenses and certificates: certificates of licensure to practice optometry, therapeutic pharmaceutical agents certificates, optical dispensing and ocularist licenses, and dietetics licenses.

- Certificate reinstatement under the Optometry Licensing Law.

- Renewed dietetics licenses.

--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 DAS Director for an extension in excess of 14 days beyond the resolution of the system failure.

Fee increases

The bill authorizes the State Vision Professionals Board, with the Controlling Board's approval, to increase fees for the optical dispensing licensing examination in excess of the fee established by rule, so long as the increase does not exceed 50% of the fee.

Financing of capital improvements by another state

- Establishes the requirements for another state, or a government entity of another state, to provide financing for certain capital projects in Ohio, including notification of the Ohio county or port authority and confirmation that the other state similarly authorizes Ohio governmental entities to finance projects in that state.

- Permits penalties for noncompliance, including payment of fees to the Ohio county or port authority, and authority to file an injunction against the entity.

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.

Board of county commissioners deadline to organize

- Modifies the date by which a board of county commissioners annually must organize.

County recorder fees and technology funding

- Revises the fees the county recorder charges for recording and indexing various types of instruments; depending on the number of pages, the cost could be less or more because fees are eliminated for recording subsequent pages and instead, one fee is charged for the entire instrument.

- Increases the portion of the personal property transfer, conveyance, or assignment recording fee that is credited to the county recorder's technology fund.

- Increases from $4 to $10 the total fee charged for entering each reference regarding a recorded instrument, with exceptions.

- Extends to January 1, 2029, the term of a proposal for funding the county recorder's imaging and technology needs that was approved by the board of county commissioners before, and is in effect on, September 29, 2013, regardless of the number of years of funding specified in the previously approved proposal.

- Extends by ten years the window of time during which a county recorder may request in a funding proposal that an amount not exceeding $3 be credited to the

technology fund, and the proposal must be approved if the amount requested does not exceed an $8 cap, when added to any amount previously approved.

Low- and Moderate-Income Housing Trust Fund

- Removes the $50 million cap on the amount of Housing Trust Fund fees collected by county recorders that are deposited each year into the Low- and Moderate-Income Housing Trust Fund so that all of those fees are deposited into that Fund.

- Eliminates the Housing Trust Reserve Fund into which Housing Trust Fund fees in excess of $50 million are deposited.

- Requires, in any fiscal year from 2018 to 2021 in which the amount in the Low- and Moderate-Income Housing Trust Fund exceeds $60 million, that the Department of Mental Health and Addiction Services receive $6 million from the Fund to expand housing opportunities for individuals exiting residential opiate addiction treatment.

County family services agency special fund deficits

- Permits a county family services agency to have a deficit in a special fund if:

    - The agency has a request for payment pending with the state to cover the amount of the deficit and the payment will likely be made; and

    - The unspent and unencumbered balance in the county's general fund is greater than the aggregate deficit amounts in all of the county's special funds.

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.

Regulation of transient vendors in township territory

- Authorizes boards of township trustees to prohibit transient vendors from soliciting at any residence at which the owner or tenant has either posted a no solicitation sign, or has filed a no solicitation registration form with the township.

- Eliminates the board's authority to outright prohibit transient vendors from soliciting within the township's unincorporated territory.

- Revises the definition of "transient vendor."

Commercial advertising on township websites

- Authorizes townships to sell commercial advertising space on their websites under certain conditions.

Village dissolution

- Allows the electors of a village to petition the board of elections, as an alternative to the legislative authority, for the dissolution of the village.

- Decreases, from 40% to 30%, the portion of electors in a village that is sufficient to petition the legislative authority or board of elections for the dissolution of the village.

- Provides for the timely transfer of village property and services upon the dissolution of the village.

- Allows the village and affected townships to enter into agreements concerning the transfer of real and personal property other than electric, water and sewer utility property, or the property vests by law in the affected townships.

- Requires the Auditor of State to perform and complete an audit or agreed-upon procedure audit before transferring any cash balances to a township or utility service provider following the village dissolution.

- Requires electric, water and sewer utility property to be transferred by agreement entered into by the village and the entity that will be taking over the provision of utility services.

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.

Cybersecurity training for local government fiscal officers

- Adds cybersecurity to the list of subjects to be covered in the education programs conducted by the Auditor of State and the Treasurer of State for persons elected to local government fiscal offices.

Metropolitan housing authorities

- Permits two or more Metropolitan Housing Authorities (MHAs) to enter into a shared services agreement.

- Clarifies that MHA plans to improve blighted areas can include housing as well as other projects, and those projects can include commercial and residential purposes.

- Prohibits an MHA from providing a federal rent subsidy to a tenant who does not meet HUD income restrictions, instead of requiring the MHA to deny housing to the tenant.

Regional councils of governments

- Authorizes a regional council of governments to contract to administer and coordinate the self-funded health benefits program of a nonprofit corporation if the council has an educational service center as its fiscal agent.

Reimbursement to law enforcement agencies

- Authorizes a court to order an OVI offender to reimburse a law enforcement agency for costs associated with administering blood or urine tests if the tests indicated a prohibited concentration of a controlled substance.

Commissary profits to purchase screening equipment

- Allows the sheriff of a county jail to use profits from the jail's commissary to purchase technology designed to prevent contraband from entering the jail.

Multi-jurisdictional local correctional centers

- Specifies that a multi-jurisdictional local correctional center's operational standards and procedures may be amended by agreement of a majority of the voting members of the center's corrections commission or by other means specified in the contract establishing the center.

- Clarifies that items required for the standards and procedures are also required for the amendments.

Port authority competitive bid threshold

- Changes to $250,000 the threshold amount above which a port authority must utilize competitive bidding when contracting for the construction of a building, structure, or other improvement undertaken by the port authority.

Foreclosure and auctioning

- Expressly permits deposits to be made by a financial transaction device if the foreclosure sale is held online.

- Requires the purchaser at a foreclosure sale to submit a statement indicating intent to use the property as residential rental property, instead of a statement indicating whether the purchaser will occupy the property.

- Expands who can be the contact person for a business entity for the purposes of providing this information.

- Exempts the purchaser at a foreclosure sale from the requirement of submitting contact information if the purchaser is the plaintiff or a lienholder who is a party to the foreclosure action.

New community district acreage requirement

- Eliminates the requirement that the total acreage in a new community district be not less than 1,000 acres.

Financing of capital improvements by another state

(R.C. 9.58, 9.581, 9.582, 9.583, and 9.584)

The bill prohibits a foreign entity from directly or indirectly providing financing for an eligible project in Ohio, through bonded indebtedness or otherwise, unless the entity meets certain requirements. For this purpose, "**foreign entity**" means (1) a state other than Ohio or (2) a political subdivision or governmental entity created by the laws of a state other than Ohio. The term does not include a foreign nation. "**Eligible project**" is defined as any capital improvement project located in Ohio that is designed to enhance, aid, provide, or promote transportation, economic development, housing, health care, recreation, education, government operations, culture, research, or purposes or activities authorized by Article VIII, Section 13 or 16 of the Ohio Constitution.

Additionally, the bill prohibits an Ohio governmental agency from directly or indirectly utilizing a foreign entity to provide financing for an eligible project, through the issuance of bonded indebtedness or otherwise, unless the entity meets the bill's requirements. "**Governmental agency**" means a department, division, or other unit of Ohio state government or a municipal corporation, county, township, port authority,

transportation improvement district, water or sewer district, solid waste management district, school district or other public school, health district, park district, soil and water conservation district, water conservancy district, regional transit authority, airport authority, or other political subdivision or public corporation, district, agency, authority, or commission created pursuant to Ohio law or pursuant to an interstate compact or agreement authorized under Ohio law.

Advance notice of the financing; confirmation

A foreign entity that intends to provide financing for an eligible project must – within two business days after the foreign entity initially contacts or is contacted by the person or governmental agency proposing the project – provide notice of its interest in the project to: (1) if the project will be located within the territory of a port authority, the port authority, or (2) if the project will not be located within the territory of a port authority, the county within which the project will be located.

Then, upon entering into a financing agreement, the foreign entity must provide written confirmation to the port authority or county that an agreement has been reached and these conditions have been met:

- The interest or interest equivalent payable on the financing is intended to be excluded from gross income for federal income tax purposes.

- The financing does not require public approval under federal law (that is, it does not involve private activity bonds) and is not a current refunding of a project that required such approval.[231]

- The laws of the foreign entity do not prohibit Ohio, or a political subdivision or governmental entity created by Ohio law, from providing similar financing for a capital improvement project located in that foreign entity *or* place more onerous conditions on providing that financing than those provided under the bill.

Exception

The above requirements do not apply if, in addition to financing the project in Ohio, the foreign entity is currently financing a similar project for the same person in another state.

[231] See 26 U.S.C. 147(f).

Penalties for noncompliance

If a foreign entity provides financing for an eligible project without complying with the above requirements, it must pay to the appropriate port authority or county an amount equal to 75% of all fees charged by the foreign entity to provide the financing, as and when those fees accrue, *or*, if greater in the aggregate, an amount equal to all fees the port authority or county would have charged to provide the financing based on a predetermined fee schedule, as and when those fees would become due under that schedule. In addition, the Director of Development Services or the appropriate port authority or county may bring an action for injunctive relief against the foreign entity. Upon proof by clear and convincing evidence of a failure to comply with the bill, the Director, port authority, or county is entitled to the injunctive relief. And any injunction so granted is to have statewide effect.

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.[232] Counties are required to prepare their financial reports using GAAP.[233]

Board of county commissioners deadline to organize

(R.C. 305.05)

The bill modifies the date by which a board of county commissioners annually must organize. Under the bill, a board must organize not later than the second Monday of January of each year. Under current law, a board must organize on that specific day.

[232] R.C. 117.38, not in the bill.

[233] O.A.C. 117-2-03.

County recorder fees and technology funding

(R.C. 317.32 and 317.321)

Fees for recording and indexing instruments

The county recorder charges a base fee for the recorder's services and a Housing Trust Fund fee each time the recorder's office uses the photocopy or similar process to record and index a document, which is referred to in the Revised Code as an instrument. Generally, under existing law, the county recorder charges a base fee of $14 and a Housing Trust Fund fee of $14 for recording and indexing the first two pages of an instrument, and a base fee of $4 and a Fund fee of $4 for each subsequent page. The bill revises the fees the county recorder charges, as follows:

Type of instrument	Fees charged under existing law	Fees charged under the bill
Deed or other instrument of writing for the sale or conveyance of lands, tenements, and hereditaments	Base fee of $14 and Housing Trust Fund fee of $14 for the first two pages, and a base fee of $4 and a Fund fee of $4 for each subsequent page.	Base fee of $35 and a Fund fee of $35.
Mortgage or assignment of rents	Base fee of $14 and Housing Trust Fund fee of $14 for the first two pages, and a base fee of $4 and a Fund fee of $4 for each subsequent page.	Base fee of $100 and a Fund fee of $100.
An instrument that conveys or affects an interest in utilities, minerals, crude oil, or natural gas	Base fee of $14 and Housing Trust Fund fee of $14 for the first two pages, and a base fee of $4 and a Fund fee of $4 for each subsequent page.	Same.
Tangible or intangible personal property transfers, conveyances, or assignments	$28 for the first two pages and $8 for each subsequent page; of the $28, $14 is deposited into the county recorder's technology fund and $14 is deposited into the county general fund. If no technology fund exists, $28 is deposited into the county general fund.	$50; of the $50, $25 is deposited into the county recorder's technology fund and $25 is deposited into the county general fund. If no technology fund exists, $50 is deposited into the county general fund.

Type of instrument	Fees charged under existing law	Fees charged under the bill
All other instruments	Base fee of $14 and Housing Trust Fund fee of $14 for the first two pages, and a base fee of $4 and a Fund fee of $4 for each subsequent page.	Base fee of $35 and a Fund fee of $35, unless a different fee is prescribed by law elsewhere in the Revised Code.

Except for instruments that convey utilities, minerals, crude oil, or natural gas interests, the recording cost of which remains the same, the result of these fee revisions is that the cost of recording these instruments could be less or more because fees are eliminated for recording subsequent pages of the instruments and instead, one fee is charged for the entire instrument.

The bill increases from $4 to $10 the total fee the county recorder charges (a base fee of $5 and a Housing Trust Fund fee of $5) for entering each reference regarding a recorded instrument, except for references cited in instruments conveying interests in utilities, minerals, crude oil, or natural gas (that total fee remains $4 per reference).

Funding proposals

Continuing law authorizes a county recorder to submit to the board of county commissioners, in any year, a proposal for funding the recorder's imaging and technology needs. Normally, the board may approve, reject, or modify the proposal, but existing law requires that any proposal that was approved by the board before, and is in effect on, September 29, 2013, continues in effect until January 1, 2019, regardless of the number of years of funding specified in the previously approved proposal. The bill extends such a proposal's life until January 1, 2029.

Existing law requires a board of county commissioners to approve a county recorder's request in a proposal submitted between October 1, 2013, and October 1, 2017, that an amount that does not exceed $3 be credited to the county recorder's technology fund, if the amount requested, when added to any amount previously approved under a proposal submitted during that time period, does not exceed an $8 cap. The bill extends the submission period until October 1, 2027.

Low- and Moderate-Income Housing Trust Fund

(R.C. 174.02 and 319.63; repealed R.C. 174.09)

Existing law requires the Treasurer of State, each year, to deposit the first $50 million of Housing Trust Fund fees collected by county recorders into the Low- and

Moderate-Income Housing Trust Fund, and to deposit any amounts in excess of $50 million into the Housing Trust Reserve Fund, unless the balance in that Fund is greater than $15 million, in which case the excess is deposited into the state GRF. The bill removes the $50 million cap and eliminates the Housing Trust Reserve Fund; thus, all Housing Trust Fund fees collected by county recorders are to be deposited into the Low- and Moderate-Income Housing Trust Fund.

The bill requires that, in any fiscal year from 2018 to 2021 in which the amount in the Low- and Moderate-Income Housing Trust Fund exceeds $60 million, $6 million must be provided to the Department of Mental Health and Addiction Services to expand the housing component of the community transition program for the purpose of advancing housing opportunities for individuals exiting residential opiate addiction treatment who lack affordable, suitable housing.

County family services agency special fund deficits

(R.C. 5101.105)

The bill permits a county family services agency to have a deficit in any special fund of the agency if (1) the agency has a request for payment pending with the state to cover the amount of the deficit and the payment will likely be made and (2) the unspent and unencumbered balance in the county's general fund is greater than the aggregate deficit amounts in all of the county's special funds. Under continuing law, a "county family services agency" means all of the following: (1) a child support enforcement agency, (2) a county department of job and family services, and (3) a public children services agency.[234]

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.

[234] R.C. 307.981, not in the bill.

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.

Regulation of transient vendors in township territory

(R.C. 505.94)

The bill authorizes a board of township trustees, by resolution, to prohibit transient vendors from soliciting at any residence at which the owner or tenant has either posted a sign on the property prohibiting solicitation, or for which the owner or tenant has filed a no solicitation registration form with the township, on a form prescribed by the board. The bill eliminates the board's authority to outright prohibit transient vendors from selling, offering for sale, or soliciting orders for the future delivery of goods, within the township's unincorporated territory.[235]

One of the characteristics of being a "transient vendor" is that the person solicits orders for future delivery of goods "where payment is required prior to the delivery of the goods." The bill eliminates the phrase in quotation marks, thus expanding the definition of "transient vendor."

Under existing law, a nonprofit entity is not a transient vendor if it notifies a board of township trustees of its presence in the township for the purpose of selling or offering for sale goods, soliciting orders for future delivery of goods, or attempting to arrange an appointment for a future estimate or sales call. The bill eliminates the notification requirement so that any person that is a nonprofit entity is not a transient vendor.

Commercial advertising on township websites

(R.C. 503.70)

The bill authorizes townships to sell commercial advertising space on their websites if the websites are not on the dot-gov domain where such advertising is

[235] Courts have held that laws regarding vendor solicitation must be narrowly tailored to serve a substantial governmental interest. *See*, e.g., *Ohio Citizen Action v. City of Englewood*, 671 F.3d 564 (6th Cir. Ohio 2012); and *City of Tiffin v. Boor*, 109 Ohio App.3d 337 (Ohio Ct. App., Seneca County 1996) in which the court held that while the city of Tiffin is free to place restrictions on the practice of door-to-door solicitation, it may not enforce an ordinance that completely bans the practice.

prohibited by federal guidelines. The use of commercial advertising must comply with state and federal law, including R.C. 9.03, explained below, and any federal regulations or guidelines on the use of commercial advertising on the Internet dot-gov domain or other federally controlled public domains.

The bill requires a township to adopt a resolution to authorize the use of commercial advertising on its website; the resolution must specify the manner of making requests for proposals that identify advertisers whose advertisements will meet the criteria specified in the request for proposals and any requirements and limitations specified in the resolution. The bill authorizes a contract between the township and a qualified advertiser for the placement of commercial advertising on the township's website in exchange for a fee paid by the advertiser to the township general fund.

State law, R.C. 9.03, provides specific parameters on the use of public funds for communications with the public. Among other things, it provides that a political subdivision may use public funds to publish and distribute newsletters, "or to use any other means, to communicate information about the plans, policies, and operations of the political subdivision to members of the public within the political subdivision and to other persons who may be affected by the political subdivision." Public funds may not be used for certain types of communication, including among others, things that support or oppose "the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue." The use of public funds for charitable or public service advertising is allowed if it is not commercial in nature and otherwise complies with the section. Presumably, the authority to sell commercial advertising that is authorized by the bill could not be used for charitable or public service advertising since it is commercial in nature and would be in violation of the prohibition in R.C. 9.03.

Village dissolution

(R.C. 703.20 and 703.21)

Petition to the board of elections

The bill provides an alternative means for submitting a petition for dissolution (surrender of corporate powers) to the legislative authority when the legislative authority fails to act upon the petition currently provided for within 30 days after the receipt of the petition. Under the bill, the electors alternatively may present the petition to the board of elections to determine the validity and sufficiency of the signatures. If the petition is sufficient, the board of elections will submit the question of surrendering corporate powers to the electors at the next general or special election in any year, occurring after the period ending 90 days after filing the petition with the board of

elections. If the result is in favor of the surrender, the board of elections must certify the results to the Secretary of State and the county recorder as is currently required, along with the Auditor of State as required under the bill. The bill provides that the corporate powers of the village cease upon the recording in the county recorder's office.

The bill decreases, from 40% under current law to 30% under the bill, the portion of electors in a village that is sufficient to petition the legislative authority or board of elections for the dissolution of the village.

Disposition of money and property upon dissolution

When a petition is filed directly with the board of elections, a copy must also be filed with the board of township trustees of each township affected by the dissolution. Under current law, upon the dissolution of a village, all moneys or property remaining after the dissolution belongs to the township or townships located wholly or partly within the village. The bill makes the ownership of remaining money and property subject to agreements between or among the village and township or townships and subject to an audit or, at the discretion of the Auditor of State, agreed-upon procedures performed by the Auditor. The audit or agreed-upon procedures must commence within 30 days after the Auditor receives the notice of dissolution[236] provided for under continuing law. Cash balances are to be transferred at the completion of the audit or agreed-upon procedures. The Auditor of State is required to assist in facilitating a timely and systematic manner for complying with the requirements for transfer of village money and property.

Under current law, if more than one township is to receive the remaining money or property, the money or property must be divided among the townships in proportion to the amount of territory that each township has within the village boundaries as compared to the total territory within the village. The bill allows the agreements to provide otherwise.

Real and personal property

The bill requires that village real and personal property, other than electric and water and sewer utility property, must be transferred in a timely manner in accordance with *agreements* between or among the affected village and township or townships. If agreements are not reached within 60 days after the certificate of dissolution is filed with the county recorder, the title to real and personal property vests by operation of law in the affected township or townships as specified under current law: in proportion

[236] R.C. 117.10(E), not in the bill.

to the amount of territory that each affected township has within the village boundaries as compared to the total territory within the village.

The bill requires that any agreements entered into regarding the transfer of real property must be recorded with the county recorder of the county in which the affected real property is situated along with affidavits stating facts relating to title. The county recorder must make appropriate notations in the county records to reflect the conveyance of the village's interest in real property as provided by the recorded agreements resulting from the dissolution. The notations must include a reference to the county's recorded certificate of dissolution.

In the absence of any agreements and upon the recording of affidavits relating to title, the county recorder must make appropriate notations in the county records to reflect the conveyance of the village's interest in real property and to evidence that title vested by operation of law in the township or townships as otherwise provided by continuing law and as a result of the dissolution of the village. The certificate of dissolution or a certified copy of it, any agreements regarding the transfer of real property, and supporting affidavits are sufficient evidence of a transfer of title from the former village to a township or townships. The bill requires that these documents be recorded in the same manner as a deed of conveyance, except that affected townships are exempt from paying any county recording fees.

Cash balances must be transferred at the completion of the Auditor of State's audit or, at the discretion of the Auditor, agreed-upon procedures performed by the Auditor.

Electric, water and sewer utility property

The bill requires that electric, water and sewer utility property be transferred by agreement between the affected village and the entity or entities that will be taking over the electric, water and sewer utilities property and assets. If a county or a regional water and sewer district utility must assume utility property and assets by default, the bill allows the board of county commissioners or the district's board of trustees to petition a court to order to revise the current user fees, rates, and charges charged, or assessments levied, by the utility. The board must file with the petition a systems audit, which must address specific items such as the financial solvency of the utility and the necessary system maintenance. The systems audit may not prevent the Auditor from conducting an audit or agreed-upon audit procedures. The court must review the audit in determining whether to grant the order. Any order the court grants must assure the utility's operational viability and financial solvency is maintained, and that acquisition of the utility does not place an unreasonable financial burden on the county or district. Cash balances must be transferred at the completion of the Auditor of State's audit or, at

the discretion of the Auditor, agreed-upon procedures performed by the Auditor. The bill provides that the provision of utility and other services must remain uninterrupted during the transition period following the dissolution.

Local entity annual reports to Auditor of State

(R.C. 340.03 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.

Cybersecurity training for local government fiscal officers

(R.C. 321.46, 507.12, and 733.81)

The bill adds cybersecurity to the list of subjects to be covered in the education programs conducted by the Auditor of State and the Treasurer of State for persons elected as county treasurers, township fiscal officers, and municipal (city or village) fiscal officers. Under continuing law, the Auditor of State and the Treasurer must conduct education programs to enhance the background and working knowledge of fiscal officers in areas such as government accounting, budgeting and financing, and financial report preparation.

Metropolitan housing authorities

(R.C. 3735.31, 3735.33, 3735.40, and 3735.41)

Shared service agreements

Metropolitan Housing Authorities (MHAs) are public entities that own and manage property and provide rent subsidies to low-income families. Continuing law tasks MHAs with clearing, planning, and rebuilding blighted areas with their districts and to provide safe and sanitary housing for low-income families. The bill permits two or more MHAs to enter into a shared service agreement to achieve the goals listed above.

Projects to improve blighted areas

The bill clarifies that MHA plans to improve blighted areas can include housing as well as other projects; current law only provided for plans including housing

projects. Additionally, MHAs can undertake housing or other projects that include providing land, facilities, and property for commercial and residential purposes, in addition to streets, utilities, parks and recreation, gardening, community, health, educational, welfare, and other purposes.

Tenant eligibility

The bill prohibits an MHA from providing a federal rent subsidy to a tenant who does not meet HUD income restrictions. Under current law, an MHA must deny housing to such a tenant.

Regional councils of governments

(R.C. 167.03)

Expands the powers of a regional council of governments by permitting a council to contract to administer and coordinate the self-funded health benefits program of a nonprofit corporation organized under Ohio law if the council (1) is established to provide health care benefits to its officers and employees and their dependents and (2) has an educational service center as its fiscal agent.

Reimbursement to law enforcement agencies

(R.C. 4511.19)

The bill authorizes a court to order a person who is convicted of, or pleads guilty to, an operating a vehicle while intoxicated (OVI) offense to reimburse a law enforcement agency for costs associated with administering one or more chemical tests of the person's blood or urine if the test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's blood or urine. This is in addition to any penalties, including financial sanctions, that may be imposed by the court under current law for an OVI offense.

Commissary profits to purchase screening equipment

(R.C. 341.25)

The bill allows the sheriff of a county jail to use profits from the jail's commissary to purchase technology designed to prevent contraband from entering the jail. Under continuing law, the sheriff may also use the profits of the commissary to pay commissary employees and to purchase supplies and equipment and to provide life skills training and education or treatment services for the benefit of jail inmates.

Multi-jurisdictional local correctional centers

(R.C. 307.93)

The county commissioners of two or more adjacent counties may jointly establish a multicounty correctional center, and the county commissioners of a county or of two or more counties and one or more municipal corporations in that county or those counties may jointly establish a municipal-county or multicounty-municipal correctional center. The involved political subdivisions prescribe the manner of funding of, and debt assumption for, the center and the standards and procedures to be followed in its operation and generally form a corrections commission to oversee the administration of the center. The standards and procedures must include certain specified items and may be amended.

Regarding the amendment of the operational standards and procedures for such a center, the bill specifies that they may be amended by agreement of a majority of the voting members of the center's corrections commission or by other means specified in the contract between the contracting counties and municipal corporations (instead of by agreement of the parties to the establishing contract upon the commission's advice, as under existing law) and clarifies that the items required for the standards and procedures are also required for the amendments.

Port authority competitive bid threshold

(R.C. 4582.12 and 4582.31)

The bill changes to $250,000 the threshold amount above which a port authority generally must utilize competitive bidding when contracting for the construction of a building, structure, or other improvement undertaken by the port authority. Under current law, the threshold is the higher of one of the following amounts:

--$100,000; or

--$100,000 plus an annual adjusted amount determined by the Director of Commerce based on the average increase for the prior two years in the Producer Price Index for Material and Supply Inputs for New Nonresidential Construction as determined by the U.S. Bureau of Labor Statistics.

Foreclosure and auctioning changes

(R.C. 2329.211, 2329.271, 2329.31, and 2329.311)

The bill makes changes relating to real property foreclosure sales.

Sale deposit

The bill expressly permits sale deposits to be made by a financial transaction device when property is purchased through an online sale. A *financial transaction device* includes a credit card, debit card, charge card, prepaid or stored value card, automated clearinghouse network credit, debit, or e-check entry, or any other device or method for making an electronic payment or transfer of funds.[237]

Under continuing law, real property foreclosure sales can be conducted online or in person. When property is sold at a foreclosure sale, either online or in person, the purchaser generally must make a sale deposit in a statutorily specified amount. This deposit requirement does not apply if the purchaser is the judgment creditor, such as a bank foreclosing on a mortgage.

Purchaser's contact information

The bill also makes changes relating to the information the purchaser of the property at the foreclosure sale is required to provide to the officer who is conducting the sale. Continuing law, modified in part by the bill, requires a business entity that purchases residential rental property to provide the name, address, and telephone number of a specified contact person. The bill, however, specifies that this requirement applies if the residential property purchased *is intended to be used as residential rental property*. Also, the bill adds that in the case of a limited liability company that purchases the residential rental property, a contact person for the limited liability company can satisfy the contact information requirements, not just a member, manager, or officer, as required under continuing law.

In addition, the bill adds that when the property purchased at a foreclosure sale is not residential rental property and the property is purchased by a business organization, the contact information can also be provided by a contact person of the business organization, not just an employee of the organization as required under continuing law.

Lastly, the bill expressly exempts a plaintiff or a lien holder who is a party to the foreclosure action from providing the specified contact information to the officer.

Purchaser's statement regarding use of property

The bill eliminates the requirement that the purchaser of the property at a foreclosure sale provide a statement to the officer indicating whether the purchaser will

[237] R.C. 301.28, not in the bill.

occupy the property, and instead requires the purchaser to submit a statement indicating if the purchaser intends to use the property as residential rental property.

Purchaser's payment of balance due on the property

Under existing law, the officer making the sale must require the purchaser, *including a lienholder*, to pay the balance due on the purchase price within 30 days after the court issues a confirmation of the sale, in which it formally finds that it is satisfied with the legality of the sale. The bill removes the express reference to the lienholder.

New community district acreage requirement

(R.C. 349.03)

The bill eliminates the requirement that the total acreage in a new community district be not less than 1,000 acres. Under continuing law, with the approval of the board of county commissioners, a developer may establish a new community authority to develop land, provide services, and raise revenue by levying community charges in a new community district. Under existing law, the total acreage in the district must not be less than 1,000 acres, all of which must be owned by, or under the control of the developer through leases of at least 75 years' duration, options, or contracts to purchase. But if the district is wholly within a municipal corporation, or more than one-half of the proposed district is within a joint economic development district, the minimum acreage requirement does not apply, which results in the acreage requirement being applicable only in townships. The bill eliminates the acreage requirement.

MISCELLANEOUS

Various land conveyances

- Authorizes the conveyance of state-owned land under the jurisdiction of the Department of Rehabilitation and Correction to various persons by sealed bid auction or public auction.

- Authorizes the conveyance of state-owned land under the jurisdiction of the University of Akron through a sale process acceptable to the university's Board of Trustees.

Sunset Review Law

- Authorizes the continuation of the ABLE Account Program Advisory Board until December 31, 2020.

- Authorizes the continuation of the Underground Technical Committee, an advisory board to the Public Utilities Commission, until December 31, 2020.

- Authorizes the continuation of the Ohio Healthier Buckeye Advisory Council, a council in the Department of Job and Family Services, until December 31, 2020.

Food policy coordinator in Ashtabula County

- Requires the county OSU Extension office serving Ashtabula County to establish a pilot program through which it employs a food policy coordinator who will be responsible for connecting local food producers with local consumers.

Treatment of sections subject to multiple amendments

- Restates the policy of Ohio law that all amendments to a statute are to be given effect if it is reasonably possible to do so.

Various land conveyances

Department of Rehabilitation and Correction

(Section 753.10)

The bill authorizes the conveyance of various state-owned land in Allen, Fairfield, Lorain, Madison, Marion, Pickaway, Richland, Ross, Scioto, and Warren counties through a sealed bid auction or public auction. Before selling the real estate,

the Directors of Administrative Services and Rehabilitation and Correction 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.

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 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 bid has been accepted, and must enter into a real estate purchase agreement in the form prescribed by DAS. 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 bids, the Director may repeat the sealed bid auction or public auction.

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.[238]

[238] The Adult and Juvenile Correctional Facilities Bond Retirement Fund is created under R.C. 5120.092, not in the bill.

University of Akron

(Section 753.20)

The bill authorizes the Governor to execute a deed in the name of the state conveying real estate in Summit County currently under the jurisdiction of University of Akron. The University of Akron may use a sale process acceptable to its Board of Trustees, including by sealed bid auction or public auction, or through contracting for the services of a real estate broker selected by the University using the University's normal competitive selection process for vendors. Consideration for conveyance of the real estate is a purchase price and any terms and conditions acceptable to the Board of Trustees. The net proceeds of the sale must be paid to the University of Akron and deposited in the University of Akron's endowment account for purposes to be determined by the Board of Trustees.

The real estate must be sold as an entire tract and not in parcels. The conveyance must include the improvements and chattels situated on the real estate, and is subject to all easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable. The real estate must be conveyed in an "as-is, where-is, with all faults" condition. The purchaser or purchasers must pay the costs of the conveyance, including recordation costs of the deed or deeds, closing and conveyance fees, including any surveys, title evidence, title insurance, transfer costs and fees, recording costs and fees, any taxes and other fees, assessments, and costs that may be imposed. The Auditor of State, with the assistance of the Attorney General, must prepare a deed to the real estate described in the authorizing resolution adopted by the Board of Trustees. The deed must contain any exceptions, reservations, or conditions and any right of reentry or reverter specified in the resolution. The deed must be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the purchaser or purchasers. The purchaser or purchasers must present the deed or deeds for recording in the Office of the Summit County Recorder. The Board of Trustees may release any exceptions, reservations, or conditions or any right of reentry or reverter contained in any deed without further need for legislation. The authorization is effective for three years after the bill's effective date.

Sunset Review Law

ABLE Account Program

(Section 701.10)

The bill authorizes the continuation of the ABLE Account Program Advisory Board until December 31, 2020. This entity is subject to expiration under the Sunset Review Law,[239] and will expire under operation of that law before the next Sunset Review Committee is scheduled to convene. The bill will bring the expiration date of this entity in line with other boards currently subject to Sunset Review Law.

Underground Technical Committee

(Section 701.10)

The bill authorizes the continuation of the Underground Technical Committee, an advisory board to the Public Utilities Commission, until December 31, 2020. This entity is subject to expiration under the Sunset Review Law, and will expire under operation of that law before the next Sunset Review Committee is scheduled to convene. The bill will bring the expiration date of this entity in line with other boards currently subject to Sunset Review Law.

Ohio Healthier Buckeye Advisory Council

(Section 701.10)

The bill authorizes the continuation of the Ohio Healthier Buckeye Advisory Council, a council in the Department of Job and Family Services, until December 31, 2020. This entity is subject to expiration under the Sunset Review Law, and will expire under operation of that law before the next Sunset Review Committee is scheduled to convene. The bill will bring the expiration date of this entity in line with other boards currently subject to Sunset Review Law.

Food policy coordinator in Ashtabula County

(Section 733.61)

The bill requires the county OSU Extension office serving Ashtabula County to establish a pilot program through which it employs a food policy coordinator. The food policy coordinator is responsible for connecting local food producers with local

[239] R.C. 101.82 through 101.87, not in the bill.

consumers such as the Lake Erie Correctional Institution, hospitals, nursing homes, schools, and supermarkets.

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.

Treatment of sections subject to multiple amendments

(Section 815.20)

The bill recognizes that several sections of law in the bill are amended more than once by the bill. In this regard, the bill states that the multiple amendments are subject to the statute declaring that all amendments to a statute that reasonably can be put into simultaneous operation are to be harmonized and given effect.[240]

But, if the multiple amendments are irreconcilable and cannot be harmonized, the bill specifies that they are to be construed under the statute that provides rules for interpreting irreconcilable amendments.[241] Under this statute, first, it is to be

[240] R.C. 1.52(B).

[241] R.C. 1.51. The simple, alternative rule for treating irreconcilable amendments will be unavailable. It states, if multiple amendments are irreconcilable, that the latest amendment to have been concurred in by the General Assembly prevails. R.C. 1.52(A). This rule will be unavailable because the bill will have only one concurrence date with regard to the multiple amendments it contains.

determined whether the amendments can be construed to give effect to each amendment. If that is not possible, then it is to be determined which amendment is more general and which amendment is more specific. The specific amendment then prevails as an exception to the general amendment, unless the manifest intent is that the general amendment is to prevail to the exclusion of the specific amendment.

These provisions reflect, in general, the policy of Ohio law that all amendments to a statute are to be given effect if it is reasonably possible to do so.[242]

HISTORY

ACTION	DATE
Introduced	02-08-17
Reported, H. Finance	05-02-17
Passed House (58-37)	05-03-17

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[242] R.C. 1.51.