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Joe McDaniels, Attorney, and various other LSC staff

SUMMARY

Resolution of property tax complaints

- Increases the time within which boards of revision must decide property tax complaints.

Airport development districts (ADDs)

- Authorizes certain regional airport authorities, port authorities, and municipal corporations to create an airport development district (ADD) to generate revenue for airport infrastructure improvements and other expenditures that benefit a qualifying airport.
- Requires that the resolution proposing creation of an ADD include a development plan that describes the improvements and expenditures that will be undertaken and provides for creation of the nonprofit corporation that will govern the ADD.
- Prescribes procedures for organizing the nonprofit corporation, filing or amending its articles of incorporation, and appointing its board of directors.
- Allows the board of directors to negotiate voluntary development charge agreements with owners of real property located in, and businesses operating within the district and prescribes collection and enforcement processes for such charges.
- Establishes a procedure for dissolving an ADD or repealing the development plan.
- Terminates the authority to create new ADDs after December 31, 2023.

Energy-efficient building deduction

- Establishes a procedure by which the designer of a public building may request allocation of a federal income tax deduction for the design and installation of energy-efficient interior lighting, HVAC, hot water, or building envelope systems.

- Prohibits a state or local government entity (or its agents or employees) from seeking, soliciting, or accepting fees, payments, or other consideration for allocating the deduction.

Municipal special assessment notices

- Revises certain notice procedures involving municipal corporation special assessments.

Battery-charged fences

- Creates safety standards for battery-charged fences in nonresidential zones.
- Authorizes political subdivisions to regulate battery-charged fences in nonresidential properties, to require a permit or fee for a battery-charged fence pursuant to a permit or fee for an alarm system, and to prohibit the installation or use of a battery-charged fence in a nonresidential zone that does not meet the act's standards.

Waiver of post-secondary tuition and fees

- Extends Ohio residency status to qualify for a waiver of post-secondary tuition and fees for the child of a public service officer or a U.S. armed services member killed in the line of duty, and the surviving spouse or qualified former spouse of a public service officer, if the child or spouse was an Ohio resident when the public service officer or service member was killed.
- Qualifies a surviving child, spouse, or qualified former spouse for a waiver of post-secondary tuition and fees for a certificate program.
- Names these provisions the "Anthony Dia Act."

School drinking fountains and water bottle stations

- Prescribes minimum drinking fountain and water bottle filling station requirements for new state-assisted classroom facility construction projects.
- Requires public schools to ensure that each drinking fountain and water bottle filling station installed as part of a project is regularly cleaned and maintained.

Conveyance

- Authorizes the conveyance of approximately 63 acres of land in Trumbull County owned by Kent State University.

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DETAILED ANALYSIS

Resolution of property tax complaints

The act increases the time within which county boards of revision – quasi-judicial bodies established for each county to hear property tax complaints and revise tax assessments – must decide property tax complaints. Under prior law, boards of revision were required to resolve each complaint within 90 days after the complaint was filed. In cases when a property owner or school board exercises its right to respond to another person’s complaint in order to support or object to that complaint, the board of revision had 90 days after the response was filed to resolve the matter. (This could add up to 60 days to the original 90-day period.)

The act extends the deadline for resolving a complaint to 180 days and delays the beginning of that period until the last day a complaint may be filed, regardless of whether a complaint is filed before the last day. (Under continuing law, the last day to file is March 31 or, if later, when the collection of the first half property tax closes.) If a response is filed with respect to a complaint, the 180-day deadline for resolution begins tolling on the day the response is filed (which, again, may add up to 60 additional days). The act’s changes apply to complaints filed for tax years beginning on or after the act’s April 12, 2021, effective date.

Under continuing law, if a complaint is not resolved before the applicable deadline, it is continued into the ensuing tax year until it is decided, and the decision, once rendered, relates back to the prior year. The continuation is automatic: parties do not have to refile.¹

Airport development districts (ADDs)

The act authorizes airport development districts (ADDs) – an economic development tool that may be used to generate revenue for airport infrastructure improvements and other types of expenditures meant to attract airlines, increase scheduled flights to and from an airport, or increase use of the airport by aircraft with greater passenger capacity or more first-class seating. An ADD consists of all parcels of land located within five miles of a “qualifying airport,” which the act defines as an airport (including any adjacent airport facilities) that is:

- Owned, operated, or maintained by a regional airport authority and located in two counties, one of which has a population between 500,000 and 800,000;
- Owned, operated, or maintained by a port authority that was created by two counties, each having a population between 200,000 and 250,000; or
- Owned, operated, or maintained by a municipal corporation that is the most populous municipal corporation in a county having a population between 500,000 and 840,000.²

These criteria would appear to qualify the following airports for an ADD: (1) the Akron-Canton Airport, (2) the Youngstown-Warren Regional Airport, (3) the Dayton International Airport, (4) the Lunken Municipal Airport of Cincinnati, and (5) the Akron-Fulton International Airport.

An ADD is governed by the board of trustees of a nonprofit corporation. The board of trustees, referred to by the act as the “board of directors,” may generate revenue for ADD projects by negotiating and entering into voluntary development charge agreements with the owners of real property located, and businesses operating within the district. All expenditures of an ADD are subject to the approval of the board of trustees of the regional airport authority, board of directors of the port authority, or legislative authority of the municipal corporation that owns, operates, or maintains the qualifying airport (referred to in this analysis as the “creating authority”).³

Creation

The creating authority may establish an ADD by adopting a resolution that includes a development plan for the district that:

- Describes the ADD’s territory;

¹ R.C. 5715.19(C); Section 3.

² R.C. 308.20.

³ R.C. 308.21 to 308.24.

- Specifies the infrastructure improvements and other expenditures that will be financed by the proceeds of development charges;
- Establishes procedures for the formation, operation, and organization of the nonprofit corporation that will govern the ADD; and
- Prescribes the manner in which the board of directors of that nonprofit corporation are appointed.

After the resolution is adopted, the creating authority must submit a copy to the Director of Development Services.⁴

Territory

An ADD must include all property located within five miles of the qualifying airport.⁵

Governance

The nonprofit corporation and board of directors that govern an ADD are generally organized and empowered in the same manner as more traditional, private nonprofit corporations under general state nonprofit corporation law. However, the act prescribes several exceptions to the general rule which are summarized below.⁶

Articles of incorporation

The articles of incorporation for the nonprofit corporation must, in addition to the contents required under general nonprofit corporation law, include the following:

- The name of the ADD (which must include the name of the qualifying airport);
- A description of the territory included in the ADD;
- The full text of the resolution creating the ADD, including its development plan included and any subsequent amendments to that plan;
- The procedures by which the articles of incorporation and the development plan may be amended;
- The reasons for creating the ADD; and
- An explanation of how the ADD will be conducive to public health, safety, peace, convenience, and welfare.

The articles of incorporation must be filed with the Secretary of State, who must verify that they meet the requirements of the act before accepting them.⁷

⁴ R.C. 308.21(A) and (B).

⁵ R.C. 308.21(A)(4).

⁶ R.C. 308.22.

⁷ R.C. 308.23(D) and (E).

Board of directors

Initially, the board of directors of an ADD consists of three members appointed by the creating authority. An additional four members are added to the board one year after the district is created or 30 days following the date that the owners of at least four parcels of property and businesses, collectively, have entered into development charge agreements, whichever is later. The additional members are appointed by the owners of property and businesses within the ADD that are subject to a development charge. All appointments to the board must be made in accordance with applicable rules, regulations, and guidelines of the Federal Aviation Administration (FAA).

The board must elect a chairperson, vice-chairperson, secretary, and treasurer from among its membership. The member who is elected as treasurer may not hold any other office of the board but, otherwise, one member may hold more than one of the offices. Decisions of the board are effectuated by majority vote of the members present at the meeting.

Each member of the board is entitled to written notice of the time, place, and agenda of any board meeting. The notice must be transmitted by certified mail, personal service, or electronic device. If possible, notice should be served at least one week before the meeting.⁸

Powers and duties

The nonprofit corporation governing an ADD, in addition to the general powers granted nonprofit corporation law, may do any or all of the following:

- Develop and implement plans for public infrastructure improvements that benefit the qualifying airport;
- Make expenditures to attract airlines to that airport, retain airlines that already have a presence at the airport, increase the number of scheduled flights to and from the airport, or increase use of the airport by aircraft with greater passenger capacity or more first-class seating;
- Contract with persons, state agencies, political subdivisions, or community improvement corporations to develop, manage, or implement plans for the improvements or expenditures described above or to otherwise assist in carrying out the development plan for the ADD;
- Negotiate and enter into voluntary development charge agreements with the owners of property located in, and businesses operating within the ADD;
- Contract and pay for insurance for directors, officers, agents, contractors, employees, or members of the ADD or for the ADD itself.⁹

⁸ R.C. 308.22(A) to (C).

⁹ R.C. 308.23(A).

The board of directors of an ADD is subject to the same competitive bidding and prevailing wage rules and procedures that apply to its creating authority. The treasurer of the board is required to issue an annual report of the board's activities and financial condition to the owner or owners of each parcel of real property and business that is subject to a development charge agreement.¹⁰

Changing plans

The procedure for amending the development plan for an ADD and the articles of incorporation of the governing nonprofit corporation is described in the articles of incorporation. At minimum, the procedure must include obtaining the approval of all of the following:

- The majority of the membership of the board of directors;
- The owners of 60% of all parcels of real property and businesses that are subject to development charge agreements;
- The majority of the membership of the creating authority.

All amendments to the articles of incorporation and, consequently, all amendments to the development plan for the ADD, which is included in those articles, must be filed with the Secretary of State along with documentation sufficient to prove that these minimum procedural thresholds have been met.¹¹

Applicability of other state laws

The act clarifies how various state laws governing the conduct of public officials generally apply to the nonprofit corporation and board of directors governing an ADD.¹² Specifically it provides that the nonprofit corporation is not a political subdivision and that membership on the board of directors does not constitute holding a public office. Therefore, membership on the board does not activate the financial disclosure obligations that generally apply to public office-holders.¹³ However, officers and employees of an ADD are otherwise subject to public ethics law¹⁴ and are entitled to certain immunities that are generally reserved for public officials.¹⁵ Furthermore, the board is subject to open meetings law¹⁶ and public records law,¹⁷ except that records of organizations contracting with an ADD are not considered

¹⁰ R.C. 308.22(C) and (D).

¹¹ R.C. 308.23(F).

¹² R.C. 308.21(C) and 308.22(E) and (F).

¹³ R.C. 102.02, not in the act.

¹⁴ R.C. Chapter 102, not in the act.

¹⁵ R.C. 2744.03(A)(6), not in the act.

¹⁶ R.C. 121.22, not in the act.

¹⁷ R.C. 149.43, not in the act.

public records solely by reason of that contract. Rules adopted by the board of directors are not subject to review through the common sense initiative process.¹⁸

Development charge agreements

The board of directors may negotiate voluntary development charge agreements with owners of real property located in, and businesses operating within the ADD. The amount and duration of the development charge are prescribed by the agreement. The term of the charge prescribed by the initial agreement must be for a period of ten or more years, or for a continuing period of time.

A single development charge agreement may impose a charge on more than one parcel or more than one business if the owner of each parcel or each business approves the agreement. However, a development charge against a parcel of land must not be included in the same agreement as a development charge against a business. New parcels or new businesses may be added to an existing agreement with the approval of the board of directors and the owner of each new parcel or business. Rescinding an agreement, or amending it for any purpose other than adding new parcels or businesses, requires approval of the board of directors and the owner of each parcel or business that is subject to the agreement. The board of directors may agree to as many development charge agreements as are necessary or useful in serving the purposes of the ADD.

A development charge against a business is collected in the manner prescribed by the development charge agreement. A development charge against real property is 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 charge is paid immediately by the county treasurer to the board of directors of the ADD.

A development charge against real property is a covenant running with the land and, therefore, is enforceable against current and future owners of the property. The act requires owners of property subject to a development charge to notify prospective purchasers of the property about the charge before conveyance. A purchase agreement involving such property that does not reference the development charge is not enforceable against the purchaser. However, the purchaser remains liable for the development charge. The purchaser's course of legal action is against the seller of the property, not the board of directors.

The proceeds of a development charge must be used exclusively for the purposes of the ADD. A development charge cannot be collected after the ADD expires under the terms of the development plan or after it is dissolved.¹⁹

¹⁸ R.C. 121.81 to 121.83, not in the act.

¹⁹ R.C. 308.23(A)(5), (A)(6), (B), and (C).

Expenditures

The board of directors of an ADD may spend revenue derived from development charges for any of the following purposes:

- Costs of creating and operating the district, including the costs of employees, professional services, insurance, office space, and equipment;
- Costs of planning, designing, and implementing public infrastructure improvements that benefit the qualifying airport, including architectural, engineering, legal, appraisal, insurance consulting, energy auditing, and planning fees and the management, protection, and maintenance of public or private facilities;
- Costs of airport advertising, airline recruitment, market research, ticket purchase guarantees, and incentives designed to attract or retain airlines, increase the number of scheduled flights to and from the qualifying airport, or increase use of the airport by aircraft with greater passenger capacity or more first-class seating;
- Court costs;
- Damages resulting from implementing the development plan for the ADD.²⁰

Each proposed expenditure of the board of directors of an ADD must first be approved by resolution of the creating authority. No ADD funds may be used to finance the acquisition of an interest in property using the power of condemnation or eminent domain.²¹

Dissolution

The process of dissolving an ADD or repealing the associated development plan is initiated by filing with the ADD board of directors a petition signed by the owners of at least 20% of the collective number of parcels of real property and businesses that are subject to a development charge. The board must organize a meeting to consider the petition within 45 days after it is filed and send notice of the time, place, and subject of the meeting to each property owner or business subject to a development charge at least two weeks before the meeting is held. Dissolving the ADD or repealing the development plan requires an affirmative vote of the owners of more than 50% of the collective number of parcels and businesses subject to a development charge.

In the event of a vote to dissolve an ADD, the board must begin the dissolution process, but the process may not be finalized until all debts and obligations of the ADD are paid in full. No contractual rights or obligations of the ADD are excused due to a vote for dissolution except by consent of all parties to the contract or by court order. Once an ADD is dissolved and all debts and obligations are paid, remaining assets are returned to the property and business

²⁰ R.C. 308.24(A).

²¹ R.C. 308.21(B), 308.22(B), and 308.24(B).

owners, prorated to reflect the amount of development charges collected on each owner's property or business in the preceding 12 months.

In the event of a vote to repeal the development plan, all obligations of the ADD associated with the plan must be paid in full.²²

Sunset

No new ADDs may be created after December 31, 2023.²³

Energy-efficient building deduction

The act establishes a procedure by which the designer of an energy-efficient interior lighting, HVAC, hot water, or building envelope system installed in a public building may request allocation by the building owner of a related federal income tax deduction. Federal law allows an income tax deduction of up to \$1.80 per square foot for the design and installation of systems that reduce energy costs in commercial buildings. Generally, the deduction is claimed by the building owner. However, for public buildings, federal law allows the owner to allocate the deduction to the designer of the energy-efficient system. The deduction applies only to energy-efficient systems placed into service on or before December 31, 2020.²⁴

Under the act, any person seeking allocation of the deduction must submit a written allocation request to the applicable government entity and to the Tax Commissioner. The entity must respond to this request within 15 days. If the request is merited (i.e., if the requestor is the designer of an energy-efficient system installed on a public building) the government entity must formally allocate the deduction in the manner prescribed by federal law. Whether the request is granted or denied, the entity must send a copy of its response and, if applicable, the documents formally allocating the deduction to the Commissioner.

If a government entity does not respond to the request within 15 days, the request is considered to be approved and the Commissioner must provide the person who submitted it with any documentation necessary to formally allocate the federal income tax deduction.

The act prohibits government entities and their employees or agents from seeking, soliciting, charging, or accepting a fee, payment, or other consideration in exchange for allocating the deduction, thus ensuring that the full benefit of the deduction is received by the designer. Federal law does not prohibit such consideration.²⁵

²² R.C. 308.25.

²³ R.C. 308.21(A).

²⁴ 26 United States Code (U.S.C.) 179D.

²⁵ R.C. 9.239.

Municipal special assessment notices

Municipal corporations may fund certain public improvements by levying special assessments against abutting, adjacent, and contiguous property owners.²⁶ Notices of special assessments typically are provided directly to affected persons (e.g., by USPS certified mail, by USPS express mail, or by commercial carrier service²⁷). If a notice is returned because the recipient cannot be found, the municipal corporation must publish a general notice once in a newspaper of general circulation within the municipal corporation. Alternatively, the act allows a municipal corporation to provide this general notice by placing it on the municipal corporation's website.²⁸

Under prior law, changed in part by the act, when an improvement relates to street lights, street cleaning, street treatment, shade trees, or ditches, instead of providing notice directly to all affected persons, a municipal corporation satisfies the notice requirement by: (1) directly notifying only those property owners whose assessment is estimated to exceed \$250, and (2) publishing a general notice twice in a newspaper of general circulation within the municipal corporation. The act modifies this in two ways:

- Instead of \$250, the act increases the amount to \$500.
- Instead of providing general notice via newspaper, the act allows a municipal corporation alternatively to place the notice on its website.²⁹

Battery-charged fences

The act creates a suite of safety standards for battery-charged fences that are located on private property in nonresidential zones. A battery-charged fence must:

- Be connected to a monitored alarm system;
- Have an energizer that meets the standards set forth by the International Electrotechnical Commission;
- Be completely surrounded by a nonelectric perimeter fence or wall at least five feet tall;
- Be no taller than the higher of either ten feet, or two feet higher than the height of the nonelectric perimeter fence or wall; and
- Be marked with conspicuous warning signs, no more than 40 feet apart, that read "WARNING—ELECTRIC FENCE."

²⁶ R.C. Chapter 727.

²⁷ See [Rules of Civil Procedure](#), Rule 4.1.

²⁸ R.C. 727.13.

²⁹ R.C. 727.14.

The act exempts several types of fences from the safety provisions, including fences keeping livestock off of railroads, preferred partition fences for livestock, fences constructed by the federal government, the state, or a political subdivision (prisons, for example), and fences at zoos and wildlife sanctuaries.

The act also permits counties, townships, and municipal corporations to impose the act's standards, to require a permit and charge a fee for installing or using a battery-charged fence as part of getting a permit for an alarm system, and to prohibit the use or installation of a battery-charged fence in a nonresidential zone that does not meet the act's standards.³⁰

Waiver of post-secondary tuition and fees

The act makes two changes to the law that provides an eligible child, spouse, or qualified former spouse of a public service officer or U.S. armed services member killed in the line of duty with a waiver of up to four academic years of tuition and fees at state institutions of higher education, and reduced tuition and fees at participating private nonprofit and for-profit educational institutions. A "public service officer" is an Ohio firefighter, volunteer firefighter, police officer, or other specified peace officer, or a person holding any equivalent position in another state.³¹

Ohio residency requirement

The act permits the child of a service officer or service member, and the spouse or qualified former spouse of a service officer, to meet that provision's Ohio residency requirement if that individual was an Ohio resident when the service officer or service member was killed. The act further clarifies that the child, spouse, or qualified former spouse is *not* required to have been an Ohio resident when the service officer or service member was killed in order to qualify for the waiver.³²

In other words, continuing law already qualifies "a resident of this state" for a waiver. The act expands that qualification to an individual who was an Ohio resident when the service officer or member was killed, but who may no longer otherwise qualify as a resident. Moreover, the act specifies that this expansion does not disqualify current Ohio residents who may not have been a resident when the service officer or service member was killed.

Certificate programs

The act qualifies a child, spouse, or qualified former spouse for a waiver of tuition and fees for a certificate program. However, it limits the amount of tuition and fees that may be waived for a certificate program by specifying that a child, spouse, or qualified former spouse may:

³⁰ R.C. 3781.1011.

³¹ R.C. 3333.26.

³² R.C. 3333.26(D).

- Receive a waiver for only a total of two certificate programs;
- Not receive a waiver for more than the total number of academic credits or instructional hours equivalent to four academic years; and
- Not receive a waiver for more than \$8,000 worth of tuition and fees in a particular academic year.

Under prior law, a child, spouse, or qualified former spouse could receive a waiver of tuition and fees only for undergraduate level education.³³

School drinking fountains and water bottle stations

The act establishes requirements regarding drinking fountains and water bottle filling stations for classroom facility construction projects administered by the Ohio Facilities Construction Commission. The new requirements are in addition to building code requirements provided for under continuing law and rule.³⁴

The Commission must require that the design plans for each facility included in a project provide for the following:

- A minimum of two water bottle filling stations in each building;
- A minimum of one drinking fountain or water bottle filling station on each floor and wing of each building; and
- A minimum of one drinking fountain or water bottle filling station for every 100 students projected to attend the building upon the project's completion.³⁵

Under the act, a drinking fountain must be designed to allow an individual to drink from it, dispense filtered and clean drinking water, and be equipped with both a protective cowl and a water spout at least one inch above the fountain's overflow rim. A water bottle filling station must be designed to fill a bottle with water and dispense filtered and clean drinking water.³⁶

Required maintenance

Under the act, each school district and other public school governing body must ensure that each drinking fountain or water bottle filling station installed in a facility included in a project is regularly cleaned and maintained.³⁷

³³ R.C. 3333.26(E).

³⁴ R.C. 3318.038(B) and (D).

³⁵ R.C. 3318.038(B).

³⁶ R.C. 3318.038(A).

³⁷ R.C. 3318.038(C).

Conveyance

The act authorizes the Governor to convey an approximately 63-acre parcel of land located in Trumbull County and currently owned by Kent State University. The authorization to convey the real estate expires April 12, 2024.

The act does not specify a purchaser, or how the purchaser is to be selected, but does specify that the purchaser must be acceptable to the University's Board of Trustees and the sale price must be an amount acceptable to the Board. The net proceeds of the sale must be paid to the University and deposited in its accounts for purposes to be determined by the Board.

The grantee must pay the conveyance costs, including county recording fees.³⁸

HISTORY

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³⁸ Section 4.