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H.B. 45
134th General Assembly

Final Analysis

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Primary Sponsors: Reps. West and Roemer

Effective date: April 7, 2023; operating appropriations and peace officer training pilot program extension effective January 6, 2023; tax amnesty authorization repealed effective January 1, 2024

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SUMMARY

Tax amnesty

- Allows the state to operate a two-month “amnesty” period in 2023 during which taxpayers owing past-due state and some local taxes and certain fees may discharge the debt by paying the delinquent tax or fee without having to pay the penalty and accrued interest normally due.
- Provides that, before the amnesty can proceed, the Director of Budget and Management must first determine that the state will need the projected revenue from the amnesty to meet GRF obligations in calendar year 2023.

Delinquent tax list publication

- Authorizes the second publication of a county delinquent property tax list to be made online, provided the list’s first publication continues to be made in a newspaper of general circulation.

Nursing facility payments

- Appropriates \$350 million in American Rescue Plan Act (ARPA) funds in FY 2023 to the Office of Budget and Management (OBM) for lump-sum payments to nursing facilities that are Medicaid providers for workforce support.
- Requires OBM to distribute the funds by April 1, 2023, to nursing facilities, as follows: (1) 40% based on each facility’s total number of Medicaid days in calendar year 2021 and (2) 60% based on enumerated quality metrics.
- Repeals law that requires nursing facilities to spend 70% of any additional dollars received as a result of a rebasing on direct care costs.

- States that it is the General Assembly's intent to include a rebasing of the direct care, ancillary and support, and tax cost centers in the next main operating budget.
- States that it is the General Assembly's intent to require the Department of Medicaid and industry stakeholders to submit legislative proposals to: (1) replace the capital costs center formula and (2) provide a private room incentive payment.

Hospital provider relief payments

- Earmarks \$62 million of Department of Medicaid funds for health care provider relief payments for critical access and rural hospitals.
- Appropriates \$100 million in ARPA funds for payments to critical access and rural hospitals that are Medicaid providers, and requires that the payments be used exclusively for direct care staff compensation.
- Appropriates \$6.5 million (\$2.3 million state share) in FY 2023 from GRF to provide for one-time provider relief payments to hospitals located in counties with a population of 350,000 to 380,000 (Stark County only), to be calculated based on Medicaid enrollee patient discharge.

PACE program

- Requires the Department of Aging to expand the Medicaid component known as the Program of All-inclusive Care for the Elderly (PACE) to the following counties: Franklin, Hamilton, Montgomery, Lorain, Lucas, and Summit.
- Appropriates \$50 million in FY 2023 for the expansion.
- Regarding the Home First component of PACE, eliminates various references to documentation being "in writing."

Workforce incentive payments for freestanding dialysis centers

- Requires the Medicaid Director to make a one-time payment to each licensed freestanding dialysis center that is in good standing, to be used exclusively for direct care staff compensation.
- Appropriates \$15 million to fund the one-time payment to dialysis centers.

Critical access pharmacy grants

- Requires the Department of Medicaid to award critical access pharmacy grants in FY 2023 to pharmacies within counties that have no more than one retail pharmacy participating in Medicaid, and appropriates up to \$100,000 to fund the grants.

Ohio Adoption Grant Program

- Establishes the Ohio Adoption Grant Program, administered by the Department of Job and Family Services (JFS), to provide one of the following one-time payments to an adoptive parent for each eligible child adopted in or after 2023:

- \$10,000;
- \$15,000 (if the adoptive parent was a foster caregiver for the child); or
- \$20,000 (if the child has diagnosed special needs).
- Authorizes an income tax deduction for grant payments.
- Requires the JFS Director to adopt rules, exempt from the regulatory restriction reduction requirements under Ohio law, to implement the program, including a rule to authorize federal income tax withholding.
- Prohibits the program from charging an application fee.
- Permits the JFS Director to require submission of any court or legal document to prove the adoption and for any state agency to provide documents relating to the adoption, provided that submitting the documents to JFS does not change their public records status.
- Appropriates \$15 million from GRF in FY 2023 to administer the grants.

Adoption tax credit

- Repeals the state income tax credit for the adoption of children.

Adoption petition fee

- Reduces the probate court adoption petition fee from \$50 to \$20.
- Removes the requirement to deposit a portion of the adoption petition fee in the Putative Father Registry Fund, and appropriates \$500,000 from GRF to the fund in FY 2023.

College grant program for adopted Ohio residents

- Establishes a grant program providing a one-time \$2,500 award to eligible adopted Ohio residents attending a state institution of higher education or private college in Ohio to apply toward the resident's cost of attendance.

Publicly funded child care

- Establishes additional exceptions to the requirement that a licensed child care program be rated in the Step Up to Quality Program to provide publicly funded child care, including exempting type A and licensed type B family day-care homes.
- Eliminates the requirement that the JFS Director establish enhanced reimbursement rates for providers maintaining quality ratings under the Step Up to Quality Program.
- Eliminates the requirement that the Director weigh any reductions in reimbursement more heavily against providers that do not participate in Step Up to Quality or do not maintain quality ratings under the program.

Encouraging family day-care home licensure

- Requires JFS to engage in activities to encourage the establishment and licensure of family day-care homes and connect families and caretaker parents in need of child care with family day-care homes not meeting their license capacity.
- Permits the JFS Director to contract with third-party entities to assist the Director in performing the activities.
- Requires the Director to submit to the General Assembly – by May 30, 2023, and periodically thereafter – a report documenting barriers that may prevent the establishment or licensure of family day-care homes.

School raffles

- Allows a school district, community school, STEM school, or chartered nonpublic school to conduct a raffle to raise money for the school district or school.

ACE Educational Savings Accounts

- Extends operation of the Afterschool Child Enrichment Educational Savings Account Program (ACE) through FY 2024.
- Increases the amount that a student’s account may be credited under the program from \$500 to \$1,000 for FY 2023 and FY 2024.
- Amends the eligibility requirements for a savings account.
- Prohibits the Department of Education or a vendor operating the program from reclaiming any funds credited to a student’s account, unless funds are misused, until the student graduates high school.

School funding adjustments

- For FY 2023, increases the phase-in percentage for disadvantaged pupil impact aid from 14% to 33.33%.
- Revises how the number of miles driven for school bus service are factored into calculating school district transportation payments.

School storm shelter requirement

- Permanently prohibits the Board of Building Standards from requiring storm shelters in school buildings.

Prelicensure nursing bachelor’s degree programs

- Requires the Chancellor of Higher Education to approve a prelicensure nursing bachelor’s degree program proposal submitted by a community, state community, or technical college prior to September 30, 2022.

Election law – changes to H.B. 458

- Makes changes to provisions of H.B. 458 of the 134th General Assembly, which modifies the Election Law.
- Changes certain deadlines related to the counting of provisional ballots to give the boards of elections more time to process those ballots.
- Requires that, if a board of elections has a drop box at its office for the return of absentee ballots, the drop box must be open to receive ballots at all times during the absent voting period.

Vacation leave cash conversion

- Beginning in December 2023, increases, from 40 to 80, the maximum hours of accrued unused vacation leave certain state employees exempt from collective bargaining may convert to cash, provided the employee has at least 200 hours of unused accrued vacation leave.
- Beginning in December 2023, allows an employee described above who has at least 100 hours of unused accrued vacation leave to convert 40 hours to cash.
- Exempts employees of the Supreme Court, the General Assembly, the Legislative Service Commission, the Secretary of State, the Auditor of State, the Treasurer of State, and the Attorney General from the cash conversion unless their employer notifies the Director of Administrative Services before October 1, 2023, that the employees are eligible.

Reimbursements for peace officer training

- Extends to June 30, 2023, the pilot program providing state funding for the cost of continuing professional training programs for peace officers and Ohio State Highway Patrol troopers, which had been scheduled to end on December 31, 2022.
- Requires a law enforcement agency that does not use all of the money it receives for the salaries of its peace officers and troopers receiving training to retain the money and use it only to pay for future continuing professional training programs.
- Appropriates an additional \$5 million from GRF to the Attorney General in FY 2023 to support the extended pilot program.

Low-income housing tax credit properties

- Disqualifies a project involving the rehabilitation of federal low income housing tax credit (LIHTC) property from a state tax credit for rehabilitating historic buildings.
- Authorizes a county auditor to value LIHTC property by using one or more of three existing appraisal methods.

Special improvement districts

- Modifies the law that applies to an existing qualified nonprofit corporation that forms a special improvement district (SID) by limiting the circumstances under which the Ethics Law, the Open Meetings Law, and the Public Records Law apply to the corporation.
- Specifies that the corporation is considered a SID only when it acts with respect to a purpose for which the SID is created, and not when it acts with respect to any other purpose for which it is organized.

Timely recording of satisfaction of mortgages

- Prohibits a mortgagor or current owner of real property from collecting, through a class action lawsuit, \$250 in damages for failure on the part of the mortgagee, during calendar year 2020, to record the satisfaction of a mortgage within 90 days of the mortgage's satisfaction.
- Specifies that this prohibition does not preclude or affect any other legal remedies or damages available to the mortgagor or current owner.

Public insurance entities and public records requests

- Exempts, with certain exceptions, records created, held by, or pertaining to Ohio public insurance entities from public records requests.

Professional sports logo license plates

- Regarding a sports commission formed to create and receive contributions for a specialty license plate with a professional sports team logo, does both of the following:
 - Modifies the number of sports commission board members from 21 to at least 15; and
 - Eliminates the requirements specifying what person or entity appoints the members.

Veterans Memorial and Museum

- Exempts, from Open Meetings Law, all meetings of the board of directors of the nonprofit corporation that operates the Veterans Memorial and Museum.
- Establishes that records of the board of directors and of the nonprofit corporation are not public records under Public Records Law.

Geneva Lodge and Convention Center

- Eliminates a requirement that the Department of Natural Resources purchase the Geneva Lodge and Convention Center from the Ashtabula County Commissioners for \$13,950,000.
- Instead, creates the County Supplemental Grant Fund, appropriates \$13,950,000 to the fund, and requires that amount to be granted to the Ashtabula County Commissioners

to retire debt incurred by the county that is associated with the Geneva Lodge and Convention Center.

Other appropriations

- Appropriates state and federal funds in FY 2023 to various agencies to fund grant and other assistance programs.
- Makes other operating and capital appropriations.

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DETAILED ANALYSIS

Tax amnesty

The act authorizes the state to operate a tax “amnesty” program in 2023, if the Director of Budget and Management determines the program is necessary. If the Director finds that additional revenue from an amnesty program will be needed to meet GRF obligations during calendar year 2023, the Director will direct the Tax Commissioner, the Governor, and leaders of the General Assembly to proceed with the amnesty.

If so directed, the Tax Commissioner would administer the amnesty program and determine the two-month period during 2023 in which it would run. The program would cover delinquent state taxes and local sales and use taxes, as well as delinquent state income tax withholding remittances by employers and certain fees administered by the Department of Taxation. (See below for a list of taxes and fees that would be covered under the amnesty.) The amnesty would apply only to taxes that were due and payable as of the provision’s effective date and that were unreported or underreported. The amnesty would not apply to any tax for which a notice of assessment or audit has been issued, for which a bill has been issued, or for which an audit has been conducted or is pending.

If, during the amnesty, a person pays the full amount of delinquent taxes or fees owed, the Tax Commissioner must waive all penalties and accrued interest that are normally charged. The act authorizes the Commissioner to require a person to file returns or reports, including amended returns or reports.

In addition to receiving a waiver of penalties and accrued interest, a person who pays the amount due is immune from criminal prosecution or any civil action with respect to the tax or fee paid, and no assessment may be issued against the person for that tax or fee.¹

¹ Section 757.01.

The most recent general tax amnesty was conducted in 2018.²

Covered taxes and fees

The taxes and fees that would be covered under the amnesty are the following:

Income tax	Commercial activity tax
State sales and use taxes	Financial institutions tax
County sales and use taxes	Transit authority sales and use taxes
Public utility excise taxes	Kilowatt-hour tax
MCF (natural gas) excise tax	Alcoholic beverage taxes
Cigarette/tobacco/vaping excise taxes	Motor fuel excise tax
Fuel use tax	Petroleum activity tax
Casino wagering tax	Severance taxes
Wireless 9-1-1 charges	Tire fees
Horse racing taxes	

Other local taxes, such as school district income taxes, would not be covered.³

Administration, appropriations, and revenue disposition

To promote and administer any authorized amnesty, the Commissioner must issue forms and instructions, publicize the amnesty so as to maximize public awareness and participation, and take any other action necessary to implement the amnesty.⁴ The act appropriates \$1 million in FY 2023 for use by the Commissioner for such tasks. The act reappropriates any unspent amount remaining at the end of FY 2023 to FY 2024 for the same purpose.⁵

Taxes collected under the amnesty will be distributed in the same manner as the underlying tax liability would have been distributed had it been paid as required by law, except that up to the first \$1 million in collections must be used to reimburse the GRF for any appropriations used by the Commissioner to promote and administer the amnesty. Otherwise, collections related to state taxes will be credited to the GRF unless a different fund is specified by law (e.g., motor fuel taxes to the various highway funds).⁶

² Section 757.110 of H.B. 49 of the 132nd General Assembly.

³ Section 757.01(A).

⁴ Section 757.01(B).

⁵ Section 290.10.

⁶ Sections 757.01(C) and 290.10.

Delinquent tax list publication

The act maintains the requirement that the first publication of a county's delinquent property tax list, and both publications of the "display" notice, be made in a newspaper, but it authorizes the second publication of the delinquent tax list instead to be made on a website maintained or approved by the county. If the second publication is made online, the county auditor must remove the list from that website two weeks after it is initially posted.⁷

Background

Each year, after the final day for paying property taxes, county auditors certify to county treasurers a list of properties that still have unpaid taxes or assessments. Tax-delinquent properties are assessed penalties and interest. Delinquencies, if not settled, may be enforced as a lien on the property by foreclosure in the courts or, under some circumstances, by an "expedited," nonjudicial procedure conducted by the board of revision. Alternatively, the right to collect the delinquent debt may be sold to a third party in a tax certificate sale, which may lead to the property's foreclosure by the third party.⁸

Under current law, the county auditor must publish a "delinquent tax list" identifying such lands in a newspaper of general circulation. The publication must appear in the newspaper twice within 60 days after the auditor certifies the list to the county treasurer. (Delinquent properties may be spared from appearing on the published list if the property owner pays the delinquency at least seven days before the list is first published.⁹) Publishing a list of delinquent properties, along with title searching and notification by mail or in person, is meant to fulfill the state's obligation under the Due Process Clause to provide notice to property owners and lienholders of an impending action that may result in the property being taken and sold.

In addition to the list, the auditor also must arrange for the publication of a "display" notice in the newspaper in advance of each of the list's publication dates. The notice states the potential consequences of not paying delinquencies (i.e., foreclosure), how an owner may settle the owner's delinquency, and the manner in which interest on the delinquency will accrue.

The cost of publishing the list and display notice must be paid from the county treasury. The county's cost may be recovered by apportioning the cost among local taxing units in proportion to each unit's share of the delinquent taxes, or by imposing a fee on each listed property, which itself may become a lien on the property.¹⁰

⁷ R.C. 5721.03(B).

⁸ R.C. 323.121, 323.25, 323.65 to 323.79, 5721.14, 5721.18, and 5721.30 to 5721.43, not in the act.

⁹ R.C. 5721.02, not in the act.

¹⁰ R.C. 5721.04, not in the act.

Medicaid program

Workforce support

The act appropriates \$350 million in American Rescue Plan Act (ARPA) funds to be used by the Office of Budget and Management (OBM) to make lump-sum payments to nursing facilities that are Medicaid providers, for workforce relief payments to be used for general relief and items not covered by Medicaid rates or Medicaid managed care organization contracts. OBM must distribute the funds as soon as practicable, but not later than April 1, 2023, as follows:

- 40% of the appropriated funds as payments to nursing facilities based on each facility's total number of Medicaid days in calendar year 2021.
- 60% as quality payments to nursing facilities, as specified below.¹¹

Quality payments

A nursing facility's quality score, for purposes of the quality payment, is calculated as follows:

1. Calculate the sum of the total number of points that the U.S. Centers for Medicare and Medicaid Services (CMS) assigned to the nursing facility under its quality rating system for the following metrics based on the four-quarter average for calendar year 2021 in the CMS Care Compare database:
 - a. The percentage of its long-stay residents (those residents who have resided in the facility for at least 100 days) at high risk for pressure ulcers who had pressure ulcers;
 - b. The percentage of its long-stay residents who had a urinary tract infection;
 - c. The percentage of its long-stay residents whose ability to move independently worsened;
 - d. The percentage of its long-stay residents who had a catheter inserted and left in their bladder.
2. If a facility was in the lowest percentile for any of those measures, reduce the facility's points to zero for that measure;
3. To the above sum, add 7½ points if the facility's occupancy rate during calendar year 2021 was 75% or more.

New nursing facilities receive a quality score that equals the median quality score for all nursing facilities for which a quality score was determined.

Nursing facilities may only use the funds for workforce expenses.¹²

¹¹ Section 280.28.

¹² Section 280.28.

Rebasing

The act repeals law that required nursing facility providers to spend 70% of any additional dollars received as a result of a rebasing on direct care costs. Under continuing law, a nursing facility's payment from the Department of Medicaid for Medicaid residents is calculated using a formula that includes four cost components (referred to as "cost centers"): ancillary and support costs, capital costs, direct care costs, and tax costs. At least every five years, the Department must redetermine the cost centers (referred to as a "rebasing").¹³

The act states the General Assembly's intent to include a rebasing of the direct care, ancillary and support, and tax cost centers in the next main operating budget. In the rebasing, the Department will use nursing facility cost reports from calendar year 2022.¹⁴

Reports

The act states the General Assembly's intent to require the Department of Medicaid and industry stakeholders to develop both of the following legislative proposals and submit them to the General Assembly:

1. Not later than October 1, 2023, a proposal to replace the current formula for calculating nursing facility's capital costs with a formula that utilizes a fair rental value methodology;
2. Not later than June 1, 2023, a proposal to provide a reimbursement incentive for nursing facility providers utilizing private rooms for their residents.¹⁵

Hospital provider relief payments

Enhanced FMAP

The act earmarks up to \$62 million in federal COVID-19 funds under the "Families First Coronavirus Response Act" (FFCRA) for hospital provider relief payments to critical access hospitals and rural hospitals, as determined by the Medicaid Director.¹⁶

The federal share of Medicaid spending is referred to as the Federal Medical Assistance Percentage (FMAP) and is based on a state's per capita income. Effective January 1, 2020, the FFCRA provided a temporary 6.2% increase to each qualifying state's FMAP. States must meet certain requirements to qualify for the enhanced FMAP.

ARPA funds

The act appropriates \$100 million in ARPA funds and permits the OBM Director to make provider relief payments to hospitals. Eligible hospitals are Medicaid providers that are general,

¹³ R.C. 5161.01, not in the act, and 5165.36.

¹⁴ Section 751.30.

¹⁵ Section 751.30.

¹⁶ Section 270.15.

acute-care hospitals in good standing with the Department of Medicaid and are categorized by that Department as critical access hospitals or rural hospitals.

A hospital must use the payments exclusively for direct care staff compensation, including staff retention bonus payments, overtime pay and shift differential payments, staff recruitment costs, and new hire incentive payments. The act prohibits the funds from being used for contract workers, staff from a staffing agency, administrators, executive staff, or owners and permits the Director to recover any funds used in violation of these provisions.¹⁷

Urban hospital relief payments

The act appropriates \$6.5 million GRF (\$2.34 million state share and \$4.16 million federal share) for the Department of Medicaid to make a one-time payment to certain hospitals in Stark County for provider relief. The payment amount is \$800 for each discharge of a patient during calendar year 2022 who is a Medicaid enrollee. No hospital may receive more than \$4 million in payment, and the total payments by the Department cannot exceed \$6.5 million. A hospital is eligible for the payment if it is located in a county with a population between 350,000 and 380,000 (only Stark County meets this criterion) and has been impacted by the COVID-19 pandemic.¹⁸

PACE program

The act requires the Department of Aging to expand the Medicaid component known as the Program of All-inclusive Care for the Elderly (PACE). PACE is a managed care model that provides participants with needed health care, medical care, and ancillary services in acute, sub-acute, institutional, and community settings. Currently, Ohio's only PACE site is in Cleveland.¹⁹

Expansion locations

By August 5, 2023 (120 days after the act's effective date), the Department must issue a request for proposals (RFP) from entities interested in becoming PACE organizations, including for service areas in the counties, or contiguous zip codes within the counties, or extending from the counties, of: Franklin, Hamilton, Montgomery, Lorain, Lucas, and Summit. Proposals must be submitted to the Department within 90 days of the RFP.²⁰

The act states that the expansion does not prevent the Department from expanding PACE outside of the act's process, including by issuing other requests for proposals.²¹

¹⁷ Sections 285.14 and 750.14.

¹⁸ Section 270.12.

¹⁹ [PACE](https://www.aging.ohio.gov), which may be accessed by conducting a search for "PACE" on the Ohio Department of Aging's website: [aging.ohio.gov](https://www.aging.ohio.gov).

²⁰ Section 751.10(B)(1).

²¹ Section 751.10(B)(2).

Entity eligibility

To be eligible for approval to become a PACE organization, an entity must meet all of the following:²²

- Provide a feasibility study of its proposed service area;
- Have a current, valid Medicaid provider agreement or be eligible to enter into a provider agreement;
- Meet all federal requirements applicable to PACE providers;
- Have experience providing health care services to frail older adults, and demonstrate that each member of the entity's staff complies with federal PACE regulations applicable to direct care staff;
- Have a facility suitable to be a PACE center, or plans to acquire, build, or expand a facility suitable to be a PACE center before beginning services;
- Any additional requirements established in rules.

Department and CMS approval; provision of services

The Department must review all proposals submitted and, within nine months after the RFP was issued, determine which entities it considers qualified to become PACE organizations for each of the service areas identified above. An entity the Department considers to qualify may apply to CMS to become a PACE organization. The Department must provide support to any such organization that applies to CMS by complying with federal requirements.²³

Each entity approved by CMS must begin providing services to PACE participants within two years, so long as adequate federal financial participation is available.²⁴

Rulemaking

The Director of Aging is authorized to adopt rules to implement the PACE expansion. Any rules must be adopted in accordance with the Administrative Procedure Act.²⁵

Appropriation

The act appropriates \$50 million in FY 2023 to fund the PACE expansion.²⁶

²² Section 751.10(C).

²³ Section 751.10(D) and (E).

²⁴ Section 751.10(F).

²⁵ Section 751.10(G).

²⁶ Sections 270.10 and 270.22.

Home First component

Regarding the Home First component of PACE, the act eliminates various references to documentation being “in writing.”²⁷

Workforce incentive payments for freestanding dialysis centers

The act requires the Medicaid Director to make a one-time payment to each licensed freestanding dialysis center that is in good standing with the Department of Health. The payment must be used exclusively for direct care staff compensation, including retention bonus payments, overtime pay and shift differential payments, staff recruitment costs, and incentive payments for new hires. The payment cannot be used to pay contract workers, temporary staff supplied by a staffing agency, or facility administrators, executive staff, or owners.²⁸

To determine each center’s payment, the Department of Medicaid must calculate the total value of claims paid to all freestanding dialysis centers eligible under the act, as compared to the total value of all claims paid to each eligible center, for services rendered during FY 2021. Based on those amounts, the Department must determine for each eligible center the percentage of services it provided. The Director must use that percentage in allocating funds appropriated under the act.²⁹

The act appropriates \$15 million of the enhanced federal medical assistance percentage enacted in the FFCRA to fund the payments.³⁰

The Medicaid Director may adopt rules the Director considers necessary related to the one-time payment. The rules must be adopted in accordance with the Administrative Procedure Act.³¹

Critical access pharmacy grants

The act requires the Department of Medicaid to award grants in FY 2023 to pharmacies within counties that have no more than one retail pharmacy participating in Medicaid. An eligible pharmacy may apply for grant funds through the program, which is to continue until the earlier of June 30, 2023, or the date that funds earmarked for the program are expended. The act appropriates up to \$100,000 in FY 2023 to the Department to fund the grants.³²

Ohio Adoption Grant Program

The act requires the Director of Job and Family Services (JFS) to establish and administer the Ohio Adoption Grant Program. The Director must adopt rules to administer the program.

²⁷ R.C. 173.501.

²⁸ Section 751.20(A) and (B).

²⁹ Section 751.20(C).

³⁰ Section 270.14.

³¹ Section 751.20(D).

³² Section 270.16.

Additionally, the Director must adopt rules in consultation with the Tax Commissioner to authorize JFS to withhold federal income tax from grant payments, and remit it to the Internal Revenue Service (IRS), if the withholding is authorized by federal law or approved by the IRS.³³ All the rules are exempt from Ohio's regulatory restrictions limitation.³⁴

The Director may require, as necessary to administer the program, the submission of any court or legal document necessary to prove a final adoption order, interlocutory order of adoption, or recognition of the adoption in Ohio, or any department, agency, or division of the state, including the Department of Health, to provide any document related to the adoption. Any such document provided to JFS remains a public record if it was a public record before being provided to JFS.³⁵

JFS is prohibited from charging an application fee for the program.³⁶

Grant amounts

The act requires a one-time payment under the program to an adoptive parent in the following amounts when all eligibility requirements (See "**General grant eligibility**" below) are satisfied for an adopted child:

- \$10,000;
- \$15,000, if the parent was a certified foster caregiver who cared for the child prior to adoption;
- \$20,000, if the child was diagnosed with special needs before the adoption (see "**Special needs grant eligibility**" below)³⁷.

To qualify, the adopted person must be younger than 18 when the person became subject to a final adoption order or an interlocutory order of adoption, or when the adoption is recognized in Ohio. "Adoption" includes any in-state, interstate, and international or foreign adoption.³⁸

A state income tax deduction is authorized for adoption grant payments.³⁹

General grant eligibility

To be eligible for payment, all of the following must be satisfied:

³³ R.C. 5101.191 and 5101.193(A).

³⁴ R.C. 121.95 to 121.954. For more information on the regulatory restrictions limitation, see the LSC [Final Analysis for S.B. 9 \(PDF\)](#), which is available on the General Assembly's website: legislature.ohio.gov.

³⁵ R.C. 5101.193(C) and 5101.194.

³⁶ R.C. 5101.193(B).

³⁷ R.C. 5101.191(C).

³⁸ R.C. 5101.19.

³⁹ R.C. 5747.01(A)(38).

1. The adoption is finalized on or after January 1, 2023;
2. The adoptive parent has not previously received a grant payment from the program for the adopted child for whom the parent is seeking payment;
3. The adoptive parent does not also currently claim an adoption tax credit under former law, repealed by the act, for the adopted child for whom the parent is seeking payment;
4. The adoptive parent applies for the grant within one year after the final adoption order, interlocutory order of adoption, or recognition of the adoption in Ohio for the adopted child for whom the grant is sought;
5. The adoption was not by a parent whose spouse is a parent of the child prior to the adoption.⁴⁰

Special needs grant eligibility

To be eligible for a \$20,000 payment, in addition to the eligibility requirements discussed immediately above, the adopted child must be diagnosed with one or more special needs prior to the final order of adoption, interlocutory order of adoption, or recognition of the adoption in Ohio, by a qualified professional (such as a physician, psychiatrist, or psychologist) who does not provide casework services (services by certain agencies to supervise and protect children) to the child. “Special needs” are defined as any of the following:

1. A developmental disability;
2. A physical or mental impairment that substantially limits one or more major life activities;
3. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems;
4. Any mental or psychological disorder;
5. A medical condition causing distress, pain, dysfunction, or social problems as diagnosed by a qualified professional that results in ongoing medical treatment.⁴¹

Appropriation

The act appropriates \$15 million from GRF in FY 2023 to JFS for the grants. If the JFS Director determines that there are insufficient funds in FY 2023, the Director may certify to the OBM Director the additional amount necessary to fund the program. The act appropriates this certified amount for the program.⁴²

⁴⁰ R.C. 5101.192(A).

⁴¹ R.C. 5101.191(C) and 5101.192(B).

⁴² Section 265.10.

Adoption petition fee

The act reduces the probate court fee for an adoption petition from \$50 to \$20. This is the fee charged and collected, if possible, by the probate judge for all services rendered in the proceedings.⁴³

Putative Father Registry Fund

The act eliminates the requirement that a portion of the adoption petition fee collected by probate courts be deposited in the Putative Father Registry Fund. Instead, it appropriates \$500,000 from GRF in FY 2023 to the fund. The law had required that \$30 of the \$50 adoption petition fee be deposited into the fund. The fund is used by JFS to fund its costs related to the Putative Father Registry. The Registry allows putative fathers (a man who may be the child's father who meets other eligibility criteria) to receive notice of an adoption petition being filed for a minor child claimed by the putative father and preserves the requirement of the putative father's consent to the adoption.

The act also updates an incorrect cross-reference regarding surplus funds in the Putative Father Registry Fund.⁴⁴

College grant program for adopted Ohio residents

The act requires the Chancellor of Higher Education to establish and administer a grant program for eligible college students who are adopted after 2022. Under the program, the Chancellor must award a one-time grant of \$2,500 to each student approved to participate.⁴⁵

Student eligibility

Students must apply in the form and manner set by the Chancellor. A student is eligible for the program if the student meets all of the following:

1. Is an Ohio resident;
2. Was adopted on or after January 1, 2023;
3. Was adopted not by a stepparent but through any of the following:
 - a. An adoption arranged by an attorney;
 - b. An adoption arranged by a public children services agency, private child placing agency, or private noncustodial agency;
 - c. Interstate adoption;
 - d. Foreign adoption.

⁴³ R.C. 2101.16(A)(3).

⁴⁴ R.C. 2101.16(F) and Section 265.10; R.C. 5151.3535, not in the act.

⁴⁵ R.C. 3333.128.

4. Is enrolled at a state university or college, community college, state community college, university branch, technical college, private nonprofit college or university, private for-profit career college, or proprietary school.⁴⁶

Grant awards

The Chancellor must pay grants to the institution in which a participating student is enrolled in the academic year in which the student's application is approved. The institution must apply the grant to the student's cost of attendance for that year. If any amount remains after the grant is applied to the student's cost of attendance for that year, the institution must apply the remainder to the student's cost of attendance for any other academic year in which the student is enrolled in the institution. The institution must return to the Chancellor any amount remaining after the participant graduates or disenrolls. The grants are exempt from state income tax.⁴⁷

If, for any academic year, the money available to support the program is inadequate to provide grants to all approved students, the Chancellor must determine a method to select which applications to approve.⁴⁸

Adoption tax credit repeal

The act repeals the state nonrefundable child adoption income tax credit. That credit reduced the income tax liability for a taxpayer who legally adopted a child by the greater of \$1,500 or the taxpayer's actual expenses to complete the adoption, up to \$10,000. If the credit amount exceeded the taxpayer's income tax liability for a given year, the remaining credit could be carried forward and used for up to five taxable years.

Under the act, the credit remains available to a taxpayer who completed the legal adoption of a minor child by December 31, 2022. Adoptions occurring after that date qualify for the act's Adoption Grant Program (see above).⁴⁹

Publicly funded child care

Step Up To Quality ratings

Under continuing law, a licensed child care program – defined to include a child day-care center, family day-care home, preschool program, or school child program – must be rated in the Step Up to Quality Program to be eligible to provide publicly funded child care. There are, however, several exceptions to the requirement, including, for example, a program that operates only during summer or school breaks.

⁴⁶ R.C. 3333.128(A) and (C).

⁴⁷ R.C. 3333.128(D) and 5747.01(A)(37).

⁴⁸ R.C. 3333.128(E).

⁴⁹ R.C. 5727.37, repealed, and 5747.98; Section 107.10.

Under the act, each of the following also is exempt from the Step Up to Quality ratings requirement:

- A program that is a type A family day-care home or licensed type B family day-care home;
- A program that provides publicly funded child care to less than 25% of the program's license capacity.⁵⁰

Provider reimbursements

With respect to the requirement that the JFS Director adopt rules governing the reimbursement of publicly funded child care providers, the act makes the following three changes. First, it removes references to publicly funded child care reimbursement ceilings and refers instead to reimbursement rates. Second, it eliminates the requirement that the Director establish enhanced reimbursement rates for providers maintaining quality ratings under the Step Up to Quality program. And third, it eliminates the requirement that the Director weigh any reductions in reimbursement more heavily against providers that do not participate in Step Up to Quality or do not maintain quality ratings.⁵¹

Encouraging family day-care home licensure

The act requires JFS to engage in activities to encourage the establishment and licensure of family day-care homes and to connect families and caretaker parents in need of child care with family day-care homes not meeting their license capacity.⁵² It also authorizes the JFS Director to contract with third-party entities to assist the Director in performing these activities.

The act further requires the Director – by May 30, 2023, and periodically thereafter – to submit to the General Assembly a report documenting any barriers that may prevent the establishment or licensure of family day-care homes.⁵³

School raffles

The act allows a school district, community school established, STEM school, or chartered nonpublic school to conduct a raffle to raise money for the school district or school. Under the act, the schools would no longer have to be eligible for tax-exempt status under subsection 501(c)(3) of the Internal Revenue Code to conduct a raffle not for profit.⁵⁴

⁵⁰ R.C. 5104.31.

⁵¹ R.C. 5104.30, 5104.32, and 5104.38.

⁵² R.C. 5104.37.

⁵³ R.C. 5104.37; R.C. 101.68, not in the act.

⁵⁴ R.C. 2915.092.

ACE Educational Savings Account

The act extends operation of the Afterschool Child Enrichment Educational Savings Account Program (ACE) for an additional year, through FY 2024.⁵⁵

It also increases the amount that a student's account may be credited under the program from \$500 to \$1,000 for both FY 2023 and FY 2024.⁵⁶ For students who already received an award in FY 2023, it requires the Department of Education to credit an additional \$500 to each account, but limits to \$1,000 the total that may be credited to an account for that fiscal year.

The act changes the eligibility requirements for an account as follows:

1. Increases the family income limit to qualify for an account from 300% of the federal poverty level to 400%, and uses the family's adjusted gross income to determine eligibility;
2. Qualifies a student whose resident district ranked in the highest 10% of school districts according to the chronic absenteeism rate in the most recent school year;
3. Qualifies a student whose resident district operates one or more school buildings designated as low performing under the Educational Choice Scholarship Program;
4. Qualifies a student whose resident district is the Cleveland Municipal School District.⁵⁷

The act permits a student's parent or guardian to certify income eligibility to the Department by submitting: (1) an affidavit affirming that the student's family income meets the income requirement, (2) proof of income eligibility under another state or federal program, or (3) other evidence determined appropriate by the Department.

Finally, unless funds are misused or the student graduates high school, the act prohibits the Department or a vendor operating the program from reclaiming any funds credited to a student's account.⁵⁸

Background

H.B. 110 of the 134th General Assembly (the FY 2022-FY 2023 main budget act) established the ACE Educational Savings Account Program to provide eligible students, at the request of their parents or guardians, with educational savings accounts to use for prescribed purposes. As enacted, the program is financed with federal coronavirus relief funds. Each account established for a student could be credited with \$500 for each of FY 2022 or FY 2023.

⁵⁵ R.C. 3310.70.

⁵⁶ R.C. 3310.70(D)(2).

⁵⁷ R.C. 3310.70(A).

⁵⁸ R.C. 3310.70(B)(1).

School funding adjustments

Disadvantaged pupil impact aid phase-in

For FY 2023, the act increases the phase-in percentage for disadvantaged pupil impact aid from 14% to 33.33%.

H.B. 110 of the 134th General Assembly established a mechanism by which most of a district's foundation funding payments would be phased in over a period of time to be determined by the General Assembly. That act specifically established a "general phase-in percentage" of 16.6% for FY 2022 and 33.33% for FY 2023. It also establishes the "phase-in percentage" for "disadvantaged pupil impact aid" at 0% for FY 2022 and 14% for FY 2023.⁵⁹

School district transportation payment

School district transportation payments are calculated using the greater of either the number of school bus riders or the number of miles driven for school bus service. The act revises how the number of miles driven are factored into the calculation by adding the following weights:

1. 1.5 to the number of miles driven for community school and STEM school students for the current fiscal year; and
2. 2.0 to the number of miles driven for nonpublic school students for the current fiscal year.

Similar weights are assigned under continuing law to community, STEM, and nonpublic school riders. The number of miles is determined by multiplying the state transportation cost per mile by the district total miles driven for school bus service.⁶⁰

School storm shelter requirement

A moratorium on requiring storm shelters in school buildings, established in September 2018, expired on November 30, 2022. The act now permanently prohibits the Board of Building Standards from requiring the installation of storm shelters in school buildings operated by public or private schools or undergoing or about to undergo construction, alteration, repair, or maintenance.⁶¹

Prelicensure nursing bachelor's degree programs

The act requires the Chancellor of Higher Education to establish a program under which a community, state community, or technical college may apply for a prelicensure nursing bachelor's degree. It further requires the Chancellor to approve a prelicensure nursing bachelor's degree program proposal submitted by such a college prior to September 30, 2022.

⁵⁹ Section 605.01, amending Section 265.220 of H.B. 110 of the 134th General Assembly.

⁶⁰ R.C. 3317.0212(E).

⁶¹ R.C. 3781.1010(A).

The Chancellor also must transmit that proposal and approval to appropriate accreditation bodies.⁶²

Election law – changes to H.B. 458

The act makes changes to provisions of H.B. 458 of the 134th General Assembly. H.B. 458, which modifies the Election Law, was enacted first, followed by H.B. 45. H.B. 45 states that its provisions supersede any conflicting provisions of H.B. 458.⁶³ For more information about H.B. 458 and the impact of H.B. 45's changes, please see [LSC's final analysis of H.B. 458 \(PDF\)](#).⁶⁴

Provisional ballot processing

First, H.B. 45 changes certain deadlines related to the counting of provisional ballots to give the boards of elections more time to process those ballots. H.B. 45 allows a board of elections to examine provisional ballots to determine their validity during the seven days after Election Day, instead of the four days after Election Day as permitted by H.B. 458. And, H.B. 45 prohibits the board from examining a provisional ballot that must be cured until the voter provides the required information or until the eighth day after Election Day. H.B. 458 set that date at the fifth day after Election Day.

Prior law allowed the board to examine provisional ballots during the ten days after Election Day, and prohibited the board from examining provisional ballots that must be cured until the voter provided the required information or until the 11th day after Election Day, whichever was earlier.

Absentee ballot drop boxes

H.B. 45 also requires that, if a board of elections has a drop box at its office for the return of absentee ballots, the drop box must be open to receive ballots at all times during the absent voting period. H.B. 458 authorizes a board of elections to provide a drop box, but allows the drop box to be open only during the board's hours of operation. Prior law did not mention drop boxes.

Vacation leave cash conversion

Beginning in December 2023, the act expands the annual benefit of converting accrued vacation leave to cash offered to full-time and part-time state employees who are exempt from collective bargaining. Whereas prior law authorized exempt employees to convert up to 40 hours of vacation leave to cash if they had accrued at least 200 hours of unused vacation leave, the act authorizes conversions as summarized in the table:

⁶² R.C. 3333.051.

⁶³ R.C. 3505.183 and 3509.05; Section 735.10.

⁶⁴ The H.B. 458 final analysis is also available on the General Assembly's website: legislature.ohio.gov.

Conversion of vacation leave to cash, exempt employees		
Accrued vacation leave	Option to convert to cash	
	Prior law	H.B. 45
At least 200 hours	Up to 40 hours	Up to 80 hours
At least 100 hours, but less than 200 hours	0 hours	Up to 40 hours

Consistent with the prior benefit, exempt employees of the Supreme Court, the General Assembly, the Legislative Service Commission, the Secretary of State, the Auditor of State, the Treasurer of State, and the Attorney General are ineligible unless the employer decides that its employees should be eligible and notifies the DAS Director in writing before October 1, 2023. After the employer notifies the Director, the employees remain eligible until the employer notifies the Director in writing on or before October 1 that the employees are ineligible. In that case, those employees remain ineligible until the employer notifies the DAS Director in writing on or before October 1 that they are eligible.

Under continuing law, vacation leave converted to cash is paid in the first paycheck of December at the employee's base rate of pay for every hour of leave the employee converts. The cash paid from this conversion is not subject to contributions to any retirement system.⁶⁵ Accrued unused vacation leave converted to cash is paid from the Accrued Leave Liability Fund.⁶⁶

Reimbursements for peace officer and trooper training

H.B. 110 of the 134th General Assembly required the Attorney General (AG), to create a pilot program for state funding in calendar year 2022 of the training of peace officers and troopers that is required by R.C. 109.803. The requirements specify that, with limited exceptions, every appointing authority must require its appointed peace officers and troopers to complete up to 24 hours of continuing professional training each calendar year, as directed by the Ohio Peace Officer Training Commission (OPOTC). Under the pilot program, not later than December 2, 2021, each law enforcement agency with peace officers or troopers who are subject to the R.C. 109.803 training requirement was required to certify to the AG the total of all salaries to be paid in calendar year 2022 to the agency's officers or troopers who would receive the training that year and their hourly rates of pay.⁶⁷

⁶⁵ R.C. 124.134.

⁶⁶ R.C. 125.211, not in the act.

⁶⁷ Section 605.01, amending Section 701.70 of H.B. 110 of the 134th General Assembly.

Extension and revisions

The act extends the pilot program's termination from December 31, 2022, until June 30, 2023, and does the following:

1. It specifies that if a law enforcement agency that received money under the original program does not use all of the money received for the salaries of its peace officers and troopers receiving training, the agency must retain the money not used, and use it only for paying future continuing professional training programs for its peace officers and troopers. Under prior law, the agency had to return all of the unused money to the AG.
2. It modifies the mechanism for making payments during the period of the extension (hereafter, the modified mechanism is referred to as "the new mechanism"). Under the new mechanism:
 - a. From money appropriated to the AG for payments under the new mechanism, the AG must pay reimbursements in accordance with the new mechanism for continuing professional training programs for peace officers and troopers as provided in R.C. 109.803. The AG must establish rules, under R.C. 111.15, specifying application procedures, standards, and guidelines, and prescribing an application form, for reimbursement under the new mechanism. The rules must include the application deadline and the documentation required, procedures for making reimbursements, standards for determining the reimbursement amounts, and any other requirements necessary for the proper administration of reimbursements under the new mechanism.
 - b. Each law enforcement agency may apply to the AG for reimbursement under the new mechanism for the costs of continuing professional training programs successfully completed by its peace officers or troopers, to be made in accordance with the AG's rules.
 - c. The AG must review each application to determine if the applicant is entitled to reimbursement. A law enforcement agency that complies with R.C. 109.761(B) and applies as described above is entitled to reimbursement for each of its peace officers or troopers who timely complies with the continuing professional training requirement by completing the minimum number of hours of training directed by the OPOTC and with the other requirements described in law.
 - d. If a law enforcement agency is entitled to reimbursement, OPOTC must approve reimbursing the agency. The reimbursement amount for each authorized training program will be determined by the AG's rules.
 - e. Each law enforcement agency that receives reimbursement funds must keep those funds separate from its other funds and use them only for the cost of continuing professional training programs. If a law enforcement agency does not use all of the funds received, it must retain the funds not used and use them only for future continuing professional training programs for its peace officers and troopers.

- f. A law enforcement agency that receives funds for reimbursement is responsible for paying the cost of training of its peace officers or troopers required under R.C. 109.803 that exceeds the amount of the payment received under the new mechanism.

Appropriation

The act appropriates an additional \$5 million to the AG in FY 2023 to support reimbursements and administrative costs related to the extended pilot program. It permits the original appropriation for FY 2023, limited to the calendar year 2022 pilot program to be used during the extension period (from January 1, 2023, to June 30, 2023).⁶⁸

Low income housing tax credit properties

Federal law authorizes a low income housing tax credit (LIHTC). The LIHTC is a federal income tax credit that offsets a portion of a developer's construction costs in exchange for reserving a certain number of rent-restricted units for lower-income households in a new or rehabilitated facility.⁶⁹ The act prohibits LIHTC property from qualifying for the state historic rehabilitation tax credit and specifies how such property may be valued for property tax purposes.

Historic rehabilitation tax credit eligibility

Continuing law authorizes a historic rehabilitation tax credit (HRTC) equal to a percentage, generally 25%, of the qualified expenditures incurred by the owner or, in some cases, lessee of a building of historical significance to rehabilitate the building in accordance with certain preservation criteria. Credits are awarded through a competitive application process administered by the Director of Development (DEV) in consultation with the State Historic Preservation Officer. Credit recipients are issued a rehabilitation tax credit certificate, which may be used to claim a credit against the income tax, financial institutions tax, or insurance premiums taxes.

The act disqualifies from the HRTC historic buildings that are part of projects that have been allocated a federal LIHTC. It does so by requiring the DEV Director to make a threshold determination, when reviewing HRTC applications, that the historic building covered by the application is not, and will not upon completion of the rehabilitation project be, part of a LIHTC project. The act also requires the Director to rescind the approval of any application for an HRTC if the building covered by the application is part of a project awarded a LIHTC at any time before the building's rehabilitation is completed. These restrictions apply to HRTC applications filed after the restrictions' effective date.⁷⁰

⁶⁸ Section 205.10.

⁶⁹ 26 U.S.C. 42; Congressional Research Service, [An Introduction to the Low-Income Housing Tax Credit \(PDF\)](#), which may be accessed by conducting a keyword search for "An Introduction to the Low-Income Housing Tax Credit" on the Congressional Research Service's website: [crsreports.congress.gov](https://www.crsreports.congress.gov).

⁷⁰ R.C. 149.311(C)(4) and (D)(9); Section 701.30.

Tax valuation of LIHTC property

The act, beginning for tax year 2023, explicitly authorizes county auditors to appraise LIHTC properties for tax purposes by employing one or more of three existing methods available under current law and practice to appraise real property – the income, cost, or comparable sales method.⁷¹ Currently, all three methods are available to use when valuing real property, including LIHTC property. Each method is described in detail in rules adopted by the Tax Commissioner, but below is a brief summary of each appraisal method:

- Income method: valuation based on the property’s anticipated net income;
- Cost method: valuation based on the replacement or reproduction cost of improvements, with deductions for depreciation, added to the value of the land;
- Comparable sales method: valuation based on market sales of similar, comparable properties.⁷²

All three methods are employed to value real property at its true, or fair market value, which is the uniform standard that all real property, except certain agricultural property, must be valued at, as required by the Ohio Constitution.⁷³ In the context of federally subsidized housing, such as LIHTC property, courts have generally held that using the income approach is superior to the other two approaches when determining such property’s fair market value. These cases generally result in subject property’s fair market value being determined on the basis of its market rent, rather than any subsidized contract rent.⁷⁴ Courts and continuing law additionally require any valuation to take into account the effect of limitations on the property’s value due to involuntary, governmental actions, such as the rent restrictions LIHTC imposes.⁷⁵

The act’s explicit authorization appears to empower the county auditor to select any method to value LIHTC property, but it is unclear how or whether this would ultimately change appraisal practices for such property. Property owners, under continuing law, are able to challenge county auditors’ valuations on the basis that the valuation does not properly reflect the property’s fair market value, so a county auditor would still be required to value such property according to that standard, no matter which appraisal method or methods the auditor employs.⁷⁶ Nor does the act change the requirement that the valuation must account for the effect of governmental actions, so presumably the auditor would still have to account for LIHTC rent restrictions regardless of the appraisal method the auditor employs to value the property.

⁷¹ R.C. 5713.03; Section 757.20.

⁷² Ohio Administrative Code 5703-25-05 and 5703-25-07.

⁷³ Ohio Const., art. XII, sec. 2.

⁷⁴ See, e.g., *Alliance Towers v. Stark Cty. Bd. of Revision*, 37 Ohio St.3d 16, 23 (1988).

⁷⁵ R.C. 5713.03; *Woda Ivy Glen L.P. v. Fayette Cty. Bd. of Revision*, 121 Ohio St.3d 175, 2009-Ohio-762, ¶¶ 17, 23-24.

⁷⁶ R.C. 5715.19, not in the act.

Special improvement districts

The act modifies the law that applies to an existing qualified nonprofit corporation that forms a special improvement district (SID) by limiting the circumstances under which the Ethics Law, the Open Meetings Law, and the Public Records Law apply to the corporation and its members, officers, and directors.⁷⁷

Background

Continuing law allows a nonprofit corporation to form a SID in a local geographic area to develop and implement public improvements and services in the district. To fund the improvements and services, the SID may collect special assessments from the district's property owners, who are considered members of the SID.

The law governing SIDs includes special provisions concerning an existing qualified nonprofit corporation that forms a SID. An "existing qualified nonprofit corporation" is one to which all of the following apply:⁷⁸

- It existed before the SID was created;
- It is composed of members located within or adjacent to the district;
- It has established a police department;
- It is organized for purposes that include the following:
 - Acquiring, holding, and maintaining real property exclusively for charitable, scientific, literary, or educational purposes and transferring that property to its members for those purposes;
 - Planning for and assisting in its members' development;
 - Providing for the relief of the poor and distressed or underprivileged in the area and adjacent areas;
 - Combating community deterioration and lessening the burdens of government;
 - Providing or assisting others in providing housing for low- or moderate-income persons;
 - Assisting its members by providing public safety and security services, parking facilities, transit services, landscaping, and parks.

New provisions for existing qualified nonprofit corporations

Although a SID generally is not considered a political subdivision, a SID and its leaders are subject to the Ethics Law, the Open Meetings Law, and the Public Records Law. The act limits the circumstances under which those laws apply to an existing qualified nonprofit

⁷⁷ R.C. 1710.02 and conforming changes in R.C. 102.01, 121.22, and 149.43.

⁷⁸ See also R.C. 1710.01(J)(1), 1710.02, 1710.03 and 1710.06, not in the act.

corporation that forms a SID by specifying that the corporation is considered a SID only when it acts with respect to a purpose for which the SID is created, and not when it acts with respect to any other purpose for which it is organized.

For example, an existing qualified nonprofit corporation might originally form in order to operate a community center. If the corporation then creates a SID in its neighborhood for the purpose of improving the local landscape, the corporation would be subject to legal requirements when planning and executing those SID activities and collecting special assessments to fund them, but not when conducting the business of operating the community center.

Ethics Law

Under continuing law, membership on a SID's board of directors is not considered holding a public office, and district officers and members are not required to file financial disclosure statements with the Ohio Ethics Commission. However, each member of the board, each member's designee or proxy, and each officer or employee of a SID is a public official or employee under the Ethics Law, which prohibits public officials and employees from engaging in activities such as bribery and having an unlawful interest in a public contract.

The act adds that in the case of an existing qualified nonprofit corporation that forms a SID, the corporation's officers, members, and directors and their designees or proxies are considered public officials and employees under that law by virtue of their positions with the corporation only when they act with respect to a purpose for which the SID is created. Using the example above, if the corporation's directors awarded a landscaping contract for the SID to a company in which they had a financial interest, they would be in violation of the Ethics Law, but if they awarded a vendor contract for the community center to a company in which they had a financial interest, without using SID money, they would not be subject to the Ethics Law.

Open Meetings Law

Similarly, under continuing law, meetings of a SID are considered public meetings for purposes of the Open Meetings Law. The act specifies that in the case of an existing qualified nonprofit corporation that forms a SID, a meeting is not subject to the public access, notice, and other requirements of the Open Meetings Law if the SID's officers, members, or directors do not discuss any public business pertaining to a purpose for which the SID is created.

Following the above example, if the corporation's leaders met to discuss the SID's special assessments and landscaping activities, the meeting would be subject to the Open Meetings Law. But, if the leaders met only to discuss community center business, the meeting would not be subject to that law.

Public Records Law

Finally, continuing law specifies that a SID's records are subject to disclosure as public records, except that records of an organization that contracts with a SID are not public records solely by reason of the contract. The act exempts records of an existing qualified nonprofit corporation that creates a SID that do not pertain to a purpose for which the SID is created. In the above example, records of the SID's special assessments and landscaping activities would be considered public records, but records pertaining only to the community center would not.

Timely recording of satisfaction of mortgages

The act prevents certain individuals from collecting damages of \$250 through a class-action lawsuit for failure on the part of a lender to timely record the satisfaction of a mortgage. Continuing law, unchanged by the act, requires a lender to record a satisfaction of a mortgage within 90 days of satisfaction. If a lender fails to meet this deadline, the borrower or current property owner is authorized to collect damages of \$250 from the lender.

The act specifies that, for violations of this requirement that occurred during calendar year 2020, a property owner or borrower cannot collect such damages via a class action lawsuit. It also specifies that this provision is not to be construed as precluding or affecting any other legal remedies or damages that might be available to the borrower or owner. And so such a person would still be able to collect the \$250 in damages through a lawsuit that was not a class action lawsuit.⁷⁹

Public insurance entities and public records requests

The act exempts, with certain exceptions, records created, held by, or pertaining to the following entities from public records requests:

- The Ohio Insurance Guaranty Association;
- The Life and Health Guaranty Association;
- The Ohio Automobile Insurance Plan;
- The Ohio Fair Plan Underwriting Association.

Under the act, these records are confidential and not subject to disclosure or release.

All of these entities are not-for-profit insurer associations made up of private insurers operating in Ohio. The two guaranty associations step in when private insurers are unstable, insolvent, or otherwise unable to pay claims. The Ohio Fair Plan Underwriting Association and the Ohio Automobile Insurance plan are “insurers of last resort”; i.e., they provide policies for real estate and automobiles that are uninsurable on the open market. In order to accomplish the purposes of these associations, private insurers are required to pay assessments and provide certain information related to their operations to their respective association.

The act’s exemption does not apply to the plan of operation of each association or any other information that the associations are required to file with the Superintendent of Insurance.⁸⁰

⁷⁹ R.C. 5301.36.

⁸⁰ R.C. 3929.43(J), 3955.061, 3956.061, and 4509.70(G).

Professional sports logo license plate

Background

Professional sports team specialty license plates (e.g., Cleveland Browns, Columbus Blue Jackets, Cincinnati Reds, etc.) are created through a contract between the professional sports team with either a sports commission or a community charity. If done through a contract with a sports commission, the team must inform the largest convention and visitors' bureau in the team's county of the desire to have a specialty license plate. That bureau then creates the sports commission, which must be a nonprofit corporation organized to attract, promote, or sponsor sports and athletic events within a municipal corporation, county, or township. Money collected from the specialty license plates goes towards those sports and athletic events, which may be amateur regional, national, or international.

Sports commission membership

The act modifies the membership of a sports commission to consist of at least 15 members, instead of 21. Additionally, it removes the requirements specifying what person or entity must appoint each of the members. Since the largest convention and visitors' bureau in the team's county creates the sports commission, presumably, the bureau will appoint any members to the commission or determine another person or entity with appointing authority.⁸¹

Prior to the act, the sports commission had to consist of 21 members, appointed as follows:

- Seven appointed by the mayor of the largest city served by the commission;
- Seven appointed by the board of county commissions; and
- Seven appointed by the largest convention and visitors' bureau in the area served by the commission.

Veterans Memorial and Museum

The act exempts from Open Meetings Law all meetings of the board of directors of the nonprofit corporation that operates the Veterans Memorial and Museum in Columbus. It also establishes that records of the board of directors and of the nonprofit corporation are not public records under Public Records Law.⁸²

Geneva Lodge and Convention Center

The act eliminates a requirement that the Department of Natural Resources (DNR) purchase the Geneva Lodge and Convention Center from the Ashtabula County Commissioners for \$13,950,000. That requirement was enacted as part of H.B. 110 of the 134th General Assembly (the FY 2022-FY 2023 main operating budget). H.B. 110 required DNR to assume

⁸¹ R.C. 4503.591.

⁸² R.C. 307.6910.

ownership and operation of the Geneva Lodge and Convention Center by December 31, 2021. However, that acquisition never occurred.

Instead of the purchasing requirement, the act creates the County Supplemental Grant Fund, appropriates \$13,950,000 to the fund, and requires that amount to be granted to the Ashtabula County Commissioners. The Commissioners must use the earmarked funds to retire debt incurred by the county that is associated with the Geneva Lodge and Convention Center. Any amounts remaining after the debt is retired must be used to pay costs of deferred maintenance on the Geneva Lodge and Convention Center.⁸³

Art economic relief grants

The act appropriates \$50 million in ARPA funds to DEV to provide grants in FY 2023 for economic relief to certain performing arts organizations and operators of cultural arts museums. An organization or operator may apply for a grant no later than May 7, 2023, and the DEV Director must approve or deny an application within 30 days of receiving it. The Director must prioritize the applications of organizations and museums that did not receive funding from the Ohio Arts Council under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020.⁸⁴

Eligible applicants

The performing arts organization or the operator of a cultural arts museum must satisfy all of the following criteria:

- It is operated or partially funded by a federal income tax-exempt charitable organization, a political subdivision, or an Ohio public institution of higher education;
- If it is operated or partially funded by a political subdivision or an Ohio public university, it receives a majority of its funding from other sources;
- If it is operated by a university, its managing board is independent of the university's board of trustees and it does not present work exclusively by or for students;
- It manages its own budget;
- It has an annual, independent audit.⁸⁵

Permissible grant uses

Acceptable uses of the grant are:

- Employee compensation expenses, excluding bonuses;
- Employee recruitment, rehiring, and training expenses;

⁸³ Sections 280.22, 280.24, 280.26, and 343.30.

⁸⁴ Sections 255.10 and 701.10(B) and (C).

⁸⁵ Section 701.10(A).

- Rent or mortgage payments;
- Operating costs;
- Capital expenditures.⁸⁶

Transfer of fund earnings

The act requires the OBM Director to transfer the investment earnings credited to the State Fiscal Recovery Fund and Local Fiscal Recovery Fund to the Controlling Board's Emergency Purposes/Contingencies Fund. This requirement applies to earnings credited between March 31, 2021, and December 31, 2026, notwithstanding any other law to the contrary.⁸⁷

Budget Stabilization Fund balance

The act requires the OBM Director to calculate the amount needed, and then transfer funds from the GRF to the Budget Stabilization Fund (BSF), to increase the cash balance of the BSF to the statutory target of 8.5% of FY 2022 GRF revenue levels.⁸⁸

Other grant and assistance programs

In addition to grants addressed previously in the analysis, the act includes additional funds for grants, provided to agencies in FY 2023, for the purposes specified below:⁸⁹

Additional H.B. 45 grant and assistance programs	
Agency	Purpose
Agriculture	\$4.5 million for grants to eligible county and independent agricultural societies
Budget and Management	\$40 million for assisted living workforce support
Budget and Management	\$30 million for hospice care workforce support
Budget and Management	\$20 million for grants to ground ambulance transport providers
Budget and Management	\$10 million for home and community-based services workforce support

⁸⁶ Section 701.10(D).

⁸⁷ Section 510.01.

⁸⁸ Section 515.01; R.C. 131.44, not in the act.

⁸⁹ Sections 210.10, 225.12, 225.14, 225.16, 225.18, 240.10, 260.10, 280.10, and 280.12.

Additional H.B. 45 grant and assistance programs	
Agency	Purpose
Budget and Management	\$8 million for grants to adult day care providers
Development	\$250 million for grants under the Water and Sewer Quality Program
Development	\$161 million for rent and utilities assistance, in compliance with ARPA guidelines ⁹⁰
Development	\$150 million for lead prevention and mitigation
Development	\$75 million to city or county governments for water and sewer upgrades at locations used by a megaproject
Development	\$25 million for three types of grants for Habitat for Humanity programs
Facilities Construction	\$112 million for grants to public and chartered nonpublic schools related to school security
Job and Family Services	\$498.5 million from the ARPA Child Care supplement for publicly funded child care
Public Safety	\$1 million for grants to child advocacy centers

Other appropriations

The bill makes numerous other appropriations to the following agencies:⁹¹

- Attorney General;
- Department of Agriculture;
- Department of Developmental Disabilities;
- Department of Development;
- Department of Natural Resources;
- Department of Transportation;
- Department of Public Safety;
- Department of Education;

⁹⁰ Section 225.12.

⁹¹ Sections 201.10 through 295.10.

- Broadcast Educational Media Commission;
- Ohio Expositions Commission;
- Facilities Construction Commission;
- Department of Job and Family Services;
- Department of Medicaid;
- Department of Mental Health and Addiction Services;
- Office of Budget and Management;
- Secretary of State.

Please consult the Legislative Service Commission's [Fiscal Note for H.B. 45 \(PDF\)](#) for more details on these appropriations, available on the General Assembly's website: legislature.ohio.gov.

HISTORY

Action	Date
Introduced	2-3-21
Reported, H. Ways and Means	11-17-21
Reported, S. Finance	12-14-22
Passed Senate (30-0)	12-14-22
House concurred in Senate amendments (71-10)	12-14-22