



OHIO LEGISLATIVE SERVICE COMMISSION

Russ Keller

Fiscal Note & Local Impact Statement

Bill: H.B. 292 of the 132nd G.A.

Status: As Reported by Senate Ways & Means

Sponsor: Rep. Scherer

Local Impact Statement Procedure Required: No

Subject: Changes to various state programs and appropriations, and modifications to tax law

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. After the appropriation changes, major headings include (1) Tax Provisions, (2) Department of Administrative Services, (3) Attorney General, (4) Board of Tax Appeals, (5) Bureau of Workers' Compensation, (6) Development Services Agency, (7) Ohio Environmental Protection Agency, (8) Office of Budget and Management, and (9) Local Governments. If a provision affects more than one state agency or political subdivision, it is listed only under the entity primarily affected.

Appropriation Changes

The bill makes adjustments to various capital appropriations and reappropriations in H.B. 529 of the 132nd General Assembly. These changes mostly shift the oversight of capital projects from one state agency or state institution of higher education to another. However, the bill adds some new capital appropriations. Overall, the bill increases capital appropriations by approximately \$2.7 million and decreases capital reappropriations by \$1.9 million for the FY 2019-FY 2020 capital biennium, as shown in Table 1 below. This table displays the appropriation changes in the order in which the items appear in the bill.

Note that Ohio Facilities Construction Commission (OFCC) line item C230FM, Cultural and Sports Facilities Projects, increases by \$580,000 due to the addition and elimination of earmarks for Playhouse Square (totaling \$1,850,000) and Blossom Music Center (\$1,300,000), respectively, and an increase of \$30,000 (from \$150,000 to \$180,000) for an earmark for the Cozad-Bates House Interpretative Center and Cultural Park Renovations. As Table 1 shows, appropriations for the Playhouse Square and Blossom Music Center projects were moved from or to other line items. Similarly, the \$200,000 appropriation increase for Department of Natural Resources (DNR) line item C725E2, Local Parks, Recreation, and Conservation Projects, results from the addition of an earmark of the same amount for the Cleveland Zoological Society. The bill eliminates a \$200,000 reappropriation for the Society under OFCC.

**Table 1. FY 2019-FY 2020 Capital Appropriation and Reappropriation
Line Item (ALI) Adjustments Summary**

Agency	Fund	ALI	ALI Name	Current Amount	Proposed Amount	\$ Change
Capital Appropriations						
ADJ	7026	C74544	Western Reserve Port Authority	\$0	\$250,000	\$250,000
CCC	7034	C37857	Playhouse Square Theater Improvements	\$850,000	\$0	-\$850,000
CCC	7034	C37858	North Olmsted Fiber Ring	\$0	\$200,000	\$200,000
KSU	7034	C27079	Blossom Music Center	\$0	\$1,300,000	\$1,300,000
KSU	7034	C270J9	Kent Stage Theater Restoration Project	\$0	\$450,000	\$450,000
LOR	7034	C38319	North Olmsted Fiber Ring	\$200,000	\$0	-\$200,000
OHU	7034	C30173	Lawrence EMS Services and Senior Center – Southern	\$0	\$1,000,000	\$1,000,000
RGC	7034	C35614	Lawrence EMS Services and Senior Center	\$1,000,000	\$0	-\$1,000,000
SCC	7034	C37735	Clinton County Airport Equipment and Facilities Complex	\$1,000,000	\$0	-\$1,000,000
SOC	7034	C32223	Clinton County Airport Equipment and Facilities Complex	\$0	\$1,000,000	\$1,000,000
UTO	7034	C340A5	ProMedica Transformative Low Income Medical Senior Housing	\$0	\$250,000	\$250,000
DNR	7035	C725E2	Local Parks, Recreation, and Conservation Projects	\$30,901,000	\$31,101,000	\$200,000
DPS	5TM0	C76064	Clermont County Sheriff's Safety and Training Center	\$0	\$500,000	\$500,000
FCC	7030	C23031	OHS – Harding Home State Memorial	\$1,565,000	\$1,500,000	-\$65,000
FCC	7030	C230FO	OHS – Marion Cemetery Association/Harding Receiving Vault Project	\$0	\$65,000	\$65,000
FCC	7030	C230FM	Cultural and Sports Facilities Projects	\$54,328,500	\$54,908,500	\$580,000
Capital Appropriations Total				\$89,844,500	\$92,524,500	\$2,680,000
Capital Reappropriations						
CCC	7034	C37842	Playhouse Square Parking District Improvement	\$1,000,000	\$0	-\$1,000,000
OTC	7034	C38828	ProMedica Transformative Low Income Medical Senior Housing	\$250,000	\$0	-\$250,000
FCC	7030	C230AC	Cleveland Zoological Society	\$200,000	\$0	-\$200,000
FCC	7030	C230CR	Kent Stage Theater Restoration Project	\$450,000	\$0	-\$450,000
Capital Reappropriations Total				\$1,900,000	\$0	-\$1,900,000

The bill also changes the names of certain capital appropriations or earmarks in H.B. 529. These changes are listed in the table immediately below. The amount appropriated or earmarked for each of these line items remains unchanged by the bill.

Table 2. FY 2019-FY 2020 Capital Appropriation and Reappropriation Name Changes				
Agency	Fund	ALI	Current ALI/Earmark Name	Proposed ALI/Earmark Name
Capital Appropriations				
CCC	7034	C37854	Health Record System Modernization	Cleveland Sight Center Health Record System Modernization
MHA	7033	C58001	Henry County Communications Project	Henry County Opiate Interoperable Communications Project
DNR	7035	C725E2	Sheffield Regional Watershed Initiative	City of Sheffield Lake Regional Watershed Initiative
DNR	7035	C725E2	Hocking Hills Scenic Trail	Hocking Valley Scenic Trail
DNR	7035	C725E2	Sheffield Walking Trails	Sheffield Village Walking Trails
DNR	7035	C725E2	Norwalk Park & Rec Ernsthausem Pickleball Court	Norwalk Alex Waite Trail Project
DNR	7035	C725E2	Finish Line Park	Akron Finish Line Park
DNR	7035	C725E2	Avon Veterans Park Gazebo	Avon Lake Veterans Park Gazebo
FCC	7030	C230FM	Motts Military Museum – New 9/11 Building	Motts Military Museum Improvements
Capital Reappropriations				
FCC	7030	C230AQ	Aminah Robinson Cultural Arts and Community Center	OHS – Aminah Robinson Cultural Arts and Community Center
FCC	7030	C230DZ	Columbus Zoo – Japanese Macaque Exhibit	Columbus Zoo – Asia Quest

Waddell Park Public Swimming Pool Renovation repurposing

S.B. 310 of the 131st General Assembly earmarked \$67,500 from the Ohio Department of Natural Resources' Fund 7035 capital line item C725E2, Local Parks Projects, for the Waddell Park Public Swimming Pool Renovation. The bill authorizes the city of Niles, which has already received the moneys, to use them instead for general improvements at Waddell Park, including installation, maintenance, or improvements to a splash pad.

Detailed Fiscal Analysis

Tax Provisions

Income tax residency test

Beginning with tax year (TY) 2018, the bill revises the personal income tax (PIT) residency test to specify certain criteria by which a taxpayer's nonresident claim can be evaluated. Under the bill, an individual that has fewer than 213 contact periods in Ohio during the taxable year, may be regarded as a nonresident based upon (1) an out-of-state home that does not benefit from business depreciation accounting, (2) an in-state home that does not benefit from the owner-occupied property tax rollback offered by

Ohio (both of which depend on ownership and occupancy), (3) not holding a valid Ohio driver's license, and (4) not receiving an in-state college tuition rate dependent on an Ohio address, if the individual was enrolled in an Ohio college at any time during the taxable year. The bill explicitly states that the revised income tax residency test "is intended to abrogate the common law of domicile as applied to that division" of the Revised Code.

For the most recent year for which data is available, tax department information shows that fewer than 6% of Ohio's 5.4 million PIT returns were filed by nonresidents. As of this writing, LSC is uncertain whether this legislation would increase or decrease the number of nonresident returns filed by taxpayers. On one hand, the bill adds explicit factors to the existing statute, but the enumerated factors limit the potential avenues of discovery that may be considered by the Tax Commissioner. Any potential fiscal effects will begin in FY 2019, when annual tax returns for TY 2018 are filed.

Property tax exemption for Olympic training facilities

The bill requires a board of county commissioners to enter into an agreement with the owner of a qualifying athletic complex if the owner agrees to do so. To qualify, the real property must be an athletic complex designated in 2013 or later as a U.S. Olympic or paralympic training site. Structures, improvements, or fixtures not on the 2017 tax list are excluded. The agreement must require the owner to make annual payments to political subdivisions that levy property taxes on territory including the qualifying property. The payments are to be deposited into each subdivision's general fund, to be used for any lawful purpose. The board is to declare the qualifying property a public purpose exempt up to 100% from property tax, for a specified term up to 17 years. The agreement may be entered into only with consent of the affected school district.

The bill also increases to ten years the maximum time period for payment of delinquent or unpaid property taxes under a delinquent tax contract for a qualifying athletic complex, as described above. For all other property, the maximum payment period under a delinquent tax contract remains five years.

LSC's understanding is that these provisions pertain to property of SPIRE Institute in the Geneva area, which provides athletic training, events, and related services. It is possible that other facilities would satisfy the criteria for the exemption. Any revenue losses to an affected school district would be permissive; revenue losses to other affected political subdivisions would depend on the amounts of the payments the facility makes to those subdivisions, as compared with property tax amounts that would be due in the absence of this provision.

Homestead exemption: application deadline for mobile homeowners

The bill modifies the application deadline for those mobile home owners seeking the homestead exemption. Beginning with applications and forms due to the county auditor in TY 2018 and thereafter, mobile homeowners must file their applications on or

before December 31 of the year preceding the year for which the reduction is sought. The provision does not have a fiscal effect.

Department of Administrative Services

Exempt employee pay schedules

The bill increases base pay rates for exempt state employees paid in accordance with salary schedules E-1 or E-2 by approximately 2.7% beginning in the pay period that includes July 1, 2018, an additional 2.8% (approximate) beginning in the pay period that includes July 1, 2019, and an additional 3.0% (approximate) beginning in the pay period that includes July 1, 2020. In conjunction with this change, for the pay period including July 1, 2018, the bill authorizes agencies to make expenditures from current operating appropriations to cover the pay increases included in (1) approved collective bargaining agreements between employee organizations and the state of Ohio and (2) the pay increases for exempt employees included in the bill. To cover the pay increases for bargaining unit and exempt employees in FY 2019, the bill allows the Director of Budget and Management to authorize increased expenditures from GRF and non-GRF appropriation items, to the extent the Director determines necessary, to effectuate the compensation changes described above for exempt employees and compensation changes under approved collective bargaining agreements for employees represented by bargaining units. Any increased expenditures for these purposes are appropriated by the bill.

Cash transfers

The bill allows the Director of Budget and Management, upon the request of the Director of Administrative Services, to transfer cash during FY 2019 from the Accrued Leave Liability Fund (Fund 8060) to the State Employee Health Benefit Fund (Fund 8080) in an amount sufficient to support necessary expenditures to pay for voluntary health plans offered by the Department of Administrative Services (DAS) to state employees who elect to enroll in a qualifying high deductible health care plan. The bill requires any transfers made from Fund 8060 to Fund 8080 be repaid to Fund 8060 when the cash balance of Fund 8080 is sufficient to do so.

Cash out of vacation pay

The bill allows certain employees with at least 200 hours of unused vacation leave to convert up to 40 hours of that leave to a cash payment each December beginning in calendar year 2019. As a result, there will be an increase in payments made from the Accrued Leave Liability Fund (Fund 8060) corresponding to the amount of accrued vacation that is cashed out by eligible employees. Under the bill, eligibility to convert unused vacation leave does not apply to employees of the Supreme Court, the General Assembly, the Legislative Service Commission, the Secretary of State, the Auditor of State, the Treasurer of State, or the Attorney General unless those entities notify the Director of DAS in writing on or before the first day of October of the calendar year the decision to make employees eligible is made.

Attorney General

The bill amends Section 221.10 of H.B. 49 of the 132nd General Assembly, which contains the appropriations for the Attorney General, to increase GRF appropriation items 055411, County Sheriffs' Pay Supplement, by \$8,943 in FY 2018, and 055415, County Prosecutors' Pay Supplement, by \$87,687 and \$91,969 in FY 2018 and FY 2019, respectively. These increases will cover anticipated shortfalls in these two appropriation items over the balance of the biennium.

Board of Tax Appeals

The bill would allow decisions of the Board of Tax Appeals (BTA) to be appealed directly to the Ohio Supreme Court if the decision involves a final determination of the Tax Commissioner or a local board of tax review. Local boards of tax review hear cases pertaining to municipal income taxes. Under current law, such decisions must be appealed to one of Ohio's 12 district courts of appeals, except that cases on BTA's small claims docket cannot be appealed.

More appeals of cases directly to the Ohio Supreme Court may increase costs of that Court. Fewer appeals of cases to courts of appeals may reduce costs of those courts. The magnitude of these cost effects is uncertain.

H.B. 49 of the 132nd General Assembly removed authority to appeal Board of Tax Appeals decisions directly to the Ohio Supreme Court, except if the appeal involves a substantial constitutional question or a question of great public interest. The change in H.B. 292 would reverse that change.

Bureau of Workers' Compensation

The bill modifies the way workers' compensation claims stemming from motor vehicle accidents involving third parties are treated for premium purposes. Specifically, the bill requires that claims involving motor vehicle accidents in which a third party is primarily liable be charged to the Surplus Fund of the State Insurance Fund rather than to the employer's experience. If the claim were charged directly to an employer's experience, it could raise the employer's workers' compensation premium payment. It is unclear to what degree this provision would impact either premium payments into the State Insurance Fund or payments from the Surplus Fund.

Development Services Agency

Under the Brownfield Revolving Loan Program, the Development Services Agency (DSA) awards revolving loans to demolish, clean up, and remediate brownfield sites. This money is deposited into the Federal Special Revenue Fund (Fund 3080) and the loans are distributed under appropriation item 195671, Brownfield Redevelopment. Fund 3080 receives revenue from a number of federal grants. In the past, this included brownfield grants from the U.S. Environmental Protection Agency. This is no longer the case, and the Brownfield Revolving Loan Program is now supported through loan repayments and program fees.

Since the program now operates as a revolving loan program, the bill redirects the loan repayments and fees from Fund 3080 to the Brownfields Revolving Loan Fund (Fund 5UL0). As part of this accounting change, uncodified language in the bill requires the Director of Budget and Management to transfer the existing Brownfield Revolving Loan Program money from Fund 3080 to Fund 5UL0. According to DSA, this amounts to approximately \$4.0 million to be transferred to Fund 5UL0. Finally, the bill authorizes OBM to cancel existing encumbrances against appropriation item 195671 and reappropriate those amounts under new appropriation item 195627, Brownfields Revolving Loan.

Ohio Environmental Protection Agency

The bill permits the Director of Budget and Management to transfer up to \$3,250,000 cash from the Scrap Tire Management Fund (Fund 4R50) to the Recycling and Litter Prevention Fund (Fund 5320), to reimburse the amounts paid from Fund 5320 for the remediation of the ARCO construction and demolition debris site in Cleveland, Ohio.

Office of Budget and Management

The bill clarifies the type of funds and appropriation items that must be reported to the General Assembly by the Director of Budget and Management in a semiannual report originally authorized by H.B. 49 of the 132nd General Assembly. Under continuing law, the Director must furnish reports beginning on October 1, 2018 about open encumbrances, remaining appropriations, and cash balances of certain funds.

Local Governments

Public library boards' issuance of notes

The bill modifies the requirements related to issuance of notes for the purpose of paying the costs of financing library facilities by a library board. The bill increases the maximum aggregate amount of notes that may be outstanding at any time by raising the amount of Public Library Fund receipts that may be included in a calculation of that maximum from 30% to 40% of the average for the two calendar years prior to the year of such issuance. The bill also increases the maximum maturity of any notes that are not anticipation notes or refunding notes, from 25 years to 40 years from the date of the original issuance. These changes have no direct fiscal effect on the state and political subdivisions. However, if a library board elects to issue certain notes with longer maturity than is currently allowable, it may reduce its annual debt service payments. Both changes may let a library borrow more money.

Village referendum and abstention procedures

The bill provides a special procedure for certain village zoning referenda occurring in 2018. Specifically, the bill contains several requirements if a village legislative authority, during the period beginning on May 15, 2018 and September 1, 2018, passes an ordinance that is subject to referendum. If the ordinance is to make

zoning changes to permit a new use of real property located in the village that the legislative authority determines is likely to bring at least 500 new jobs and at least \$50 million in investment, the bill lays out several requirements related to the referendum with respect to the timing of the filing and verification of signatures.

Ultimately, the bill could allow a special election to occur due to a referendum that otherwise would not occur under current law. The applicable village would be responsible for paying the costs of this special election unless other measures also would appear on the ballot. The total costs of the special election would depend on the number of polling locations used for the election and number of total precincts. The Secretary of State estimates that the per precinct costs of elections can range from \$800 to \$1,500 based on a variety of factors.

The bill also specifies that if a member of the legislative authority is present but abstains from voting on the ordinance, the member's seat on the legislative authority shall not be counted for the purpose of determining the required number of votes for the legislative authority to pass the ordinance or to pass the ordinance as an emergency measure. There appears to be no fiscal impact to this provision.