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Final Analysis
Legislative Service Commission

Sub. S.B. 332
123rd General Assembly
(As Passed by the General Assembly)

Sens. Drake, Oelslager, Mallory, Watts, Finan, Latta, Mumper, Horn

Reps. Mead, Amstutz, Salerno, Collier, Schuring, Barrett, Britton

Effective date: *

ACT SUMMARY

- Authorizes the conveyance of state-owned real estate in Wayne County, adjacent to the Apple Creek Developmental Center, to the State of Ohio for the use and benefit of The Ohio State University for the use of its College of Food, Agriculture, and Environmental Sciences.
- Authorizes the conveyance of state-owned real estate in Montgomery County to Barry K. Humphries.
- Authorizes the conveyance of state-owned real estate in Stark County to the City of Massillon.
- Authorizes the conveyance of state-owned real estate in Hamilton County to the United States Postal Service.
- Authorizes the conveyance of state-owned real estate in Logan County to the Ohio Department of Transportation.
- Authorizes the conveyance of state-owned real estate in Franklin County to the City of Columbus.
- Authorizes the conveyance of state-owned real estate in Franklin County to Lifeline of Ohio, Inc.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

- Authorizes the conveyance of state-owned real estate in Union County to a purchaser.
- Authorizes the conveyance of state-owned real estate in Franklin County to Columbus Wood Products, Inc.
- Authorizes the correction of legal descriptions and deed discrepancies on real estate located in Franklin County.
- Authorizes the conveyance of state-owned real estate located in Pennsylvania and acquired pursuant to a tax lien.
- Declares an emergency.

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CONTENT AND OPERATION

Transfer of state-owned land to The Ohio State University

Conveyance

The act authorizes the Governor to execute a deed in the name of the state conveying to the State of Ohio, for the benefit and use of The Ohio State University, and its successors and assigns, for its College of Food, Agriculture, and Environmental Sciences, all of the state's right, title, and interest in 16 parcels of land located in Wayne County, adjacent to the Apple Creek Developmental Center (Section 1(A) and (B)).

Consideration

Consideration for the conveyance is \$1,200,000. The consideration must be paid in three installments. The first installment of \$500,000 must be paid within 60 days after the effective date of the act. The second installment of \$500,000 must be paid on or before the first-year anniversary date of the first installment. The third installment of \$200,000 must be paid on or before the second-year anniversary date of the payment of the first installment. All installment payments must be deposited in accordance with the act. (Section 1(B).)

The net proceeds of the consideration received must be deposited as follows:

(A) The net proceeds of the first and second installments must be deposited in Fund 152, Miscellaneous Revenue, the Department of Mental Retardation and Developmental Disabilities. The funds must be used for the demolition of Macintosh Hall.

(B) The net proceeds of the third installment must be deposited in the trust account, the Apple Creek Developmental Center I and E Fund of the Department of Mental Retardation and Developmental Disabilities and be used for programs and projects to enhance the



lives of the residents of the Apple Creek Developmental Center.

No moneys derived from the conveyance may be used for purposes of employment, staffing, salaries, or other employee benefits (Section 1(E)).

If The Ohio State University fails to make any of the consideration payments, all right, title, and interest in the transferred real estate must immediately revert to the state for the use and benefit of the Department of Mental Retardation and Developmental Disabilities without the need for further action by the grantor. (Section 1(F).)

Conveyance procedures

The act specifies the procedures for the preparation, execution, and recording of the deed to the real estate (Section 1(C)). The Ohio State University must pay the costs of the conveyance (Section 1(D)).

Buffer zone plan

The conveyance must not proceed until the Director of Mental Retardation and Developmental Disabilities has approved a plan for the buffer zone of the land, known as the "Buffer Zone Plan," which the College of Food, Agriculture, and Environmental Sciences of The Ohio State University must develop and present to the Director. The plan must consist of a comprehensive, detailed, and specialized landscaping plan for portions of the real estate that are adjacent to the Apple Creek Developmental Center. The "Buffer Zone Plan" must identify the area under the jurisdiction of the plan, inventory proposed tree and vegetation installations, and provide a timetable for completion of the plan, taking into account visual impact and scientifically sound odor management principles. (Section 1(G).)

The "Buffer Zone Plan" described above must be developed by the College of Food, Agriculture, and Environmental Sciences of The Ohio State University and implemented by the College at the College's sole expense within three years after the effective date of the act. If the College has not implemented the plan as approved by the Director of Mental Retardation and Developmental Disabilities, all right, title, and interest in the transferred real estate must immediately revert to the state for the use and benefit of the Department of Mental Retardation and Developmental Disabilities without the need for further action by the grantor. (Section 1(H).)

Conditions and contingencies

The conveyance of the real estate is subject to the conditions that The Ohio State University and its College of Food, Agriculture, and Environmental Sciences accept the real estate subject to a former Indian burial ground that is believed to be located on the real estate in or near the wooded plot southeast of the intersection of Ely Road and Barnard Road in Wayne County, and that The Ohio State University and its College of Food, Agriculture, and Environmental Sciences assume all obligations associated with that former Indian burial ground. If The Ohio State University and its College of Food, Agriculture, and Environmental Sciences do not assume such responsibilities as provided in this section, all right, title, and interest in the transferred real estate must immediately revert to the state for the use and benefit of the Department of Mental Retardation and Developmental Disabilities without the need for further action by the grantor. (Section 1(I).)

The conveyance of the real estate is contingent upon The Ohio State University's satisfaction with the result of a due diligence investigation of the real estate, which The Ohio State University must conduct. If The Ohio State University is not satisfied with the result of its investigation, it may, as soon as reasonably feasible after the effective date of the act, provide written notice of its intent not to proceed with the conveyance to the Director of Mental Retardation and Developmental Disabilities and must have no further obligation with respect to the conveyance. (Section 1(J).)

The conveyance of the real estate is contingent upon The Ohio State University obtaining a title insurance commitment to issue a title insurance policy insuring the real estate satisfactory to The Ohio State University as soon as reasonably feasible after the effective date of the act. If The Ohio State University does not obtain title insurance that it considers satisfactory, it may, as soon as reasonably feasible after the effective date of the act, notify the Director of Mental Retardation and Developmental Disabilities that it does not intend to proceed with the conveyance and must be under no further obligation with respect to the conveyance. (Section 1(K).)

The conveyance of the real estate is contingent upon the approval of the conveyance by the Board of Trustees of The Ohio State University, if the board determines that its approval is necessary. The Ohio State University may, if its Board of Trustees has failed to approve the conveyance, notify the Director of Mental Retardation and Developmental Disabilities as soon as reasonably feasible after the effective date of the act that it does not intend to proceed with the conveyance and must have no further obligation with respect to the conveyance. (Section 1(L).)



The conveyance of the real estate described above is subject to the condition that The Ohio State University not convey any or all of the real estate conveyed to it pursuant to the act to any nonstate entity for a period of ten years from the effective date of the act. If The Ohio State University conveys the real estate contrary to the provisions of this section, all right, title, and interest in the transferred real estate must immediately revert to the state for the use and benefit of the Department of Mental Retardation and Developmental Disabilities without the need for further action by the grantor. (Section 1(N).)

Easements

The conveyance of the real estate is subject to all easements including an easement of the State of Ohio with regard to one producing water well that currently supplies the Apple Creek Developmental Center, which easement must be retained by the State of Ohio and remain under the jurisdiction of the Department of Mental Retardation and Developmental Disabilities. The Department must maintain and repair, at its expense, this well and the lines transporting water to the Apple Creek Developmental Center. The Ohio State University and its College of Food, Agriculture, and Environmental Sciences are prohibited from taking action that would interfere with continued production of potable water from the identified well. The Department must maintain well head pumps or supply lines, or both, between the well location and the Apple Creek Developmental Center. (Section 1(M).)

Apple Creek water wells

If any of the four existing water wells serving the Apple Creek Developmental Center ceases to produce potable water, the Department of Mental Retardation and Developmental Disabilities must explore replacement of any such well that ceases to produce sufficient potable water and must seek a well site that is within the real property remaining under the jurisdiction of the Department. If the replacement water well is unable to be located within the real property remaining under the jurisdiction of the Department at the Apple Creek Developmental Center, the Department may seek, drill, and maintain a water well source on the real estate at a site mutually agreed upon by the Director of Mental Retardation and Developmental Disabilities and the Vice-President of the College of Food, Agriculture, and Environmental Sciences of The Ohio State University. Any replacement water wells must produce, in concert with the remaining well sources, potable water to the Apple Creek Developmental Center in an amount sufficient to adequately supply the needs of the Apple Creek Developmental Center as determined by the Director. (Section 1(O).)



Inter-Agency lease

Upon the conveyance of the real estate the Inter-Agency Lease between the Department of Mental Retardation and Developmental Disabilities, through the Department of Administrative Services, and The Ohio State University for approximately 1272.92 acres of the real estate for a period of 40 years to expire on January 31, 2025, and bearing file No. 3759-A (the "Lease"), must automatically terminate and have no further force or effect. If the Lease or a memorandum thereof has been recorded with the Office of the Wayne County Recorder, the State of Ohio, the Department of Administrative Services, the Department of Mental Retardation and Developmental Disabilities, and The Ohio State University must execute all documentation necessary to release or cancel, or both, the Lease of record on the date of the conveyance of the real estate. (Section 1(P).)

Conveyance of state-owned real estate in Montgomery County to Barry K. Humphries

The act authorizes the Governor to execute a deed in the name of the state conveying to Barry K. Humphries, and his successors and assigns, all of the state's right, title, and interest in one parcel of state-owned real estate in Montgomery County (Section 2(A)).

The consideration for the conveyance will be both of the following:

(1) An amount equal to its appraised value, less the following amounts: (a) total expenditures by Barry K. Humphries in connection with conducting an appraisal (subject to the approval of the Ohio Department of Administrative Services), a survey, and/or a Phase I environmental site assessment relating to the property, up to a maximum total amount of \$5,000, and (b) \$25,000;

(2) The transfer of the 0.763 acre "Access" parcel to the Ohio Department of Mental Health (Section 2(B)).

The act states that Barry K. Humphries, his successors and assigns, must use the property consistent with the uses ancillary to or necessary for the operation of a nursing home, assisted living facility or other residential facility for the housing or care of elderly residents and for other uses consistent with the operation of homes or facilities of that nature, and in any case may not otherwise use, develop, or sell the real estate in any manner that will prohibit "quiet enjoyment" by Twin Valley Psychiatric System and its residents (Section 2(C)).

The act specifies that Barry K. Humphries agrees to accept the real estate in its current condition, as is, and further agrees to prohibit placement of any toxic,



hazardous, or contaminant materials on the surface of the real estate that could penetrate the grounds or disrupt the services, supplies, or operational systems of the adjacent state-owned lands (Section 2(D)).

The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate (Section 2(E)).

The act requires Barry K. Humphries to pay the costs of the conveyance of the real estate (Section 2(F)).

Conveyance of state-owned real estate in Stark County to the City of Massillon

The act authorizes the Governor to execute a deed in the name of the state conveying to the City of Massillon, and its successors and assigns, all of the state's right, title, and interest in three parcels of state-owned real estate in Stark County (Section 3(A)).

The transfer of parcels 1 and 2 of the property must occur within 60 days of the effective date of the act. Concurrent with the transfer of parcels 1 and 2 of the property, the City of Massillon is obligated to pay \$154,272 to the Ohio Department of Mental Health, 50% of which must be paid in three equal cash payments of \$25,712, the first payment to be made upon transfer, and the other two payments at annual intervals thereafter, and 50% of which must be paid as a cash equivalent obligation of the City of Massillon to provide designated services to the Heartland Behavioral Healthcare Organization/Massillon Campus. The City of Massillon is required to provide all agreed upon remuneration to the Ohio Department of Mental Health within three years (Section 3(B)).

After control of parcels 1 and 2 of the property is transferred to the City of Massillon, the Heartland Behavioral Healthcare Organization/Massillon Campus continues to have use of building 8.031 and the connected substation, located on parcel 2, and necessary access thereto, until it no longer has a need for the building and substation, which in no case may be later than September 14, 2005 (Section 3(C)).

The transfer of parcel 3 of the property is required to occur within three years of the effective date of the act. Concurrent with the transfer of parcel 3 of the property, the City of Massillon must pay to the Ohio Department of Mental Health the appraisal price acceptable to the state, or another price as negotiated between the Ohio Department of Mental Health and the City of Massillon. Such payment must be in cash and/or payment schedule and cash equivalent obligation of the City of Massillon to provide designated services to the Heartland Behavioral Healthcare Organization/Massillon Campus as agreed to by both parties. The City



of Massillon must provide all agreed upon remuneration within two years of the transfer (Section 3(D)).

After control of parcel 3 of the property is transferred, the Heartland Behavioral Healthcare Organization/Massillon Campus may continue to have use of the boiler plant identified as building 8.004 located thereon, and necessary access thereto, until it no longer has a need for this boiler plant (Section 3(E)).

The City of Massillon agrees that it will not use or develop the property for other than a municipal park, for an educational or recreational purpose, or otherwise with the concurrence of the Ohio Department of Mental Health, and that it will not sell the property for any use or development beyond these purposes. The act states that the "quiet enjoyment" of the adjacent property by the Heartland Behavioral Healthcare Organization/Massillon Campus, the Ohio Department of Mental Health, and the residents of the Heartland Behavioral Healthcare Organization/Massillon Campus are critical factors in this transaction (Section 3(F)).

The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate (Section 3(G)).

The act requires the City of Massillon to pay the costs of the conveyance of the real estate (Section 3(H)).

Conveyance of state-owned real estate in Hamilton County to the United States Postal Service

The act authorizes the Governor to execute a deed in the name of the state conveying to the United States Postal Service and its successors and assigns all of the state's right, title, and interest in one parcel of state-owned real estate in Hamilton County (Section 4(A)).

The Ohio Department of Mental Health has a continuing right to approve any development plans or uses of the property or sale of the subject property after transfer to the United States Postal Service or its successor or assign. However, instead of such continuing right of approval, the Ohio Department of Mental Health and the United States Postal Service may set forth their agreement for future development, uses, and sale of the real estate in a mutually acceptable deed restriction or other mutually acceptable documentation. (Section 4(B).)

Consideration for the conveyance must be an agreed upon price of at least fair market value directly negotiated between the United States Postal Service and the Ohio Department of Mental Health (Section 4(C)).



The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate (Section 4(D)).

The act requires the United States Postal Service to pay the costs of the conveyance of the real estate (Section 4(E)).

Conveyance of state-owned real estate in Logan County to the Ohio Department of Transportation

The act authorizes the Governor to execute a deed in the name of the state conveying to the State of Ohio for the use and benefit of the Ohio Department of Transportation, and its successors and assigns, all of the state's right, title, and interest in one parcel of state-owned real estate in Logan County (Section 5(A)).

Consideration for the conveyance is a purchase price of three hundred dollars (\$300) (Section 5(B)).

The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate (Section 5(C)).

The act requires the Ohio Department of Transportation to pay the costs of the conveyance of the real estate (Section 5(D)).

The act requires the net proceeds of the sale to be deposited in The Ohio State University General Fund (Section 5(E)).

Conveyance of state-owned real estate in Franklin County to the City of Columbus

The act authorizes the Governor to execute a deed in the name of the state conveying to the City of Columbus, and its successors and assigns, all of the state's right, title, and interest in one parcel of state-owned real estate in Franklin County (Section 6(A)).

Consideration for the conveyance is a purchase price of one hundred ninety thousand, four hundred fifty-six dollars (\$190,456) (Section 6(B)).

The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate (Section 6(C)).

The act requires the City of Columbus to pay the costs of the conveyance of the real estate (Section 6(D)).

The act requires the net proceeds of the sale to be deposited in The Ohio State University General Fund (Section 6(E)).



Conveyance of state-owned real estate in Franklin County to Lifeline of Ohio, Inc.

The act authorizes the Governor to execute a deed in the name of the state conveying to Lifeline of Ohio, Inc., and its successors and assigns, all of the state's right, title, and interest in one parcel of state-owned real estate in Franklin County (Section 7(A)).

Consideration for the conveyance is a purchase price of thirty-five thousand dollars (\$35,000) (Section 7(B)).

The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate (Section 7(C)).

The act requires Lifeline of Ohio, Inc., to pay the costs of the conveyance of the real estate (Section 7(D)).

The act requires the net proceeds of the sale to be deposited in The Ohio State University General Fund (Section 7(E)).

Conveyance of state-owned real estate in Union County to a purchaser

The act authorizes the Governor to execute a deed in the name of the state conveying to a purchaser, and the purchaser's successors and assigns, all of the state's right, title, and interest in one parcel of state-owned real estate in Union County (Section 8(A)).

The sale of the real estate is to be carried out by the Board of Trustees of The Ohio State University (Section 8(B)).

Consideration for the conveyance is to be fair market value as determined by appraisal by one or more disinterested persons approved by the Board of Trustees of The Ohio State University (Section 8(C)).

The act specifies that any offer to purchase must be accompanied by a deposit of 5% of the purchase price in money order, bank draft, or certified check. The balance of the purchase price must be paid at closing. Any offeror whose offer has been accepted and who does not complete the conditions of the sale as specified in the act must forfeit the deposit to The Ohio State University as liquidated damages. (Section 8(D).)

The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate (Section 8(F)).



The act requires the Board of Trustees of The Ohio State University to pay the costs of advertising, appraisal, and other costs incident to the sale of the real estate (Section 8(E)).

The act requires the net proceeds of the sale to be deposited in The Ohio State University General Fund (Section 8(G)).

Conveyance of state-owned real estate in Franklin County to Columbus Wood Products, Inc.

The act authorizes the Governor to execute a deed in the name of the state conveying to Columbus Wood Products, Inc., and its successors and assigns, all of the state's right, title, and interest in one parcel of state-owned real estate in Franklin County (Section 9(A)).

Consideration for the conveyance is a purchase price of fifteen thousand dollars (\$15,000) (Section 9(B)).

The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate (Section 9(C)).

The act requires Columbus Wood Products, Inc., to pay the costs of the conveyance of the real estate (Section 9(D)).

The act requires the net proceeds of the sale to be deposited in The Ohio State University General Fund (Section 9(E)).

Correction of legal descriptions and deed discrepancies on real estate located in Franklin County

The act authorizes the Governor to execute corrective deeds to correct legal descriptions and deed discrepancies on real estate located at 1275 Kinnear Road and overlapping real estate at 1165 Kinnear Road and further described in the act (Section 10).

Conveyance of state-owned real estate located in Pennsylvania and acquired pursuant to a tax lien

The act authorizes the Governor to execute a deed in the name of the state conveying to the Borough of Midland in the Commonwealth of Pennsylvania, and its successors and assigns, all of the state's right, title, and interest in one parcel of state-owned real estate located in Beaver County, Pennsylvania (Section 11(A)).

Consideration for the conveyance is the purchase price of one dollar (\$1) (Section 11(B)).



The conveyance of the real estate is subject to both of the following conditions:

(1) The Borough of Midland must forgive, satisfy, or waive the entire amount of the real property taxes due and owing on the real property (which such amount currently exceeds \$35,000).

(2) The State of Ohio must pay the Borough of Midland \$9,975 for the demolition of structures on the real property and for a release of liability for any and all claims or matters arising out of or related to the real property or the demolition of structures on the real property. The Borough of Midland must provide to the State of Ohio a certification of the release of real property taxes or special assessments, or both, by its properly authorized tax collector. (Section 11(C).)

The act specifies the procedures for the preparation, execution, and recording of a deed to the real estate (Section 11(D)).

Expiration date

The act, except as otherwise provided for in Section 3 of this act, expires one year after its effective date. Authority granted in Section 3 of this act for the conveyance of Parcel 3 must expire three years after the effective date of this act. Section 3 of the act authorizes the conveyance of three parcels of state-owned real estate in Stark County to the City of Massillon. (Section 12.)

Emergency clause

The act declares an emergency. It states that the conveyances of real estate authorized by the act are needed at the earliest possible time to do the following: (1) enable the College of Food, Agriculture, and Environmental Sciences of The Ohio State University to begin immediately to implement its plans for the real estate and enable the Department of Mental Retardation and Developmental Disabilities to receive the proceeds of the conveyance for the demolition of Macintosh Hall, (2) enable the Department of Transportation to build an urgently needed transportation facility construction project, (3) enable The Ohio State University to sell unneeded property to obtain revenues for various University projects, (4) enable the immediate correction of legal descriptions and deed discrepancies, and (5) enable the immediate conveyance of state-owned real estate acquired pursuant to a tax lien. As a result of its declaration of an emergency, the act takes immediate effect. (Section 13.)



HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-12-00	p. 2052
Reported, S. Judiciary	09-20-00	p. 2086
Passed Senate (32-0)	09-20-00	pp. 2101-2102
Reported, H. Housing & Public Lands	11-15-00	p. 2363
Passed House (89-1)	11-16-00	pp. 2383-2385
Senate concurred in House amendments (32-0)	12-05-00	pp. 2292-2293

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