



# Ohio Legislative Service Commission

Various LSC staff

## Fiscal Note & Local Impact Statement

**Bill:** H.B. 340 of the 131st G.A.

**Date:** December 9, 2015

**Status:** As Enacted

**Sponsor:** Rep. Amstutz

**Local Impact Statement Procedure Required:** No

**Contents:** Makes various changes to the operations of state programs

The bill makes various changes affecting the operation of state programs, including changes to various appropriation line items that are summarized immediately below. Following this section is a brief description and summary analysis of the bill's provisions, including the impact of the appropriation changes, organized by state agency. If a provision affects more than one agency, it is listed only under the agency primarily affected.

### Appropriation Changes

The table below summarizes the bill's changes to GRF and non-GRF appropriations. Overall, the bill increases GRF appropriations by \$545,000 in FY 2016 and by \$200,000 in FY 2017 and non-GRF appropriations by \$13.4 million in FY 2016 and by \$44.0 million in FY 2017.

FY 2016-FY 2017 Appropriation Line Item (ALI) Adjustments Summary					
Agency	Fund	ALI	ALI Name	\$ Change FY 2016	\$ Change FY 2017
DDD	GRF	322451	Family Support Services	-\$50,000	-\$50,000
EDU	GRF	200597	Education Program Support	\$500,000	\$500,000
EDU	5RE0	200697	School District TPP Supplement	\$5,900,000	\$44,000,000
DNR	GRF	725510	Indian Lake Watershed Project	\$125,000	\$0
DHE	GRF	235533	Higher Education Program Support	\$220,000	\$0
DHE	GRF	235591	Co-op Internship Program	-\$250,000	-\$250,000
DRC	GRF	501321	Institutional Operations	\$4,880,852	\$0
DRC	GRF	501406	Adult Correctional Facilities Lease Rental Bond Payments	-\$6,340,000	\$0
DRC	GRF	505321	Institution Medical Services	\$1,459,148	\$0
TOS	5NH0	090610	OhioMeansJobs Workforce Development Revolving Loan Program	\$7,500,000	\$0
<b>GRF Total</b>				<b>\$545,000</b>	<b>\$200,000</b>
<b>Non-GRF Total</b>				<b>\$13,400,000</b>	<b>\$44,000,000</b>
<b>All Funds Total</b>				<b>\$13,945,000</b>	<b>\$44,200,000</b>

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## Detailed Fiscal Analysis

### Department of Education

#### TPP supplement appropriation

The bill increases DPF Fund 5RE0 line item 200697, School District TPP Supplement, by \$5.9 million in FY 2016 and establishes an appropriation of \$44.0 million in FY 2017. This line item is used to make payments to traditional school districts guaranteeing that the combined amount of foundation funding and fixed-rate operating direct reimbursements for tangible personal property (TPP) tax losses for a district does not fall below 100% of the FY 2015 level in FY 2016 and 96% of the FY 2015 level in FY 2017.

The bill's changes reflect an increase in the cost of the TPP supplement in FY 2016 due to the Governor's veto of school funding provisions in H.B. 64 of the 131st General Assembly, the main operating budget act for the FY 2016-FY 2017 biennium, and provide the funding necessary to make payments to school districts for the TPP supplement formula for FY 2017 enacted in S.B. 208 of the 131st General Assembly. The bill also appropriates additional amounts for 200697 if they are necessary to fully fund TPP supplement payments and allows the Director of Budget and Management to transfer the necessary amount of cash from the GRF to Fund 5RE0 if the cash balance in Fund 5RE0 is insufficient to make the payments.

#### Third-grade reading bonus

The bill clarifies that the "third-grade reading proficiency percentage" used to calculate the third-grade reading bonus paid to qualifying school districts and community schools under the school funding formula is based on the number of students whose scores on the third-grade English language arts assessment are used for a district's or school's report card. The current law language could be interpreted to include some students who are required to be tested but whose scores are not used for the report card. This includes students whose parents opted them out of state tests and students who did not attend the school or district for a full academic year. Basing the payment on the smaller number of students will increase bonus payment amounts for some schools and districts.

#### Supporting Partnerships to Assure Ready Kids (SPARK)

The bill increases GRF line item 200597, Education Program Support, by \$500,000 in each fiscal year and earmarks those amounts for the Supporting Partnerships to Assure Ready Kids (SPARK) program in Ohio.

#### Career-technical education compact G.O. bonds and anticipation notes

Current law enacted in H.B. 64 authorizes a qualifying partnership formed by a career-technical education compact, subject to voter approval, to levy a property tax for the purpose of funding classroom facilities to be used for a joint science, technology,

engineering, and math (STEM) education program (this provision principally applies to the Tri Star Career Compact, which operates in nine school districts in Auglaize and Mercer counties). The bill authorizes such a qualifying partnership to also issue general obligation bonds for the same purpose backed by a debt service levy, providing another option for a qualifying partnership to raise revenue for a classroom facilities project. As such, any fiscal effects are permissive and will depend on the terms of the bonds issued.

In addition, the bill increases the maximum principal amount of tax anticipation notes a qualifying partnership may issue to 75% of the estimated proceeds of the property tax levy to be collected in the ensuing ten-year period, up from the current law maximum of 50% of the estimated proceeds to be collected in the ensuing five-year period. As a result, a qualifying partnership opting to issue such notes may receive a greater amount of funding up front to cover the immediate expenses of completing a classroom facilities project, but may also experience greater borrowing costs.

### **Community school membership in STRS and SERS**

H.B. 64 established an exclusion from membership in the State Teachers Retirement System (STRS) or School Employees Retirement System (SERS) for certain individuals whose earnings were subject to the Social Security payroll tax. The bill specifies that this H.B. 64 exclusion applies only to individuals who are employed by a privately operated community school and on whose behalf the operator was withholding and paying Social Security taxes on or before February 1, 2016. This provision would decrease community school operators' costs related to retirement contributions for such employees. Currently, employers who are members of STRS or SERS are required to contribute 14% of an employee's payroll into STRS or SERS, instead of the Social Security contribution of 6.2% of salary.

### **Cleveland Scholarship Program**

The bill corrects an engrossing error made in H.B. 64 regarding the qualifications for private secondary schools for the Cleveland Scholarship Program, so that a school located in a municipal corporation with a population of at least 15,000 (rather than 50,000 under current law) may participate in the program. This provision may increase the number of schools that can register to participate in the program. Spending on the program, however, is limited to appropriations.

### **Bright New Leaders for Ohio Schools Program**

This provision requires the State Board of Education to issue an administrator license (rather than an alternative administrator license as under current law) to an individual who successfully completes the Bright New Leaders for Ohio Schools Program and satisfies the rules adopted by the State Board. This provision has no fiscal effect.

## **Treasurer's Office**

### **OhioMeansJobs Workforce Development Revolving Loan Program**

The bill amends H.B. 64 to remove language requiring the reappropriation in FY 2016 of the unexpended unencumbered balance remaining at the end of FY 2015 in appropriation item 235684, OhioMeansJobs Workforce Development Revolving Loan Program, in the budget of the Department of Higher Education. The balance was to be reappropriated to a different line item, 090610, OhioMeansJobs Workforce Development Revolving Loan Program in the Treasurer of State's budget. Both line items are associated with Dedicated Purpose Fund 5NH0. The bill pairs removal of this language with a \$7.5 million increase in the FY 2016 appropriation to line item 090610.

### **Ohio Pooled Collateral Program rules**

The bill modifies the pledging of security requirements related to the Ohio Pooled Collateral Program. Under the program, a public depository is required to pledge a pool of securities to the Treasurer of State as collateral for uninsured public deposits; the securities are pledged to the Treasurer of State rather than to each individual public depositor. Under existing law, the program specifies that the total market value of pledged securities must equal 102% of the total amount of all uninsured public deposits. The bill authorizes the Treasurer of State to determine, by rule, a set of criteria to determine the total market value of securities that must be pledged to secure the repayment of all uninsured public deposits at a particular public depository (in lieu of the 102% threshold specified under existing law). The bill also specifies that a public depositor is responsible for periodically confirming the accuracy of its account balances with the Treasurer of State. Otherwise, the Treasurer of State will be the sole public depositor responsible for monitoring and ensuring the sufficiency of securities pledged. The bill would have no direct fiscal impact on the state or local governments.

## **Department of Taxation**

### **CAT Deduction for taxes paid on railroad fuel**

The bill authorizes a reduction in the commercial activity tax (CAT) payable by a railway company for certain purchases of dyed diesel fuel. The bill allows, for purposes of the CAT, a deduction from a railway company's gross receipts for railway fuel purchases on which the petroleum activity tax (PAT) was paid. The reduction is meant to compensate for the difference between the PAT payable on account of such fuel and the CAT that would have been owed on account of the fuel if the CAT applied to receipts from selling the fuel. The bill specifies that the reduction applies only if a railway purchases the dyed diesel fuel directly from a fuel supplier subject to the PAT.

This provision applies to tax periods beginning on or after the bill's effective date, and is likely to reduce CAT receipts by an uncertain amount, depending on direct purchases of taxed dyed diesel fuel by railways. Shares of CAT receipts are deposited into three funds: the GRF (75%), the School District Tangible Property Tax Replacement

Fund (Fund 7047, 20%), and the Local Government Tangible Property Tax Replacement Fund (Fund 7081, 5%).

### **Property tax exemption for fraternal organizations**

The bill corrects an error in H.B. 64 related to the property tax exemption for certain property owned by an eligible fraternal organization. The bill reinserts a word that was inadvertently stricken in H.B. 64.

### **Financial institutions tax credit for payment of regulatory assessments**

The bill repeals the financial institutions tax (FIT) credit for the payment of the regulatory assessments and fees paid to the Department of Commerce's Division of Financial Institutions. Based on data from the most recent Tax Expenditure Report, published by the Department of Taxation, the repeal would potentially increase GRF tax revenue by approximately \$6.5 million, starting in FY 2016. Currently, a portion of total GRF tax revenue is distributed to the Local Government Fund (LGF) and the Public Library Fund (PLF). Any revenue increase to the GRF would also increase the amount of tax revenue that would be allocated to the LGF and PLF. Moneys in the LGF are distributed to counties, municipalities, and townships while moneys in the PLF are distributed to public libraries.

## **Department of Commerce**

### **Financial institution regulatory assessments**

The bill eliminates the regulatory assessments and fees imposed on banks, trust companies, savings and loan associations, and savings banks by the Department of Commerce's Division of Financial Institutions. These assessments support the Division's regulatory and oversight functions, and are deposited into the Banks Fund (Fund 5440) and the Savings Institutions Fund (Fund 5450), as appropriate. Additionally, the bill requires the Department to refund these assessments that have been collected after January 1, 2015 from Fund 5440 or Fund 5450. The bill then allows the Director of Commerce to transfer up to \$9.3 million in FY 2016 and \$10.3 million in FY 2017 from the Unclaimed Funds Trust Fund (Fund 5430) to offset the loss in revenue from these regulatory assessments and fees.

## **Department of Rehabilitation and Correction**

### **FY 2016 GRF appropriation changes**

The bill changes the amount appropriated for certain GRF appropriation items in FY 2016, but does not change the total amount of GRF appropriated for the Department's use in FY 2016, as follows:

- Increases appropriation item 501321, Institutional Operations, by \$4,880,852, from \$950,215,085 to \$955,095,937;
- Decreases appropriation item 501406, Adult Correctional Facilities Lease Rental Bond Payments, by \$6,340,000, from \$82,595,700 to \$76,255,700;

- Increases appropriation item 505321, Institution Medical Services, by \$1,459,148, from \$240,000,000 to \$241,459,148.

The bill is essentially moving a portion of the appropriation that will not be needed to make the Department of Rehabilitation and Correction's debt service payments in FY 2016 in order to supplement the amount of GRF appropriated for DRC's institutional operations in FY 2016, including medical services.

## **Department of Higher Education**

### **Fingerprinting of 4-H volunteers**

OSU Extension is an educational entity within OSU's College of Food, Agricultural, and Environmental Sciences that interprets and disseminates knowledge and research developed by the Ohio Agricultural Research and Development Center, OSU, and other land-grant universities to benefit Ohioans. One of OSU Extension's four major program areas is 4-H youth development. Under current OSU Extension policy, all 4-H program volunteers that work with minors must have a BCI fingerprint background check prior to starting work with minors, with a repeat check every four years. Generally, these volunteers are responsible for paying for background check fees. The bill requires OSU Extension to pay any background check fee for 4-H volunteers that is required under its policy. As a result, OSU Extension's administrative expenditures will increase depending on the number of current or new 4-H volunteers that need a background check under OSU Extension's policy.

Current base fees for background checks are \$22 for a state-only check and \$24 for an FBI-only check. Generally, background checks can be obtained at a BCI office for the base fee amount; while those obtained from one of the state's 88 county sheriff's offices require surcharges. The average surcharge ranges from \$8 for an FBI-only check to \$13 for a combined state and FBI check.

### **Wright State Policy Institute and Workforce Immersion Program**

The bill eliminates an earmark of \$250,000 in each fiscal year from GRF line item 235591, Co-op Internship Program, that would have been used to establish and support the Wright State Policy Institute at Wright State University and the Workforce Immersion Program at the Wright State Policy Institute and decreases the overall appropriation by corresponding amounts. An earmark of \$500,000 in each fiscal year from 235591 to support the operations of the Wright State Public Policy Institute remains in H.B. 64.

### **Wright State security upgrades for presidential debate**

The bill increases GRF line item 235533, Higher Education Program Support, by \$220,000 in FY 2016 and earmarks this amount to be used by Wright State University for security upgrades necessary for hosting the presidential debate in the fall of 2016.

## **Workforce Grant Program**

The bill establishes the Workforce Grant Program to award grants to eligible students who are pursuing a degree, certification, or license that is required to be employed in an "in-demand job" in Ohio or in one of its regions. The bill terminates the program on December 31, 2019, although students receiving a grant prior to termination of the program can continue to receive funds until the student completes the degree, certification, or license. Funding for this program of \$4.5 million in each fiscal year is already set aside in H.B. 64 in DPF Fund 5RA0 line item 235616, Workforce and Higher Education programs.

## **Department of Natural Resources**

### **Earmark for Indian Lake Watershed Project, Inc.**

The bill appropriates \$125,000 in FY 2016 under new GRF appropriation item 725510, Indian Lake Watershed Project. The bill requires this amount to be used to support the administrative expenses of Indian Lake Watershed Project, Inc.

## **Department of Developmental Disabilities**

### **Elimination of the Beck Center for the Performing Arts earmark**

The bill eliminates an earmark of \$50,000 in each fiscal year for the Beck Center for the Performing Arts in GRF line item 322451, Family Support Services. The bill also decreases the amount appropriated to line item 322451 by the same amounts.

## **Development Services Agency**

### **Local Government Innovation Council extension**

The bill extends the existence of the Local Government Innovation Council, an entity operating under the administrative umbrella of the Development Services Agency, through December 31, 2019. Current law sunsets the Council on December 31, 2015. H.B. 64, the main operating budget act for the FY 2016-FY 2017 biennium, provided the Local Government Innovation Program with funding of \$11.9 million in each fiscal year to operate the program and issue grants and loans to political subdivisions for innovation projects.

### **Political Subdivisions Eligible for Local Government Safety Grants**

The bill defines the types of political subdivisions eligible for grants under the Local Government Safety Capital Grant Program, which was created in H.B. 64 of the 131st General Assembly and is being rolled out in FY 2016. Specifically, the bill identifies these political subdivisions as: (1) counties, (2) townships, (3) municipal corporations, (4) joint emergency medical services districts, (5) fire districts, (6) joint fire districts, (7) fire and ambulance districts, (8) joint police districts, and (9) joint ambulance districts. Under H.B. 64, the Development Services Agency received appropriations of \$10 million in each fiscal year to award grants under the Local Government Safety Capital Grant Program.

## **Department of Health**

### **Transfer of the right to operate a long-term care facility**

The bill provides that a certificate of need (CON) for a long-term care facility does not have to be denied because of a previous proposed license revocation notice for a nursing home owned or operated by the CON applicant or a principal participant if the notice was issued solely because the nursing home had already closed or ceased operation. This could result in an increase in the number of CONs issued by the Ohio Department of Health (ODH), which could increase administrative duties for ODH. However, ODH charges a fee for CON applications that covers administrative costs.

The bill also provides that a prohibition against assigning or transferring the right to operate a nursing home, county home, district home, or residential care facility that is the subject of a revocation notice or other disciplinary order does not apply if the notice or order is issued solely because the home or facility has already closed or ceased operations. There should be no fiscal effect to the state or local government entities related to this provision.

## **Department of Administrative Services**

### **Personal leave used by legislative employees**

The bill requires that personal leave used by an employee of either chamber of the General Assembly or an employee of a legislative agency be deducted from the employee's leave balance in the manner prescribed by the employee's administrative authority. This change codifies an existing practice and therefore has no fiscal effect.

## **Department of Job and Family Services**

### **Child care definitions**

The bill removes from the existing definition of "owner," for purposes of the law governing child care generally, a firm, organization, institution, or agency, as well as any individual governing board members, partners, incorporators, agents, or authorized representatives of the owner. However, the bill provides that, for the purpose of existing provisions that limit when the Director of Job and Family Services can issue another license to an owner after the owner's license is revoked or application for a license is denied, a firm, organization, institution, or agency, as well as any individual governing board members, partners, incorporators, agents, or authorized representatives of the owner are included. There would be no direct fiscal effect as a result of this definition change.

## **Optical Dispensers Board**

### **Dispensing opticians and ophthalmologists – criminal records checks**

The bill corrects an erroneous statutory cross-reference in the laws pertaining to the criminal records check that a person must undergo when seeking to practice as a dispensing optician or ophthalmologist. This provision has no fiscal effect.

## **Sunset Review Committee**

### **Delay of Sunset Review Law**

The bill postpones the expiration of certain agencies under the Sunset Review Law until December 31, 2016. This provision primarily addresses an error of date in the Sunset Review Law, and prevents affected agencies from expiring until after having been reviewed by the Sunset Review Committee, which is being convened during the 131st General Assembly. There is no fiscal impact to this provision as these agencies were never intended to sunset before being reviewed.

## **Lake facilities authorities**

### **Clean Ohio Conservation Program grants**

Counties containing watersheds meeting certain specified conditions may form a lake facilities authority (LFA) to undertake and finance projects that protect and remediate those watersheds. An LFA may fund these projects and pay for its operations by applying for grants, issuing bonds, and using property and lodging tax levies devoted to those purposes. The bill adds LFAs to the list of local political subdivisions authorized to apply for grants under the Green Space component of the Clean Ohio Conservation Program managed by the Public Works Commission in conjunction with natural resource assistance councils. If an LFA obtains a grant under the Clean Ohio Conservation Program, it could use this money to preserve green space within its jurisdiction, giving it flexibility to use other funds for other allowable purposes. The only LFA that has been formed to date is one encompassing the Grand Lake Saint Marys Watershed, in Mercer and Auglaize counties.

### **Competitive bidding threshold for construction contracts**

The bill increases the threshold at which LFAs are required to bid out a construction contract from \$25,000 under current law to \$50,000. When the contract exceeds the threshold, continuing law requires the LFA to award the contract to the lowest responsive and responsible bidder. While the higher contract threshold could potentially reduce administrative costs an LFA incurs with the bidding process, the overall impact on construction project costs is uncertain.