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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 46\*  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for H.B. 46's Fiscal Note](#)

**Version:** As Reported by Senate General Government and Agency Review

**Primary Sponsor:** Rep. Greenspan

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### SUMMARY

#### Ohio State and Local Government Expenditure Database

- Requires the Treasurer of State, in collaboration with the Directors of Budget and Management (OBM Director) and Administrative Services (DAS Director), to establish and maintain the Ohio State and Local Government Expenditure Database that includes information about state entities' expenditures.
- Allows a political subdivision or state retirement system to agree to have information on the political subdivision's or state retirement system's expenditures included in the Database.
- Requires that the Database be free to access by the public and available on the Treasurer's website and the Office of Budget and Management's website.
- Requires the Treasurer to enter into an annual agreement with the OBM and DAS Directors to ensure the proper maintenance and operation of the Database.
- Requires the Database to include certain expenditure information and a searchable database of state and school district employee salary and employment information.
- Requires the Treasurer to coordinate with the OBM Director to allow for public comment regarding the Database's utility.
- Prohibits the Database from including information that is confidential or that is not a public record under state law, but provides that the Treasurer, a state entity, and the

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\* This analysis was prepared before the report of the Senate General Government and Agency Review Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

Treasurer's and state entity's employees are not liable for disclosure of a Database record that is confidential or not a public record.

- Requires each state entity to display on its website a prominent Internet link to the Database.

### **Film and theater tax credit**

- Makes the following changes to the film and theater tax credit:
  - Revokes the eligibility of production contractors – companies involved in the production of a motion picture but not themselves the production company – for the credit.
  - Reserves \$4 million of the \$40 million annual credit allotment for Broadway theatrical productions.
  - Authorizes an alternative tax credit approval process for productions with a significant positive economic impact or workforce development effect.

### **Regional transportation improvement project assessments**

- Authorizes the governing board of a regional transportation improvement project (RTIP) to negotiate and enter into voluntary agreements that impose assessments on property located within a transportation financing district (TFD) designated by the board.
- Provides that assessments imposed pursuant to such agreements are collected in the same manner as real property taxes and are enforceable against current and future owners of the property.
- Specifies procedures for rescinding or amending the agreements.
- Requires all revenue from the assessments be used for transportation improvements described in the cooperative agreement that governs the RTIP.

### **State awards for economic development**

- Requires the Auditor of State (AOS), rather than the Attorney General, to determine if an entity is in compliance with the terms and conditions, including performance metrics, of a state award for economic development received by that entity; and requires the AOS to publish a report of its reviews and determinations.
- Requires the Development Services Agency annually to send the AOS a list of state awards for economic development.

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## **DETAILED ANALYSIS**

### **Ohio State and Local Government Expenditure Database**

#### **Creation and operation of the Database**

The bill requires the Treasurer of State, in collaboration with the Directors of Budget and Management (OBM Director) and Administrative Services (DAS Director), to establish and

maintain the Ohio State and Local Government Expenditure Database. The Database must be free to access by the public and available on the Treasurer's website and the Office of Budget and Management's website. The Treasurer must enter into an annual agreement with the OBM and DAS Directors to define data storage, data handling, user interface requirements, and other provisions considered necessary to ensure the proper maintenance and operation of the Database. State entities must assist in the development, establishment, operation, storage, hosting, and support of the Database and comply with all of the bill's requirements using existing resources.<sup>1</sup>

### **Applicability**

The bill applies to "state entities," meaning the General Assembly, Supreme Court, Court of Claims, office of an elected state officer, or a department, bureau, board, office, commission, agency, institution, instrumentality, or other governmental entity of the state established by the Ohio Constitution or laws of Ohio for the exercise of any function of state government. "State entity" does not include a political subdivision, institution of higher education, state retirement system, the City of Cincinnati Retirement System, or JobsOhio.

The "state retirement systems" are the Public Employees Retirement System, the Ohio Police and Fire Pension Fund, the State Teachers Retirement System, the School Employees Retirement System, and the State Highway Patrol Retirement System. A "political subdivision" is a county, city, village, public library, township, park district, school district, regional water and sewer district, or regional transit authority.

Under the bill, a political subdivision or state retirement system may agree to have information on the political subdivision's or state retirement system's expenditures included in the Database. A political subdivision or state retirement system that agrees to have the information included in the Database must provide the information to the Treasurer and comply with the bill's requirements in the same manner as a state entity.<sup>2</sup>

The "school districts" excluded from the definition of "state entity" are city, local, exempted village, or joint vocational school districts; science, technology, engineering, and mathematics (STEM) schools; and educational service centers. However, community (charter) schools are state entities under the bill and required to participate in the Database because they are excluded from the bill's definition of "school districts."<sup>3</sup>

### **Database expenditure information**

The Database must include information about expenditures made in each fiscal year that commences after the bill's effective date. The bill requires that the Database include the following information for each expenditure:

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<sup>1</sup> R.C. 113.71.

<sup>2</sup> R.C. 113.77.

<sup>3</sup> R.C. 113.70(B) to (F).

1. The expenditure amount;
2. The date the expenditure was paid;
3. The supplier to which the expenditure was paid;
4. The state entity that made the expenditure or requested that the expenditure be made.<sup>4</sup>

An “expenditure” is a payment, distribution, loan, advance, reimbursement, deposit, or gift of money from a state entity to any supplier. A “supplier” is any person, partnership, corporation, association, organization, state entity, or other party, including any executive officer, legislative officer, judicial officer, or member or employee of a state entity that either (1) sells, leases, or otherwise provides equipment, materials, goods, supplies, or services to a state entity pursuant to a contract between the supplier and a state entity, or (2) receives reimbursement from a state entity for any expense.<sup>5</sup>

The bill does not prohibit the Treasurer from including any information in the Database not required by the bill and that is available to the public.<sup>6</sup>

### **Database features**

The Database must include all of the following features:<sup>7</sup>

- A searchable database of all expenditures;
- The ability to filter expenditures by the category of expense and by the Ohio Administrative Knowledge System accounting code for a specific good or service;
- The ability to search and filter by any of the factors listed under “**Database expenditure information**,” above;
- The ability to aggregate data contained in the Database;
- The ability to determine the total amount of expenditures awarded to a supplier by a state entity;
- The ability to download information obtained through the Database;
- A searchable database of state and “school district” employee salary and employment information.

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<sup>4</sup> R.C. 113.71(B) and 113.72.

<sup>5</sup> R.C. 113.70(A) and (G).

<sup>6</sup> R.C. 113.71(F).

<sup>7</sup> R.C. 113.73.

The employee salary and employment information must be provided by the Department of Administrative Services or the Department of Education, as applicable.<sup>8</sup> However, the use of the term “school district” in this Database feature may create uncertainty about the bill’s application to community schools. Because community schools are excluded from the definition of “school district,” it appears that they are state entities subject to the bill’s expenditure reporting requirements. The reference here to “school district” apart from the definition of “state entity” suggests that the salary and employment information of employees of city, local, exempted village, joint vocational, or STEM schools, or of educational service centers, but **not** of community schools, must be provided.

### **Public comment opportunity**

Not later than one year after the Database is implemented, the Treasurer must coordinate with the Director of Budget and Management to provide an opportunity for public comment as to the Database’s utility.<sup>9</sup>

### **Exclusion from liability for disclosure**

The bill prohibits the Database from including any information that is determined to be confidential or that is not a public record under state law. None of the following are liable for the disclosure of a record contained in the Database that is determined to be confidential or that is not a public record under state law:

- The Treasurer;
- The Treasurer’s employees;
- A state entity;
- Any employee of a state entity that provides information to the Database.<sup>10</sup>

### **Required link to Database**

The bill requires each state entity to display on its website a prominent Internet link to the Database.<sup>11</sup>

### **Film and theater tax credit**

The bill makes several changes to the film and theater tax credit, including revoking the eligibility of production contractors for the credit, authorizing an expedited credit approval process, and dedicating \$4 million of the annual credit allotment to theater productions.

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<sup>8</sup> R.C. 113.73.

<sup>9</sup> R.C. 113.74.

<sup>10</sup> R.C. 113.75.

<sup>11</sup> R.C. 113.76.

Continuing law allows a refundable tax credit for companies that produce all or part of a motion picture or Broadway theatrical production in Ohio and incur at least \$300,000 in Ohio-sourced production expenditures. The credit equals 30% of the company's Ohio-sourced expenditures for goods, services, and payroll involved in the production. A company can claim the credit against the commercial activity tax (CAT), the financial institutions tax (FIT), or the personal income tax.

### **Eligibility of production contractors**

The bill revokes the eligibility of "production contractors" - companies that are involved in the production of a motion picture but are not themselves the production company - for the credit.

H.B. 166 of the 133<sup>rd</sup> General Assembly extended eligibility for the credit to production contractors. Production contractors are included in the same credit application and evaluation process as the production company producing the picture. The credit awarded to the production contractor equals 30% of the contractor's actual or estimated Ohio-sourced expenditures incurred in performing services related to the motion picture such as editing, postproduction, photography, lighting, cinematography, sound design, catering, special effects, production coordination, hair styling or makeup, art design, or distribution.<sup>12</sup>

### **Required allocation for theater productions**

Under continuing law, the maximum amount of credits that may be awarded in any fiscal year is \$40 million plus any credit allotment that was not used in the previous fiscal year. The bill reserves \$4 million of this \$40 million allotment each year for Broadway theatrical productions, beginning in fiscal year 2022.<sup>13</sup>

### **Alternative credit approval process**

The bill authorizes an alternative tax credit approval process for motion pictures and Broadway theatrical productions that will have a significant positive economic impact or workforce development effect. The alternative process, which may be used at the discretion of the Director of Development Services, allows these "high-impact" productions to bypass the standard review, ranking, and approval process.

Furthermore, if the annual limit on tax credits has been reached, the Director may continue to award tax credits to high-impact productions out of the credit allocation for the following fiscal year. Tax credits awarded under the alternative process must be claimed for the taxable year or tax period in which the credit is approved, regardless of whether the credit was awarded out of the credit allocation for the current year or for the following year.<sup>14</sup>

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<sup>12</sup> R.C. 122.85(A)(1), (2), and (11), (C)(1) and (2), and (D).

<sup>13</sup> R.C. 122.85(C)(4).

<sup>14</sup> R.C. 122.85(C)(4), (5), and (6).

Under continuing law, a company seeking the credit must first apply to the Director. The Director awards tax credit certificates to completed productions in two rounds each fiscal year. For each round, the Director must rank the applications based on the positive economic impact a production would have and the effect of the production on developing a permanent Ohio workforce in theater and film. Credits are awarded based on this ranking, starting with the productions that will have the greatest impact.

## **Regional transportation improvement projects (RTIPs)**

### **Voluntary assessments**

The bill establishes a new method by which the governing board of the regional transportation improvement project (RTIP) located in Stark, Carroll, and Columbiana Counties may acquire revenue for transportation improvements. It allows the board to negotiate and enter into voluntary agreements whereby the owner of property located within a transportation financing district (TFD) agrees to subject that property to an assessment (see **Background**, below). The amount and duration of the assessment are specified by the agreement but, regardless of duration, the assessment terminates upon dissolution of the RTIP.

One agreement may impose an assessment on more than one parcel if the owner of each parcel approves the agreement. New parcels may be added to an existing agreement with the approval of the board and the owner of each new parcel. Rescinding the agreement, or amending it for any purpose other than adding new parcels, requires approval of the board and the owner of each parcel subject to the agreement. The board may agree to as many assessments as are necessary or useful in serving the purposes of the RTIP.<sup>15</sup>

### **Collection and enforcement**

The assessments authorized by the bill are collected in the same manner as real property taxes and treated as such for all purposes. Each year, the board must certify the amount of the assessment to the property owner and to the county auditor of the county in which the property is located. Once collected, the assessed amount is paid immediately by the county treasurer to the board. The board may use such amounts only for the purposes described by the cooperative agreement that governs the RTIP.

The assessment is a covenant running with the property and is fully binding against the property owner and any person that subsequently acquires an interest in the property. The board may enforce an unpaid assessment in the same manner as delinquent taxes, including by foreclosure. The lien priority associated with an assessment is the same that applies for real property taxes.<sup>16</sup>

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<sup>15</sup> R.C. 5595.04, 5709.48, and 5709.481(A), (B), (D), and (E).

<sup>16</sup> R.C. 5709.481(C) and (F) and 5709.50.

## Background

RTIPs are arrangements between two or more counties for the purposes of completing transportation improvements. 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. The governing board does not have direct taxing authority, but it may solicit and receive revenue pledges from the state, participating counties, and political subdivisions and taxing units located within those counties. The governing board is permitted to issue securities backed by that revenue.

RTIPs created before March 23, 2018, are authorized to create TFDs. The rules and procedures associated with TFDs are similar to those that apply to tax increment financing (TIF) incentive districts. They generate funding for transportation improvements by exempting the increase in assessed value of nonresidential parcels from property taxation and collecting service payments from the property owners. Only the RTIP in Stark, Carroll, and Columbiana Counties is eligible to create a TFD.<sup>17</sup>

## State awards for economic development

The bill requires the Auditor of State (AOS), rather than the Attorney General as under current law, to determine if an entity is in compliance with the terms and conditions, including performance metrics, of a state award for economic development received by that entity.<sup>18</sup> Under the bill, the Development Services Agency (DSA), no later than 30 days after the end of the state fiscal year, must send the AOS a list of state awards for economic development. The AOS then must review each award and determine if the entity is in compliance with the terms and conditions, including performance metrics, of a state award for economic development received by that entity.<sup>19</sup>

The bill requires the AOS to publish a report of its reviews and determinations no later than 90 days after receipt of the list of state awards from DSA. Current law requires the Attorney General annually to submit a report regarding the level of compliance to the General Assembly.<sup>20</sup>

The bill requires the AOS, when the AOS determines that an entity that receives or has received a state award for economic development is not in compliance with a performance metric that is specified in the terms and conditions of the award, to report that information to the Attorney General. The bill authorizes, but does not require, the Attorney General to pursue against and from that entity remedies and recoveries available under law. Current law provides

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<sup>17</sup> R.C. Chapter 5595.; R.C. 5709.48 to 5709.50.

<sup>18</sup> The bill maintains applicable definitions for “entity” and “state award for economic development” (R.C. 117.55(A) and 125.112(A)(2) and (G)).

<sup>19</sup> R.C. 117.55(B).

<sup>20</sup> R.C. 117.55(C) and 125.112(G).



that when the Attorney General determines appropriate, and to the extent the entity has not complied, the Attorney General must pursue remedies.<sup>21</sup>

The bill also species that, if the AOS is authorized to conduct an audit of an entity that receives or has received a state award for economic development, the audit be conducted in accordance with AOS law.<sup>22</sup>

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## HISTORY

Action	Date
Introduced	02-12-19
Reported, H. State & Local Gov't	05-16-19
Passed House (92-0)	10-02-19
Reported, S. General Gov't & Agency Review	---

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<sup>21</sup> R.C. 117.55(D) and 125.112(G).

<sup>22</sup> R.C. 117.55(E).