



H.B. 283*

123rd General Assembly

(As Introduced)

(excluding appropriations, fund transfers, and similar provisions)

Rep. Thomas

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GENERAL

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- Modifies the amounts of the fees for the services provided by the Secretary of State's office that must be deposited into the General Revenue Fund (GRF) and into the Corporate and Uniform Commercial Code Filing Fund (CUCCFF), by decreasing the GRF deposits and increasing the CUCCFF deposits in prescribed amounts.
 - Requires that an independent certified public accountant conduct an annual, rather than biennial, audit of the Auditor of State's office on a fiscal year basis.
 - Changes the make-up of certain financial planning and supervision commissions created under the Local Government Fiscal Emergency Law.

- Requires the Auditor of State to serve as the financial supervisor to certain financial planning and supervision commissions established under the Local Government Fiscal Emergency Law.
- Requires the Director of Budget and Management to serve as the chairperson to commissions established under the Local Government Fiscal Emergency Law.
- Requires the Director of Administrative Services to enter into agreements with universities and colleges for in-service training of personnel in the civil service, rather than only the state civil service.
- Changes the name of the Department of Administrative Services' Personnel Services Fund to the Human Resources Services Fund.
- Eliminates the statutory references to the Computer Services Fund and the Telecommunication Fund and substitutes a reference to the Information Technology Fund.
- Provides different requirements for state agencies to reimburse the Department of Administrative Services (DAS) if they occupy warehouse or other space in the General Services Facility.
- Changes the name of the Facilities Management Fund to the Building Management Fund.
- Permits DAS to provide skilled trades services to state agencies occupying space in facilities not owned by DAS and creates the Skilled Trades Fund for moneys collected for those services.
- Continues the authority of the Director of Budget and Management to designate funds of the state to retain their own interest earnings in order to reduce payments to the federal government made in connection with the statewide indirect cost allocation plan.
- Permits the Director of Budget and Management to establish and administer one or more "state payment card programs" and requires any rebates or revenue shares received from any of those programs to be deposited into the State Accounting Fund.

- Makes changes in the law governing the reimbursement of travel and other expenses incurred by certain state employees and the Governor's spouse so that providers of goods and services may be reimbursed directly and so that rules governing the rate and method of reimbursement need not be adopted in accordance with the Administrative Procedure Act.
- Authorizes the Director of Budget and Management to establish maximum allowable expenses and associated reasonable rates that a covered state agency may incur for meetings, conferences, retreats, conventions, and other similar gatherings and to establish the manner in which such expenses may be incurred.
- Makes changes in the provisions that govern the reimbursement of state officials' and employees' interview and relocation expenses.
- Allows only the Controlling Board to authorize a state agency to make refunds of nontax payments that are not owed the state, from the fund to which the payments were credited, when appropriations for the purpose are inadequate, provided sufficient unencumbered money remains in the fund.
- Consolidates two funds of the Department of Commerce, the Building and Loan Associations Fund and the Savings Banks Fund, into a new fund--the Savings Institutions Fund.
- Allows the Superintendent of the Division of Industrial Compliance to assess a fee for the reinspection of elevators in certain situations.
- Requires the Ohio Educational Telecommunications Network Commission to deposit any money it receives to the credit of the Affiliates Services Fund (which the bill creates), and authorizes the Commission to use money in the fund for any operating purposes.
- Defines "arts projects" and requires that local contributions to arts projects equal 50% or more of state funding, rather than 30% of the facility's estimated cost.

- Changes the allocation and certification procedure for the Capital Donations Fund administered by the Ohio Arts and Sports Facilities Commission.
- Requires fees assessed and receipts received by the Ohio Athletic Commission to be deposited into the General Revenue Fund instead of to the Occupational Licensing and Regulatory Fund.
- Creates the Prevailing Wage Custodial Fund for the deposit of all money paid by employers to the Bureau of Employment Services that are held in trust for employees to whom prevailing wages are due and owing.
- Creates the State Employment Relations Board Training and Publications Fund.
- Changes license renewal of a landscape architect from an annual to a biennial schedule.
- Allows the State Board of Landscape Architect Examiners to establish fees for biennial certificate of qualification (license) renewal for landscape architects.
- Increases various fees for the issuance, renewal, and restoration of licenses issued by the Board of Cosmetology.
- Authorizes the Board of Cosmetology to deny, revoke, or suspend a license or permit or impose a fine if a license or permit holder fails to pay a fine or abide by a suspension order issued by the Board.
- Provides that the Board of Cosmetology may deny, revoke, or suspend a license or permit or impose a fine without holding an adjudication hearing if the license or permit holder fails to request a hearing within 30 days of the date the Board notifies the license or permit holder of its intention to take the action.
- Repeals language that permits applicants for licensure as an embalmer to hold the "equivalent" of a bachelor's degree.
- Raises the renewal fee for an embalmer's or funeral director's license from \$30 to \$60.

- Corrects erroneous cross-references in the Board of Embalmers and Funeral Directors Law that should be to the preneed funeral contracts statute in the Trust Companies Law.
- Removes the stipulation that the office space to be provided to the Ohio Ambulance Licensing Board by the Division of Emergency Medical Services in the Department of Public Safety be provided at no cost.
- Repeals the authority for the Ohio Ambulance Licensing Board to issue to an emergency medical service organization a temporary permit for an ambulance or nontransport vehicle.
- Changes the title of the Deputy Director of the Emergency Management Agency to Executive Director.
- Requires a resident of the Ohio Veterans' Home to pay per diem grant reimbursement to the Home for days of care provided to that resident when the United States Department of Veterans Affairs determines that that particular resident has excess income or assets, therefore rendering the Home ineligible to collect per diem reimbursement from the Department for that resident.
- Renames the Ohio Veterans Home Rental and Service Revenue Fund as the Ohio Veterans' Home Rental, Service, and Medicare Reimbursement Fund, permits Medicare reimbursements to be additionally deposited in the renamed fund, and permits the use of the renamed fund for the purchase of medications, medical supplies, and medical equipment for the Home.
- Changes the number of eligible individuals permitted to participate in the Ohio National Guard Tuition Grant Program from 4,000 to a number to be determined in the biennial budget, raises the percentage of financial aid an eligible applicant is entitled to receive under specified circumstances, and defines an "academic term" for purposes of the program.
- Modifies one of the exemptions from liability for repayment of instructional grants from the Ohio National Guard Tuition Grant program so that a grant recipient who fails to complete the term of enlistment, re-enlistment, or extension of enlistment that the recipient

was serving at the time the recipient received an instructional grant is liable for repayment of a percentage of the grants received by the recipient if the recipient enlisted in the inactive reserve component of the U.S. Armed Forces, whether or not the enlistment is for a term not less than the recipient's remaining term in the national guard.

CONTENT AND OPERATION

Fees collected by the Secretary of State

(secs. 111.18 and 1309.401)

Fees other than those collected under the Secured Transactions Law

Current law requires the Secretary of State to keep a record of all fees the Secretary of State collects and to pay them into the state treasury to the credit of the General Revenue Fund, except for fees the Secretary of State pays into the state treasury to the credit of the Corporate and Uniform Commercial Code Filing Fund (see above) and to the credit of the Board of Voting Machine Examiners Fund. Current law requires the following fees to be paid into the state treasury to the credit of the Corporate and Uniform Commercial Code Filing Fund:

(1) \$25 of each of the following fees:

(a) Fees collected for filing and recording articles of incorporation of a domestic corporation, including designation of agent, when the corporation is authorized to issue shares of capital stock, with or without par value, which are 10¢ for each share authorized up to and including 1,000 shares; 5¢ for each share authorized in excess of 1,000 shares up to and including 10,000 shares; 2¢ for each share authorized in excess of 10,000 shares up to and including 50,000 shares; 1¢ for each share authorized in excess of 50,000 shares up to and including 100,000 shares; 1/2¢ for each share authorized in excess of 100,000 shares up to and including 500,000 shares; and 1/4¢ for each share authorized in excess of 500,000 shares. However, no fee collected for this purposes may be less than \$85 or greater than \$100,000.

(b) An \$85 fee for filing and recording articles of organization of a limited liability company or for filing and recording a registration application to become a domestic limited liability partnership or a registered foreign limited liability partnership;

(c) An \$85 fee for filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership, if a certificate or



application is for certain types of limited partnerships or foreign limited partnerships;

(d) A \$100 fee for filing and recording a license to transact business in Ohio by a foreign corporation-for-profit.

(2) \$25 of each \$100 fee collected from a bank, savings bank, or savings and loan association chartered under the laws of the United States whose main office is located in another state and that must notify the Secretary of State that the entity is doing business in this state;

(3) All \$10 fees collected when a domestic limited liability partnership or foreign registered limited liability partnership files an annual report with the Secretary of State;

(4) Each additional \$10 fee collected for providing expedited filing service;

(5) All \$50 fees collected when a foreign corporation files a certificate of amendment if, in amending its articles of incorporation, it modifies any of the information included in either its application for a license to transact business in Ohio or any amendment to that application.

(6) Each \$50 fee that a nonprofit foreign corporation must pay for amending its original certificate authorizing the corporation to exercise its corporate privileges in Ohio.

The bill instead requires the Secretary of State to pay *50% of all fees* the Secretary of State collects, other than the fees excepted under current law, *into the state treasury to the credit of the General Revenue Fund* and *50% of the fees into the state treasury to the credit of the Corporate and Uniform Commercial Code Filing Fund*. The bill also requires that all of the fees described in (3) and (4) above that the Secretary of State collects be paid into the state treasury to the credit of the Corporate and Uniform Commercial Code Filing Fund.

Nature of the Corporate and Uniform Commercial Code Filing Fund and other fees credited to the Fund

The Secured Transactions Law (a part of Ohio's Uniform Commercial Code) creates in the state treasury the Corporate and Uniform Commercial Code Filing Fund that must be used only for the purpose of paying expenses related to the processing of filings under the Corporation Code (R.C. Title XVII), Ohio's Uniform Commercial Code (R.C. Chapters 1301. to 1310.), and the Registration of Trade Names, Trademarks, and Service Marks Law (R.C. Chapter 1329.).

Currently, in addition to the previously listed fees that must be deposited in the state treasury to the credit of the Corporate and Uniform Commercial Code Filing Fund, each of the following amounts collected by the Secretary of State must be similarly deposited: (1) \$4 of the \$9 fee under the Secured Transactions Law for the filing of, indexing of, and furnishing filing data for a financing statement disclosing an assignment of a security interest in described collateral, (2) \$4 of the \$9 fee under the Secured Transactions Law for the filing and noting of a statement releasing all or part of any collateral described in a filed financing statement, (3) \$4 of the \$9 fee under the Secured Transactions Law for the filing of, indexing of, and furnishing filing data for an original financing statement, an amended financing statement, or a continuation financing statement, and (4) \$4 of the \$9 fee (plus an additional \$1 for each listed item) under the Secured Transactions Law for providing a specified type of certificate evidencing presently effective financing statements and any associated statements of assignment. The remainder of the fees listed in (1) to (4) above currently must be deposited into the state treasury to the credit of the General Revenue Fund. Finally, all \$10 additional fees that the Secretary of State collects under the Secured Transactions Law for expedited filing service must be deposited into the Corporate and Uniform Commercial Code Filing Fund.

The bill modifies the latter provisions by increasing from \$4 to \$4.50 the amount of the fees listed in (1) to (4) above that must be deposited into the Corporate and Uniform Commercial Code Filing Fund. As under existing law, the remainder of those fees must be deposited into the state treasury to the credit of the General Revenue Fund.

Annual audit of the Auditor of State's office

(sec. 117.14)

Current law

Current law requires that an independent certified public accountant, appointed by a committee consisting of the Governor and the chairpersons of the finance committees of the House of Representatives and Senate, conduct a *biennial* audit of the office of the Auditor of State. The committee must appoint the accountant by the second Monday in October of each odd-numbered year and must prescribe the contract terms of the audit, which must cover the period beginning on the second Monday of January of that year and ending the day preceding the second Monday of January of the next odd-numbered year. The accountant must submit to each committee member, not later than six months after the end of the biennial period examined, a report of the audit.

Changes proposed by the bill

The bill requires an *annual* audit of the office of the Auditor of State that is conducted on a *fiscal year* basis. Under the bill, the committee must appoint the independent certified public accountant by March 31 immediately preceding the last day of the fiscal year to be audited. The accountant must submit to each committee member, on or before October 15, a report of the audit for the immediately preceding fiscal year.

The bill also removes from present law provisions requiring that (1) the accountant be paid from the General Revenue Fund from an appropriation made for that purpose to the Office of Budget and Management and (2) an audit of the Auditor of State's office be conducted, in addition to and in the same manner as the required biennial audit, if the Auditor of State is for any reason unable to complete the statutory term of office.

Establishment of financial planning and supervision commissions under the Local Government Fiscal Emergency Law and their financial supervisors

(secs. 118.01 and 118.05; Section 127)

Membership

Under the existing Local Government Fiscal Emergency Law, upon the occurrence of a fiscal emergency in any municipal corporation, county, or township, there is established, with respect to that municipal corporation, county, or township, a financial planning and supervision commission. It consists of seven voting members including the Treasurer of State; the Director of Budget and Management; in the case of a municipal corporation, two officials from the municipal corporation (mayor and presiding officer of the legislative authority); in the case of a county or township, one official from the board of county commissioners or board of township trustees, as appropriate, plus the county auditor; and three persons appointed by the Governor. The bill changes the make-up of commissions established on and after its effective date so that a commission will consist of five voting members: the Treasurer of State, the Director of Budget and Management, the mayor of a municipal corporation in the case of a municipal corporation, an official from the board of county commissioners or township trustees in the case of a county or township, and only two persons appointed by the Governor.

Current law allows for the designation of certain persons to serve in case of an absence of an ex officio member of a commission. The bill generally continues these designation provisions but allows the Treasurer of State and the Director of

Budget and Management to designate any appropriate person who is not an employee of either of these offices in addition to the existing authority to designate certain employees of these offices.

The bill generally requires the Governor to make the Governor's two appointments to a commission within 30 days after the receipt of specified nominations. One appointee must be a resident of the municipal corporation, county, or township involved; one appointee must have specified financial or business expertise; and, as under existing law, neither appointee shall have held an elective office within five years preceding the date of appointment.

Organization

The bill requires the Director of Budget and Management to be the chairperson of a commission, rather than one of the members elected by the commission as under current law. The bill also specifies that three members of the commission constitutes a quorum and that the affirmative vote of three members is necessary for action taken by vote of the commission.

Financial supervisor

The bill requires the Auditor of State to serve as the financial supervisor to financial planning and supervision commissions and removes existing authority for certified public accounting firms to be used under contract as financial supervisors. The bill, however, does authorize the Auditor of State "to elect to contract for the service" of a financial supervisor, although the Auditor of State remains *the financial supervisor* for purposes of the Local Government Fiscal Emergency Law. Uncodified law in the bill states that the Auditor of State must serve as financial supervisor to any commission established on and after the bill's effective date and to any commission established before that date upon the termination of any existing contract with a CPA firm approved by the Controlling Board as authorized by existing law.

Training of civil service personnel

(sec. 124.04)

Under current law, among the duties the Director of Administrative Services must perform is the duty to enter into agreements with universities and colleges for in-service training of personnel in the *state* civil service, which includes personnel in all offices and positions of trust and employment in the service of the state, the counties, and the general health districts of the state and the counties, excluding the cities, city health districts, and city school districts (sec. 124.01(B)--not in the bill). The bill instead requires the Director to enter into these

types of agreements for the in-service training of *civil service* personnel, which includes, in addition to the personnel in the state civil service, personnel in offices and positions of trust and employment in the service of the cities, city health districts, and city school districts (sec. 124.01(A)--not in the bill).

Human Resources Services Fund

(sec. 124.07)

The bill changes the name of the Personnel Services Fund to the Human Resources Services Fund, which is the state treasury fund into which the Department of Administrative Services must pay all moneys it receives as reimbursement for payroll and merit program services and facilities it provides to state agencies, state-supported colleges and universities, and political subdivisions.

Information Technology Fund

(sec. 125.15)

Under current law, all state agencies required to secure any equipment, materials, supplies, services, or contracts of insurance from the Department of Administrative Services must make acquisition in the manner and upon forms prescribed by the Director of Administrative Services and must reimburse the Department for the equipment, materials, supplies, services, or contracts of insurance, including a reasonable sum to cover the Department's administrative costs, whenever the Department requires reimbursement. The money so paid must be deposited in the state treasury to the credit of the General Services Fund, the *Computer Services Fund*, or the *Telecommunication Fund*, as appropriate. The bill eliminates the references to the latter two funds and substitutes a reference to the Information Technology Fund.

Reimbursement of DAS for certain space in the General Services Facility

(sec. 125.28)

Under current law, all state agencies that occupy space in the General Services Facility must reimburse the Department of Administrative Services for the cost of occupying that space and, if so determined by the Director of Administrative Services, an amount of debt service. The bill changes this provision so that state agencies *that occupy warehouse space* in the General Services Facility must reimburse the Department for the cost of occupying the space and, if so determined, an amount of debt service, but agencies that occupy space in that facility *other than warehouse space* must reimburse the Department for the cost of occupying the space only if the agency is supported in whole or in

part by *nongeneral revenue fund money*. Those agencies paying for occupying space in the General Services Facility other than warehouse space must include in the cost a calculated amount to cover any debt service.

Provision of skilled trades services to state agencies by DAS

(sec. 125.28)

Under current law, the Director of Administrative Services may provide building maintenance services to any state agency occupying space in a facility that the Department of Administrative Services does not own and may collect reimbursements for the cost of providing those services. Moneys collected by the Department for operating expenses of facilities that it owns or maintains currently are deposited into the Facilities Management Fund in the state treasury.

The bill changes the name of the Facilities Management Fund to the Building Management Fund. It also permits the Director to provide skilled trades services to state agencies occupying space in facilities that the Department does not own and to collect reimbursements for the cost of providing those services. Moneys collected for those services are to be deposited into a new fund created in the state treasury: the Skilled Trades Fund.

Designation of funds to retain their own interest

(sec. 126.12)

The Office of Budget and Management is required under current law to prepare and administer a statewide indirect cost allocation plan. Under the plan, costs incurred by an agency in providing services to other agencies are allocated to and recovered from the assorted funds of the state. Due to federal requirements concerning the crediting of interest earned on federal money, the state periodically pays adjustments to the federal government.

In order to reduce the payment of adjustments to the federal government, uncodified law contained in prior budget acts (and currently in effect) has directed the Director of Budget and Management, not later than September 1, each fiscal year, to designate such funds of the state as the Director considers necessary to retain their own interest earnings. The bill continues this provision as codified law.

Office of Budget and Management "state payment card programs"

(secs. 126.21(B), 126.25, and 5703.21)

Nature of the programs

The bill *permits* the Director of Budget and Management to establish and administer one or more "state payment card programs." The programs could permit or require state agencies to use a payment card to purchase equipment, materials, supplies, or services in accordance with guidelines that the Director issues. The Director is permitted to contract with one or more vendors to provide the programs' payment cards and associated payment card services. State agencies only may participate in state payment card programs that the Director establishes under the bill's provisions.

Deposit of program-related moneys

Existing law provides that the accounting services provided by the Director of Budget and Management must be supported by user charges and that the Director must determine a rate that is sufficient to defray the expense of those services and the manner by which those user charges must be collected. All money collected from those user charges must be deposited in the state treasury to the credit of the State Accounting Fund. The bill continues these provisions and additionally requires the deposit into the State Accounting Fund of moneys collected from *any rebates or revenue shares* received from any payment card program that the Director establishes.

Changes in reimbursement for travel and other expenses incurred by state employees and the Governor's spouse

(sec. 126.31)

To whom reimbursements made and covered events

Current law allows any officer, member, or employee of, or consultant to, any state agency (other than the General Assembly or a legislative agency, a court or judicial agency, or a state college or university) whose compensation is paid in whole or in part from state funds to be reimbursed, if authorized by that state agency, for *actual and necessary* traveling and other expenses incurred while attending any *gathering, conference, or convention* or while performing official duties, either inside or outside Ohio. In addition, the Governor's spouse may be reimbursed, if authorized by the Governor, for *actual and necessary* traveling and other expenses incurred while attending any *gathering, conference, or convention* to assist or serve the Governor in the discharge of the Governor's official duties or while otherwise assisting or serving the Governor in the discharge of those duties, either inside or outside Ohio.

The bill authorizes (1)(a) an officer, member, or employee of, or a consultant to, a covered state agency, or (b) the Governor's spouse or (2) a provider of goods or services to any of the persons listed in item (1)(a) or (b), to be reimbursed *directly* for traveling or other expenses that the officer, member, employee, consultant, or Governor's spouse incurs. The bill removes the reference to "actual and necessary" traveling and other expenses (thus referring generally to "traveling and other expenses") and authorizes reimbursement for those expenses incurred while any of the latter individuals is attending any *meeting*, conference, *retreat*, convention, or similar gathering (italicized events added by the bill).

Rules

Existing law provides that the reimbursement of traveling and other expenses must be made in the manner, and at rates that do not exceed those, provided by rule of the Director of Budget and Management adopted in accordance with the Administrative Procedure Act. The bill instead requires that these rules be adopted in accordance with section 111.15 of the Revised Code, *which does not require public hearings on a proposed rule*.

Maximum allowable expenses that state agencies may incur for meetings, conferences, retreats, conventions, and other similar gatherings

(sec. 126.31)

The bill authorizes the Director of Budget and Management, by rule adopted in accordance with R.C. 111.15, (1) to establish maximum allowable expenses and associated reasonable rates that a state agency (other than the General Assembly or a legislative agency, a court or judicial agency, or a state college or university) may incur for meetings, conferences, retreats, conventions, and other similar gatherings and (2) to establish the manner in which such expenses may be incurred by that type of state agency for those gatherings. If adopted, a state agency must comply with these rules.

Changes in reimbursement for state officials' and employees' interview and relocation expenses

(sec. 126.32)

Interview expenses

Current law allows any officer of any state agency to authorize reimbursement for travel, lodging, and meals to any person who is interviewing for a position paid under certain pay ranges in the State Pay Plan. The bill specifies that "travel" includes the costs of transportation; eliminates references to pay

ranges in Salary Schedules B and C that no longer are used to compensate state officials and employees; and includes, as under current law, pay ranges 13 or above in Schedule E-1 and pay ranges in Schedule E-2. Schedules E-1 and E-2 are pay tables that apply to state employees who are paid directly by warrant of the Auditor of State and who are exempt from coverage under the Public Employees' Collective Bargaining Law.

Relocation expenses: in general

Current law also provides that, if a person is appointed to certain positions in state government (e.g., the head of a cabinet department) and if that appointment requires a permanent change of residence, the appropriate state agency may reimburse the person for the person's actual and necessary expenses of moving the person, and the members of the person's immediate family residing in the person's household, to the person's new location. Positions covered by this provision include (among others) a position "comparable" to that of the head of a cabinet department. The bill removes this provision and instead lists the following specific positions: (1) Administrator of Workers' Compensation after August 31, 2000, (2) Chairperson of the Industrial Commission, (3) Adjutant General, (4) Chancellor of the Ohio Board of Regents, (5) Superintendent of Public Instruction, (6) Chairperson of the Public Utilities Commission of Ohio, and (7) Director of the State Lottery Commission. The bill also provides that the person's actual and necessary expenses in moving include (1) the cost of *in-transit storage* of household goods and personal effects and (2) the cost of moving the *household goods and personal effects* of the person and the members of the person's immediate family residing in the person's household (in addition to the cost of moving the person and those family members).

Certain relocation-related travel expenses

Present law authorizes a state agency to reimburse a person who relocates for the person's travel expenses between the new location and the person's former residence during a 30-day period in which the person is allowed to be reimbursed for the cost of temporary living expenses. The bill limits these trips to a maximum number specified by rule of the Director of Budget and Management and prohibits the state agency from reimbursing the person for travel expenses incurred for these trips by members of the person's immediate family.

Certain Department of Development relocation-related expenses

Current law permits the Director of Development to reimburse a person assigned to an office in a foreign country for the person's actual and necessary expenses of moving the person, and members of the person's immediate family

residing in the person's household, *back to the United States*. The bill continues that provision and also allows the Director to reimburse a person appointed to such a position for the cost of *storage of household goods and personal effects* of the person and the person's immediate family *while the person is serving outside the United States*, if the person's office outside the United States is the person's primary job location.

Provisions applicable to all the preceding reimbursements

Current law requires that reimbursement for interview and relocation expenses be made in the manner, and at rates that do not exceed those, provided by rule of the Director of Budget and Management adopted in accordance with the Administrative Procedure Act. The bill instead requires that these "interview and relocation expenses" reimbursement rules be adopted in accordance with R.C. 111.15, *which does not require public hearings on a proposed rule*. The bill also authorizes reimbursement for the expanded types of relocation-related expenses described above to be made directly to the person who incurred the expenses or directly to the providers of goods or services the persons receive, as determined by the Director of Budget and Management.

State agency authority to make refunds

(sec. 131.39; Section 110)

Under Article II, Section 22 of the Ohio Constitution, once money has been deposited into the state treasury, it cannot be removed without a specific appropriation made by law (even if the money was erroneously deposited). The bill codifies a provision of the main operating appropriations act of the 122nd General Assembly that allows a state agency to refund, from the fund to which the money was credited, all or any portion of a fee, fine, penalty, or other nontax payment made to the agency if the agency determines that the money is not owed. (Most overpayments of taxes are refundable from the Tax Refund Fund.)

If the agency lacks sufficient unencumbered appropriations to make the refund, the agency is currently authorized to request the Controlling Board for increased "appropriation authority," except if the fund involved is the General Revenue Fund or one of a few dozen other funds from which the Board is denied power to transfer money. In these cases, the agency is authorized to make the request to the Director of Budget and Management instead. Under the bill, the Board is to receive all requests for authority to make refunds when sufficient unencumbered appropriations do not exist. The Board may grant its approval upon a determination that the refund is due and that sufficient unencumbered money remains in the fund--a provision roughly similar to existing law. (The bill also

makes a specific appropriation of all amounts that the Controlling Board thus authorizes to be refunded.)

These provisions, like those presently in temporary law, supplement, rather than replace, any authority that the agency has to make refunds under any other law.

Department of Commerce

Consolidation of the Building and Loan Associations Fund and the Savings Banks Fund

(secs. 1155.07, 1155.10, 1155.13, 1155.131, 1163.09, 1163.13, 1163.16, 1163.17, 1181.06, and 1181.18)

Under existing law, all operating expenses of the Division of Financial Institutions of the Department of Commerce are paid from the Financial Institutions Fund in the state treasury. The Financial Institutions Fund consists of assessments on the Banks Fund, the Building and Loan Associations Fund, the Savings Banks Fund, the Credit Unions Fund, and the Consumer Finance Fund. Moneys in these special funds are used by the Superintendent of Financial Institutions to defray the costs of administering the laws that regulate the designated entities. Each fund consists, among other things, of the fees, assessments, charges, and forfeitures collected by the Superintendent in enforcing the laws governing those entities.

The bill consolidates the Building and Loan Associations Fund and the Savings Banks Fund into a new fund, the Savings Institutions Fund, which the bill creates in the state treasury. All fees, assessments, charges, and forfeitures collected by the Superintendent in enforcing the Savings and Loan Associations Law and the Savings Banks Law are to be paid into the state treasury to the credit of the Savings Institutions Fund. Moneys in the fund are to be used to defray the costs of administering the laws that regulate savings and loan associations and savings banks.

Elevator inspection and reinspection fees

(sec. 4105.17)

Current law states that the fee for any inspection by the general inspector of an elevator required to be inspected is \$30 plus \$5 for each floor where the elevator stops. The bill stipulates that this fee is payable even though the inspection does not take place, if the failure to inspect is not the fault of the general inspector or the Division of Industrial Compliance of the Department of

Commerce. The bill further allows the Superintendent of the Division of Industrial Compliance to assess an additional fee of \$30 plus \$5 for each floor where an elevator stops for the cost of reinspection when a previous attempt to inspect the elevator is unsuccessful through no fault of a general inspector or the Division of Industrial Compliance.

Creation of Affiliates Services Fund for receipts of the Ohio Educational Telecommunications Network Commission

(sec. 3353.06)

The Ohio Educational Telecommunications Network Commission consists of 11 members, and is charged with operating the statewide educational television and radio network and radio reading service network. Existing law authorizes the Commission to accept funds for use in its operations, but does not direct the Commission to deposit its receipts to the credit of a specific fund (thus, by operation of general law, such money is to be deposited in the General Revenue Fund).

The bill creates the Affiliates Services Fund in the state treasury, and requires the Commission to deposit any money it receives to the credit of the new fund. This money includes reimbursements for services provided to stations; charges levied for maintenance of telecommunications, broadcasting, or transmission equipment; and contract or grant payments. The Commission is allowed to spend amounts credited to the Affiliates Services Fund for any operating purposes. The bill specifies that such operating purposes can include (1) the purchase, repair, or maintenance of telecommunications, broadcasting, or transmission equipment, (2) the purchase or lease of educational programming, (3) the purchase of tape and maintenance of a media library, (4) professional development programs and services, and (5) administrative expenses and legal fees.

Ohio Arts and Sports Facilities Commission

Funding of arts projects

(secs. 3383.01 and 3383.07)

Current law provides for the sharing of funding between the state and non-state sources for the construction of Ohio arts facilities (capital projects managed directly by, or through contract with, the Ohio Arts and Sports Facilities Commission and dedicated to the arts). The bill provides for funding

arrangements for "arts projects." An arts project may be all or part of an arts facility for which the General Assembly has authorized spending.

Under existing law, no state funds may be spent on the construction of an arts facility unless the Commission finds (1) a need for the facility in the region, and (2) that one-third of the total estimated costs of construction or management of the "facility," or both, will come from sources other than the state. The bill continues the requirement that there be a finding of need for the facility. Under the bill, however, the Commission must find that an arts organization has made provisions for local contributions to the arts "project" amounting to 50% or more of state funding for the project. (The bill defines local contributions to include the value of assets provided by sources other than the state, as determined by the Commission, and includes the value of the site.)

The bill requires that local contributions to the arts project be spent on the costs of construction or operation of the project or facility. The costs of operation refers to amounts required to manage the arts facility that are incurred after the project has been constructed. These amounts must be paid pursuant to an agreement between the Commission and the arts organization that has arranged for the non-state funding and must come from funds that have been paid into a fund committed to that purpose, or they must equal the principal of any endowment fund, the income from which is dedicated to the purpose.

Changes in the allocation and certification procedure for the Capital Donations Fund

(sec. 3383.08)

Under current law, the Ohio Arts and Sports Facilities Commission administers a state fund, the Capital Donations Fund, for the construction or improvement of arts and sports facilities. The fund consists of gifts, grants, devises, bequests, and other financial contributions. Currently, state law requires the Commission to allocate the amounts credited to the fund among the specific projects for which they are to be used on a *monthly basis*. These allocations are based on amounts credited to the fund during a preceding month and must occur and be certified to the Director of Budget and Management not later than the tenth day of each month. Investment earnings of the fund must be allocated in the same manner as the gifts, grants, devises, bequests, or other financial contributions to which they are attributable.

The bill changes this allocation and certification procedure to direct only the allocation and certification of *investment earnings* of the fund on a *quarter of the fiscal year* basis. Those earnings no longer have to be allocated in the same

manner as the gifts, grants, devises, bequests, or other financial contributions to which they are attributable. The Commission is only required to allocate among specific projects amounts credited to the fund from investment earnings during a preceding quarter of the fiscal year, and to certify those allocations to the Director of Budget and Management, not later than one month following the end of that *quarter of the fiscal year*.

Ohio Athletic Commission fees deposited to the General Revenue Fund

(secs. 3773.43 and 3773.56)

Under existing law, the Ohio Athletic Commission assesses fees for licenses and permits relative to promoting, participating in, and conducting public boxing matches and exhibitions and professional wrestling matches and exhibitions. These fees and all receipts received by the Commission under the Boxing Law (R.C. Chapter 3773.) are deposited into the Occupational Licensing and Regulatory Fund. Under the bill, these fees and receipts are deposited instead to the General Revenue Fund.

Prevailing Wage Custodial Fund

(sec. 4115.101)

The bill creates the Prevailing Wage Custodial Fund in the custody of the Treasurer of State, but which is not part of the state treasury. The Administrator of the Bureau of Employment Services must deposit to the fund all money paid to the Bureau of Employment Services by employers that are held in trust for employees to whom prevailing wages are due and owing. The Administrator must make disbursements from the fund in accordance with the Prevailing Wage Law (R.C. Chapter 4115.) to employees affected by violations of that Law.¹

State Employment Relations Board Training and Publications Fund

(sec. 4117.24)

The bill creates the State Employment Relations Board Training and Publications Fund in the state treasury. The State Employment Relations Board is required to deposit into the fund all payments received by the Board for copies of

¹ *The "prevailing wage" must be paid workers on specified public improvement projects. The prevailing wage is the rate paid for comparable work in the private sector under collective bargaining agreements in force within the county where the public improvement is to be constructed.*

documents, rule books, and other publications; fees received from seminar participants; and receipts from the sale of clearinghouse. All money deposited into the Training and Publications Fund is to be used by the State Employment Relations Board to cover the costs of furnishing and making available copies of publications; the costs of planning, organizing and conducting training seminars; and the costs of compiling clearinghouse data.

Landscape architects' license renewal

(sec. 4703.36)

Current law makes a registered landscape architect certificate of qualification (license) valid until the last day of October each year (annual registration). The bill makes a registered landscape architect certificate of qualification valid until the last day of October of each odd-numbered calendar year (biennial registration). The bill also states that the standard license renewal procedure must be followed (Chapter 4745., not in the bill) and that the renewal must be recorded in the official register of the State Board of Landscape Architect Examiners. (Sec. 4703.36(B).)

Biennial fees and delinquency charges

(sec. 4703.37)

Current law allows the State Board of Landscape Architects to establish a fee for the annual renewal by a landscape architect of a certificate of qualification (sec. 4703.37(H)). The bill allows the Board to set a fee for biennial registration (sec. 4703.37(C)(3)). (See "**Landscape architect's license renewal**," above.)

Current law establishes a fee structure to restore an expired landscape architect certificate of qualification in terms of the number of years or parts of a year during which the certificate was delinquent (sec. 4703.37(I)). The bill changes this language so that delinquency fees are not calculated in terms of years, but rather, in terms of "renewal periods" and "certification periods" to reflect the change from annual to biennial renewal periods.

Board of Cosmetology provisions

Fee increases

(sec. 4713.10)

Continuing law grants authority to the Board of Cosmetology to charge and collect various fees for the issuance, renewal, and restoration of licenses issued by the Board. The bill would increase several of these fees.

The current fee for the issuance or renewal of a cosmetology, manicurist, or esthetics instructor's license is \$25. The bill would increase this fee to \$30. Currently \$20, the bill would increase the fee for the issuance or renewal of a managing cosmetologist's, managing manicurist's, or managing esthetician's license to \$30. The current fee for the inspection and issuance of a new, or the change of name or ownership of an existing, beauty salon, nail salon, or esthetics salon license is \$50. The bill would increase this fee to \$60. The fee for the renewal of a beauty, nail, or esthetics salon license currently is \$40. The bill would increase this fee to \$50. Currently \$20, the fee for the issuance or renewal of a cosmetologist's, manicurist's, or esthetician's license would be increased to \$30 by the bill.

The current fee for the restoration of any lapsed license classified as inactive by the Board, following completion of a specified continuing education requirement established by the Board is \$20. The bill would increase this fee to \$30. Currently \$50, the bill would increase the fee to \$60 for the issuance of a license to a person licensed or registered in cosmetology or in any branch of cosmetology in any other state or country, territory of the United States, or the District of Columbia, where similar reciprocity is extended to license holders of this state.

Issuance of a duplicate of any license issued by the Board currently has a fee of \$10. The bill would increase this fee to \$15.

Disciplinary actions

(sec. 4713.17)

The Board of Cosmetology licenses nail salons, beauty salons, esthetics salons, schools of cosmetology, glamour photography services, cosmetologists, managing cosmetologists, cosmetology instructors, manicurists, managing manicurists, manicurists instructors, estheticians, managing estheticians, and esthetics instructors. The Board also issues permits to tanning facilities.

The Board is permitted to deny, revoke, or suspend a license or permit or impose a fine of not more than \$100 per violation under certain circumstances. The bill adds a new circumstance: failure to pay a fine or abide by a suspension order issued by the Board. The Board must follow the Administrative Procedure Act when taking action against a license or permit holder.

Current law provides that a person subject to a fine imposed by the Board is permitted to pay the fine and waive his or her right to an adjudicatory hearing under the Administrative Procedure Act. The bill provides instead that, if a person fails to request a hearing within 30 days of the date the Board, in accordance with the Administrative Procedure Act, notifies the person of its intent to deny, revoke, or suspend a license or permit or impose a fine, the Board by a majority vote of a quorum of its members may take the action against the person without holding an adjudication hearing.

Embalmers and Funeral Directors changes

Embalmer licensure requirements

(sec. 4717.05)

Current law requires any person who desires to be licensed as an embalmer to apply for licensure to the Board of Embalmers and Funeral Directors. The applicant must pay a fee and meet specified requirements. One of the requirements is that the applicant hold at least a bachelor's degree "or its equivalent" from a college or university authorized to confer degrees by the Ohio Board of Regents or the comparable legal agency of another state in which the college or university is located. The bill repeals the language "or its equivalent" so that the applicant must hold at least a bachelor's degree.

Fee increases

(sec. 4717.07)

Current law requires the Board of Embalmers and Funeral Directors to charge and collect a number of fees, including a \$5 fee for the issuance of an initial embalmer's or funeral director's license and a \$30 renewal fee for either of those licenses. The bill raises the license renewal fee for an embalmer's or funeral director's license *from \$30 to \$60*.

Current law, unchanged by the bill, allows the Board, subject to the approval of the Controlling Board, to establish fees in excess of the amounts set forth in current law, provided that the fees are not increased by more than 50%. This provision also applies to the bill's proposed license renewal fee.

Correction of erroneous cross-references in the Board of Embalmers and Funeral Directors Law

(secs. 4717.03 and 4717.13)

The Board of Embalmers and Funeral Directors (BEFD) Law contains several cross-references to "section 1107.33" of the Revised Code, a nonexistent section that (if it existed) would be located in the Banks: Capital and Securities Law, instead of correct cross-references to "section 1111.19" of the Revised Code, a section in the Trust Companies Law that relates to *preneed funeral contracts*. The bill corrects the erroneous cross-references resulting in the clarification of the following aspects of the BEFD Law:

(1) The BEFD Law requires the BEFD's president to designate three BEFD members to serve on the Crematory Review Board. The Crematory Review Board, upon receiving a written notice from the BEFD of specified matters, generally must conduct an adjudicatory hearing under the Administrative Procedure Act. One of those matters is an alleged violation of any provision of the BEFD Law or any rules adopted under it, or, as clarified by the bill, any provision of the preneed funeral contracts statute, governing or in connection with crematory facilities or cremation.

(2) The BEFD Law requires the BEFD, on its own initiative or on receiving a written complaint from any person whose identity is known to the BEFD, to investigate acts or practices of any person holding a license or registration under the BEFD Law that, if proven, would violate the BEFD Law or any rules adopted under it, or, as clarified by the bill, the preneed funeral contracts statute.

(3) The BEFD Law permits the BEFD, after conducting an investigation of the latter type and providing an opportunity for an adjudicatory hearing, and if the BEFD has reasonable cause to believe that the person investigated is violating any provision of the BEFD Law or any rules adopted under it, or, as clarified by the bill, any provision of the preneed funeral contracts statute, in connection with embalming, funeral directing, funeral homes, embalming facilities, or the operation of funeral homes or embalming facilities, to issue an order directing the person to cease the violative acts or practices.

(4) The BEFD Law requires the BEFD to send a written notice to the Crematory Review Board, if, after conducting the latter type of investigation, it has reasonable cause to believe that the person investigated is violating any provision of the BEFD Law or any rules adopted under it, or, as clarified by the bill, any provision of the preneed funeral contracts statute, governing or in connection with crematory facilities or cremation. The BEFD Law also provides that, if after a Crematory Review Board adjudicatory hearing (see (1) above), the BEFD finds that such a person is in violation of any provision of the BEFD Law or any rules adopted under it, or, as clarified by the bill, any provision of the preneed funeral contracts statute, governing or in connection with crematory facilities or

cremation, the BEFD may issue a final order directing the person to cease the violative acts or practices.

(5) The BEFD Law permits the BEFD to commence a civil action to enjoin violations or threatened violations of specified sections of the BEFD Law, rules adopted under certain of those sections, or, as clarified by the bill, the preneed funeral contracts statute.

(6) The BEFD Law contains a list of prohibitions, the violation of which constitute criminal offenses. A person who holds a funeral home license for a funeral home that is closed, or that is owned by a funeral business in which changes in the ownership of the funeral business result in a majority of the ownership of the funeral business being held by one or more persons who solely or in combination with others did not own a majority of the funeral business immediately prior to the change in ownership, is prohibited from failing to submit to the BEFD, within 30 days after the closing or such an ownership change, a clearly enumerated account of certain preneed funeral contracts, life insurance policies, and bank, savings and loan association, or credit union accounts from which the licensee, at a specified point in time and in connection with the funeral home, was to receive specified types of payments. As clarified by the bill, the preneed funeral contracts are those covered by the preneed funeral contracts statute.

Ohio Ambulance Licensing Board

(secs. 4766.02 and 4766.07)

Under current law, the Division of Emergency Medical Services in the Department of Public Safety is required to provide office space at no cost to the Ohio Ambulance Licensing Board. The bill removes the stipulation that the office space be provided at no cost.

Under existing law, the Board issues permits for any ambulance or nontransport vehicle owned or operated by an emergency medical service organization. As a condition of receiving the permit, the organization must have each ambulance or vehicle physically inspected by the State Highway Patrol. Previously repealed law governing motor vehicle registration required such a permit or temporary permit as a condition of registering the vehicle. Apparently in response to the repeal of that requirement, the bill repeals a provision of current law that states that if an emergency medical service organization that has made timely application to the Board for an ambulance or nontransport vehicle permit has reasonable cause to believe that the State Highway Patrol will not be able to conduct an inspection prior to the date by which the organization is required to

renew the registration of the ambulance or nontransport vehicle with the Bureau of Motor Vehicles, the organization may apply to the Board for a temporary vehicle permit.

Emergency Management Agency

(secs. 125.023, 2305.232, 3750.02, 4163.07, 4937.02, 5502.21, 5502.22, 5502.25, 5502.28, and 5502.34)

The bill changes the title of the Deputy Director of the Emergency Management Agency in the Department of Public Safety to Executive Director.

Ohio Veterans' Home

Per diem grant provisions

(sec. 5907.141)

Current law. Under current law (not in the bill), residents of the Ohio Veterans' Home may be assessed a fee to pay a portion of the expenses of their support, dependent upon their ability to pay. For this purpose, each resident must furnish to the Home's board of trustees statements of income, assets, debts, and expenses as the board requires. All fees that residents contribute must be deposited into an interest-bearing account in a public depository and must be paid to the Treasurer of State within 30 days after the end of the month of their receipt, together with all interest credited to the account to date. The Treasurer of State must credit 80% of these fees and of this interest to the Ohio Veterans' Home Operating Fund and 20% to the Ohio Veterans' Home Fund.

The fee for each resident must be based upon the level of care the resident receives. The assessment for each resident cannot exceed the difference between the total per diem amount collected by the state for maintenance from all sources on the resident's behalf, and the average annual per diem cost for the resident's maintenance, computed in accordance with Veterans Administration regulations.

Under current law (in the bill), all money received from the United States Department of Veterans Affairs in per diem grants for "state home domiciliary and nursing home care" (a term that the bill replaces with "care that the Ohio Veterans' Home provides") must be deposited in the state treasury to the credit of the Ohio Veterans' Home Federal Grant Fund, which is used only for the Home's operating costs.

Changes proposed by the bill. The bill provides that any resident of the Ohio Veterans' Home whom the United States Department of Veterans Affairs

determines to have excess income or assets, therefore rendering the Home ineligible to collect per diem grant reimbursement for days of care provided to that resident, must pay, in addition to any other fees that the resident must pay to the Home, an amount equal to the rate of per diem grant that the Department denied for that particular resident. Any amount that the bill requires the resident to pay must be collected and distributed in the same manner as other fees that the Home assesses residents are collected and distributed.

Rental, Service, and Medicare Reimbursement Fund

(sec. 5907.15)

Existing law creates in the state treasury the Ohio Veterans Home Rental and Service Revenue Fund. Revenue generated from temporary use agreements of the Ohio Veterans' Home, from the sale of meals at the Home's dining halls, and from rental, lease, or sharing agreements for the use of facilities, supplies, equipment, utilities, or services provided by the Home must be credited to the fund, and the fund must be used only for the Home's maintenance costs.

The bill renames the fund as the Ohio Veterans' Home Rental, Service, and Medicare Reimbursement Fund, requires that revenue from Medicare reimbursements also be credited to the renamed fund, and permits the renamed fund to be additionally used for the purchase of medications, medical supplies, and medical equipment for the Home.

Ohio National Guard Tuition Grant Program

(sec. 5919.34)

Existing Ohio National Guard Law provides for an instructional grant program known as the Ohio National Guard Tuition Grant Program. The program provides financial aid to eligible individuals for the costs of education at an institution of higher education. The number of participants in the program is limited to 4,000 per academic term under existing law. The bill instead requires the number of participants in the program for each academic term to be established in the biennial budget. The bill defines "academic term" as any one of the following:

- (1) Fall term, which consists of fall semester or fall quarter, as appropriate;
- (2) Winter term, which consists of winter semester, winter quarter, or spring semester, as appropriate;
- (3) Spring term, which consists of spring quarter;

(4) Summer term, which consists of summer semester or summer quarter, as appropriate.

Under current law, for each term that an eligible applicant is approved for an instructional grant and remains a current member in good standing of the Ohio National Guard, the institution of higher education in which the applicant is enrolled, if the applicant's enlistment obligation extends beyond the end of that term, must be paid on the applicant's behalf the applicable one of the following amounts:

(1) If the institution is state-assisted, an amount equal to 60% of the institution's tuition charges;

(2) If the institution is a nonprofit private institution, an amount equal to 60% of the average tuition charges of all state universities;

(3) If the institution is an institution that holds a certificate of registration from the State Board of Proprietary School Registration, the lesser of (a) an amount equal to 60% of the total instructional and general charges of the institution, or (b) an amount equal to 60% of the average tuition charges of all state universities.

The bill changes the percentage listed in (1) to (3) above to 70%, and specifies that the "term" referred to is the "academic term."

Modification of repayment requirements

The Ohio National Guard Tuition Grant Program provides instructional grants to an individual who meets all of the following requirements (R.C. 5919.34(A)):

(1) The individual does not possess a baccalaureate degree.

(2) The individual has enlisted, re-enlisted, or extended current enlistment in the Ohio National Guard.

(3) The individual is actively enrolled as a full-time or part-time student for at least six credit hours of course work in a semester or quarter in a two-year or four-year degree-granting program at an institution of higher education or in a diploma-granting program at an institution of higher education that is a school of nursing.

(4) The individual has not accumulated 96 eligibility units for purposes of the grant program.

A grant recipient who does not complete the term of enlistment, re-enlistment, or extension of current enlistment the recipient was serving at the time an instructional grant was paid on behalf of the recipient is liable to the state for repayment of a percentage of all instructional grants the recipient received, plus an annual interest rate of 10% calculated from the dates the grants were paid. The Attorney General can file a civil action on behalf of the Adjutant General to recover the amount of the grants and interest and the expenses of prosecuting the action plus court costs and reasonable attorney's fees. A grant recipient is not liable for repayment if the recipient fails to complete the term of enlistment because of any of the following (sec. 5919.34(F)):

- (1) The recipient's death;
- (2) The recipient's discharge from the National Guard due to disability;
- (3) The recipient's enlistment, for a term not less than the recipient's remaining term in the National Guard, in the *active or reserve forces* of the United States Armed Forces.

The bill clarifies the exception described in (3), above, to the liability of a recipient to repay an instructional grant. Under the bill, a recipient who does not complete the recipient's current term in the National Guard is not liable for repayment of a percentage of the instructional grants received by the recipient if the recipient enlists in the *active component* of the United States Armed Forces or the active reserve component of *the United States Armed Forces* for a term not less than the recipient's remaining term in the National Guard. Therefore, under the bill, a recipient of an instructional grant is liable for the repayment of the instructional grants the recipient received if the recipient fails to complete the current term of enlistment in the National Guard and enlists in the inactive reserve component of the United States Armed Forces. (Sec. 5919.34(F).)

AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES

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- Extends the date on which the Family Farm Loan Program will expire from June 30, 1999 to July 1, 2001.
 - Adds the Director of Development as a member to the Agricultural Financing Commission.
 - Requires the Director of Agriculture to provide the Ohio Grape Industries Committee with meeting space, office space, and other

- administrative support, including necessary staff, and specifies that the staff members are employees of the Department of Agriculture, accountable to the Director and subject to his authority and supervision.
- States that statutory provisions involving the Burr Oak Water System cease to apply if ownership of the system is transferred from the state.
 - Combines the Oil and Gas Permit Fund with the Oil and Gas Well Plugging Fund and renames the combined fund the Oil and Gas Well Fund.
 - Establishes a fee schedule for the discharge of air pollutants from synthetic minor facilities; increases the fees for public and industrial dischargers holding an NPDES permit; increases the fee for persons applying for an NPDES permit variance or plan approval; retains at their current level through June 30, 2002, the fee for a public water system license and plan approval, the fee for certification as an operator of a water supply or wastewater system, the fee for an application for an industrial water pollution control certificate, and other miscellaneous fees; and establishes fees for the issuance of 401 water quality certifications.
 - Extends through June 30, 2006, the 50¢ per-tire fee on the sale of tires to fund the scrap tire management program in the Environmental Protection Agency.
 - Removes fiscal year 2000 as the last fiscal year in which moneys in the Scrap Tire Management Fund can be used for a loan and grant program for the recovery or recycling of energy from scrap tires and for the removal of scrap tire stockpiles, thus allowing those uses to continue.
 - Requires that moneys transferred to the Department of Development for the loan and grant program be deposited in a new Scrap Tire Loans and Grants Fund rather than in the Facilities Establishment Fund, and allows moneys in the new fund also to be used for projects that remove scrap tires from being disposed of as solid waste.
 - Requires the Director of Environmental Protection to submit a report to the Speaker of the House of Representatives and the President of the

Senate during the years 2002 and 2006 concerning the scrap tire management program.

- Extends through June 30, 2001, the 75¢ per-ton fee on the disposal of solid wastes used to fund the solid and infectious waste and construction and demolition debris management programs.
- Removes requirements that rules adopted by the Public Utilities Commission for uniform registration and uniform permitting of persons engaged in highway transportation of hazardous materials in Ohio be consistent with, and equivalent in scope, coverage, and content to, specified provisions of the Hazardous Materials Transportation Uniform Safety Act of 1990.
- Allows the first \$800,000 of forfeitures collected in each fiscal year for violations of the statutes and rules related to transportation of hazardous materials to continue to be credited to the Hazardous Materials Transportation Fund after November 17, 2000.
- Decreases from 50% to 45% the moneys in the Hazardous Transportation Materials Fund that are distributed to state agencies, regional planning commissions, political subdivisions, and educational institutions, other than Cleveland State University, for emergency response planning and training, and requires 5% of the moneys credited to the fund to be retained by PUCO for administration purposes and training of employees.

CONTENT AND OPERATION

Family Farm Loan Program

(secs. 122.011, 166.03, and 901.63; Sections 130 and 131)

Current law establishes the Family Farm Loan Program to promote economic opportunity for persons who desire to engage in agricultural production, to enhance the economic viability of the state's agricultural areas, and to help provide the state's agribusinesses with the farm products necessary for their operations through providing financial assistance to eligible applicants by purchasing loans from financial institutions, and guaranteeing loans, for land acquisition; constructing, reconstructing, rehabilitation, remodeling, renovating, enlarging, or improving agricultural buildings; and acquiring machinery and

equipment to be used in agriculture (sec. 901.80, not in the bill). Under current law, the Family Farm Loan Program is scheduled to expire on June 30, 1999. The bill extends the expiration date to July 1, 2001.

Change in membership of the Agricultural Financing Commission

(sec. 901.26)

The Agricultural Financing Commission currently consists of eight members, six appointed by the Governor with the advice and consent of the Senate and the Director of Agriculture and the Treasurer of State, or their designees. The bill adds the Director of Development, or the Director's designee, as a ninth Commission member.

Ohio Grape Industries Committee

(secs. 924.51 and 924.55)

Existing law creates the Ohio Grape Industries Committee for the purpose of promoting the sale of grapes and grape products. The bill requires the Director of Agriculture to provide the Committee with meeting space, office space, and other administrative support necessary to enable the Committee to carry out its functions, including any staff support that the Director considers necessary. Staff members provided by the Director are employees of the Department of Agriculture who are accountable to the Director and subject to his authority and supervision. Currently, the Department is reimbursed for actual administrative and overhead costs incurred in administering the statutes governing the Committee. Reimbursement cannot exceed 10% per year of the amount received in that year in the Ohio Grape Industries Fund. The bill specifies that the administrative and overhead costs include the cost of providing meeting space, office space, and staff support.

Burr Oak Water System

(secs. 1501.01, 1507.01, 1507.12, and 1521.04)

Currently, the state owns and operates the Burr Oak Water System, which includes the Burr Oak water treatment plant and its transmission lines, storage tanks, and other appurtenances. Existing law requires the Chief Engineer of the Department of Natural Resources to administer, operate, and maintain the Burr Oak Water System and, with the approval of the Director of Natural Resources, to act as contracting agent in matters concerning that system. In addition, the Chief Engineer is required to adopt rules specifying requirements and procedures for the provision of water service to water users and establishing a rate schedule,

including related water service fees and late payment penalties, for the sale of water from the Burr Oak Water System sufficient to meet the capital improvement and operating expenses of the system. Revenue derived from the sale of the water is deposited into the Burr Oak Water System Fund, which is used to pay the system's expenses. The Chief Engineer may enter into contracts with the Ohio Water Development Authority to meet the capital improvement expenses of the Burr Oak Water System. The bill states that these statutory provisions involving the Burr Oak Water System apply only as long as the state retains ownership of the system and specifies that the provisions cease to apply if ownership of the system is transferred from the state.

Oil and Gas Well Fund

(secs. 1509.02, 1509.071, 1513.30, and 5749.02)

Current law creates the Oil and Gas Permit Fund. All money collected by the Chief of the Division of Oil and Gas in the Department of Natural Resources from the following sources is deposited to the credit of that fund: (1) fees related to the issuance of permits to drill, reopen, convert, or plug a well involving gas or a liquid mineral, (2) fees required to be paid by permit holders who request to revise an existing tract on which a producing or idle well exists, (3) fees required to be paid by applicants who wish to plug and abandon a well, (4) fees required to be paid by applicants for a permit to inject brine or other waste substances produced in connection with oil or gas drilling, exploration, or production into an underground formation, (5) fees required to be paid by applicants for a registration certificate to transport brine by vehicle in Ohio, (6) civil penalties assessed and certain fines imposed against persons who violate certain provisions of the Oil and Gas Law, and (7) 70% of the moneys received by the Treasurer of State from the severance tax assessed on each barrel of oil and each 1,000 cubic feet of natural gas. The Oil and Gas Permit Fund is used only for the expenses of the Division associated with the administration of the federal Natural Gas Policy Act of 1978 and for the Division's other functions.

Current law also creates the Oil and Gas Well Plugging Fund. The fund consists of moneys collected because of forfeitures of surety bonds required to be filed to ensure compliance with the following: (1) requirements regarding restoration of land surfaces that have been disturbed by siting, drilling, completing, and producing wells, (2) requirements concerning plugging unproductive or abandoned wells, (3) provisions of permits for plugging and abandoning wells, and (4) related rules and orders. In addition, 20% of moneys received by the Treasurer of State from the severance tax levied on each barrel of oil and each 1,000 cubic feet of natural gas is deposited into the Oil and Gas Well Plugging Fund. The fund

may be expended by the Chief to plug wells or to restore land surfaces with respect to which surety bonds have been forfeited, to plug abandoned wells for which no funds otherwise are available, to use abandoned wells for the injection of oil or gas production wastes, or to correct conditions that the Chief reasonably has determined are causing imminent health or safety risks.

The bill combines the Oil and Gas Permit Fund and the Oil and Gas Well Plugging Fund and renames the combined fund the Oil and Gas Well Fund. All of the money that previously was deposited into each of the separate funds is to be deposited into the new, combined fund. The money in that fund is to be used for the same purposes for which money in each of the separate funds currently is used. The bill changes all references from the Oil and Gas Permit Fund and the Oil and Gas Well Plugging Fund to the Oil and Gas Well Fund and makes other necessary conforming changes.

Environmental Protection Agency fees and programs

Air pollution control fees

(sec. 3745.11(D))

Under current law, beginning January 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for a state permit or variance for that permit under the Air Pollution Control Law is required to pay a fee based upon the sum of actual annual emissions of regulated pollutants from the facility. The fee does not apply to major sources that are subject to the Title V permit program pursuant to the federal Air Pollution Control Act and the state Air Pollution Control Law, which are subject to a fee schedule that is specific to major sources.

The bill exempts an additional class of air pollution sources referred to as synthetic minor facilities from the existing fee schedule and establishes a separate annual fee schedule for them. Under the bill, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules pertaining to the Title V program. Beginning January 1, 2000, each person who owns or operates a synthetic minor facility must pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined Total Tons

<u>Per Year of All Regulated Pollutants Emitted</u>	<u>Annual Fee Per Facility</u>
Less than 10	\$170
10 or more, but less than 20	340
20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020
100 or more	3,350

The fees assessed on synthetic minor facilities must be collected annually no sooner than April 15, commencing in 2000. The fees are required to be based on the sum of the actual emissions of the regulated pollutants during the preceding calendar year.

Water pollution control and safe drinking water fees

(secs. 3745.11(L), (M), (N), (O), (P), (S), and (Y) and 6109.21)

The Water Pollution Control Law requires that a person or governmental entity proposing to install or modify a wastewater treatment works obtain approval of plans and specifications for the project from the Director of Environmental Protection prior to beginning construction. Currently, an applicant for such a plan approval must pay a fee of \$100 plus 0.65 of 1% of the estimated project cost, up to a maximum of \$15,000, when submitting an application before July 1, 2000, and

a fee of \$100 plus 0.2 of 1% of the estimated project cost, up to a maximum of \$5,000, when submitting an application on or after July 1, 2000. Under the bill, the first tier fee is extended through June 30, 2002, and the second tier applies to applications submitted on or after July 1, 2002.

Current law establishes two schedules of annual discharge fees to be paid by holders of national pollutant discharge elimination system (NPDES) permits with an average daily discharge flow of 5,000 or more gallons per day. Under each of the schedules, one of which is for public discharges and one of which is for industrial discharges, the fees are based on the average daily discharge flow and increase as the flow increases. The fees are due by January 30, 1998, and January 30, 1999. The bill extends the fees by requiring them to be paid by January 30, 2000, and January 30, 2001, and increases them as follows:

For public dischargers

<u>Average Daily Discharge Flow</u>	<u>Fee Due By January 30, 1998 and January 30, 1999</u>	<u>Fee Due By January 30, 2000 and January 30, 2001</u>
5,000 to 49,999	\$180	\$200
50,000 to 100,000	450	500
100,001 to 250,000	900	1,050
250,001 to 1,000,000	2,250	2,600
1,000,001 to 5,000,000	4,500	5,200
5,000,001 to 10,000,000	9,000	10,350
10,000,001 to 20,000,000	13,500	15,550
20,000,001 to 50,000,000	22,500	25,900
50,000,001 to 100,000,000	36,000	41,400
100,000,001 or more	54,000	62,100

For industrial dischargers

<u>Average Daily Discharge Flow</u>	<u>Fee Due By January 30, 1998 and January 30, 1999</u>	<u>Fee Due By January 30, 2000 and January 30, 2001</u>
5,000 to 49,999	\$180	\$250
50,000 to 250,000	900	1,200
250,001 to 1,000,000	2,250	2,950

For industrial dischargers

<u>Average Daily Discharge Flow</u>	<u>Fee Due By January 30, 1998 and January 30, 1999</u>	<u>Fee Due By January 30, 2000 and January 30, 2001</u>
1,000,001 to 5,000,000	4,500	5,850
5,000,001 to 10,000,000	6,750	8,800
10,000,001 to 20,000,000	9,000	11,700
20,000,001 to 100,000,000	10,800	14,050
100,000,001 to 250,000,000	12,600	16,400
250,000,001 or more	14,400	18,700

Current law imposes a \$6,750 surcharge on the annual discharge fees applicable to major industrial dischargers and requires it to be paid by January 30, 1998, and January 30, 1999. The bill increases the surcharge to \$7,500 and requires it to be paid by January 30, 2000, and January 30, 2001.

Under current law, one category of public discharger and eight categories of industrial dischargers are exempt from the annual discharge fees that are based on average daily discharge flow. Instead, they are required to pay an annual discharge fee of \$180. Currently, the fee is due January 30, 1998, and January 30, 1999. The bill continues this fee and requires it to be paid by January 30, 2000, and January 30, 2001.

The Safe Drinking Water Law prohibits anyone from operating or maintaining a public water system without an annual license from the Director. Applications for initial licenses and license renewals must be accompanied by a fee, which is calculated using schedules for the three basic categories of public water systems identified in current law. The fee for an initial license is required to be paid through June 30, 2000. The bill extends the fee requirement through June 30, 2002. The fee for a license renewal is currently required to be paid annually by January 31, through 2000. The bill also extends the license renewal fee and requires it to be paid annually by January 31, 2002.

The Safe Drinking Water Law also requires anyone who intends to construct, install, or modify a public water system to obtain approval of the plans from the Director. Current law establishes a fee for such plan approval of \$100 plus 0.2 of 1% of the estimated project cost, except that the total fee cannot exceed \$15,000 through June 30, 2000, and \$5,000 on and after July 1, 2000. The bill specifies that the \$15,000 limit applies to persons applying for plan approval through June 30, 2002, and the \$5,000 limit applies to persons applying for plan approval on and after July 1, 2002.

Current law establishes two schedules of fees that the Environmental Protection Agency charges for evaluating laboratories for compliance with accepted analytical techniques and procedures established under the Safe Drinking Water Law: a schedule with higher fees valid through June 30, 2000, and a schedule with lower fees valid on and after July 1, 2000. The bill continues the higher fee schedule through June 30, 2002, and applies the lower fee schedule to evaluations conducted after that date. It also continues through June 30, 2002 the provision that an individual laboratory cannot be assessed a fee more than once during a three-year period.

Current law establishes the application fee to take the examination for certification as an operator of a water supply system or wastewater system at \$25 through June 30, 2000, and \$10 on and after July 1, 2000. If the Director approves the applicant as eligible to take the examination, the applicant must pay a fee, through June 30, 2000, of \$45 if applying to be a Class I operator; the fees for Class II, III, and IV operators are set at \$55, \$65, and \$75, respectively, through that date. Effective July 1, 2000, the fees are to drop by \$20 for each class. The bill continues all of the fees, including the application fee, at the higher levels through June 30, 2002; on July 1 of that year, all of the fees will drop to the specified lower levels.

Under the Water Pollution Control Law, industrial wastewater dischargers may obtain certain personal property, corporate franchise, and sales and use tax incentives for installing water pollution control equipment. The procedures for

obtaining them include the submission of an application to the Director for an industrial water pollution control certificate. Current law requires that, through June 30, 2000, an application be accompanied by a \$500 fee. The bill continues the application fee through June 30, 2002.

Current law establishes a \$100 application fee through June 30, 2000, for any permit, variance, or plan approval required under the Safe Drinking Water or Water Pollution Control Law. On and after July 1, 2000, the fee drops to \$15. The bill continues the \$100 fee through June 30, 2002, after which the fee will drop to \$15. However, the bill specifies that notwithstanding the \$100 fee, any person applying for an NPDES permit or variance or a plan approval related to an NPDES permit under the Water Pollution Control Law must pay a nonrefundable fee of \$200 at the time of application for the permit, variance, or plan approval through June 30, 2002, and a \$15 fee after that date.

The bill defines "401 water quality certification" to mean a certification issued under section 401 of the federal Water Pollution Control Act and the state Water Pollution Control Law. It provides that any person applying for a 401 water quality certification must pay a fee of 60¢ for each cubic yard of material to be removed or placed according to the application. However, in addition to the per cubic yard fee, any person applying for a 401 water quality certification that concerns bulkhead and modular breakwater placements as the primary activity, excluding stone bulkheads, must pay a fee of \$5 for each linear foot of bulkhead and modular breakwater placements. Further, any person applying for such a 401 water quality certification for a project regulated under section 10 of the Federal River and Harbor Act of 1899 must pay an additional fee of \$50.

The total application fee for a 401 water quality certification cannot exceed \$20,000. The fee is effective through June 30, 2002, after which it expires. The fees are required to be paid at the time the application is submitted. The bill specifies that the fees are in addition to any other applicable application fees. All moneys collected from the 401 water quality certification fees must be deposited into the state treasury to the credit of the existing Surface Water Protection Fund.

Scrap tire management program and per-tire fee

(secs. 166.03, 166.032, 166.05, 3734.82(G), (H), and (I), 3734.87, and 3734.901)

Current law levies a 50¢ per-tire fee on the sale of tires, through June 30, 2000, to fund the scrap tire management program in the Environmental Protection Agency. The bill extends the fee through June 30, 2006.

Under existing law, moneys from that fee, together with moneys from scrap tire facility license fees, are deposited in the Scrap Tire Management Fund. Moneys in the fund are to be used for specified purposes, two of which are revised by the bill. Currently, through fiscal year 2000, the Director of Environmental Protection must provide for the transfer of \$1 million in each fiscal year to the Facilities Establishment Fund in the Department of Development. If, during each fiscal year, more than \$3.5 million are credited to the Scrap Tire Management Fund, the Director also must provide for the transfer of one-half of that excess to the Facilities Establishment Fund in the Department of Development. All of the transferred moneys are to be used exclusively to make loans or grants, or to provide other incentives, for eligible projects that recover or recycle energy from scrap tires. The Director of Development administers that program.

The Director of Environmental Protection must use the other one-half of excess moneys in the Scrap Tire Management Fund each fiscal year through fiscal year 2000 for scrap tire stockpile removal operations. In addition, after all of the specified actions to be funded with moneys in the fund are completed in each fiscal year through fiscal year 2000, the Director may expend up to the balance remaining from prior fiscal years to conduct removal actions.

The bill removes fiscal year 2000 as the cut-off for the above expenditures from the Scrap Tire Management Fund, thus allowing the expenditures to continue in each fiscal year as discussed above, with one modification. Rather than transferring moneys to the Facilities Establishment Fund for projects that recover or recycle energy from scrap tires, the bill creates a new Scrap Tire Loans and Grants Fund. The Director of Development is to administer the moneys in the fund in the same manner that moneys transferred to the Facilities Establishment Fund currently are administered and must adopt rules for that purpose. However, the bill also allows moneys in the new fund to be used for eligible projects that remove scrap tires from being disposed of as solid waste.

Current law requires the Director of Environmental Protection to submit a report by October 29, 1998, to the Speaker of the House of Representatives and the President of the Senate concerning the implementation, administration, and enforcement of the scrap tire management program. The bill requires the Director to submit such a report during the years 2002 and 2006.

Solid waste disposal fee

(sec. 3734.57(A))

Current law levies a fee on the disposal of solid wastes to fund the Environmental Protection Agency's solid and infectious waste and construction

and demolition debris management programs. The fee is set at 75¢ per ton and is levied from July 1, 1997, through June 30, 1999. The bill continues the fee through June 30, 2001.

Hazardous materials transportation

(sec. 4905.80)

Under current law, the Public Utilities Commission (PUCO) may adopt rules for the uniform registration and uniform permitting of persons engaged in the highway transportation of hazardous materials into, through, or within Ohio. Until November 17, 2000, such rules must be consistent with, and equivalent in scope, coverage, and content to, the final report submitted to the United States Secretary of Transportation pursuant to section 22 of the Hazardous Materials Transportation Uniform Safety Act of 1990. On and after that date, such rules must be consistent with, and equivalent in scope, coverage, and content to, section 22 of that federal act. The bill retains the authority for PUCO to adopt such rules, but removes the requirements that the rules be consistent with, and equivalent in scope, coverage, and content to, provisions of the Hazardous Materials Transportation Uniform Safety Act of 1990. The bill also removes the requirement that such rules adopted or amended on or after November 17, 2000, be adopted or amended in accordance with the Administrative Procedure Act.

Under current law, the first \$800,000 collected for violations of the statutes or rules governing the transportation of hazardous materials during each fiscal year through fiscal year 2000 and during fiscal year 2001 until November 17, 2000, must be credited to the Hazardous Materials Transportation Fund. Any forfeitures in excess of that amount collected during each period and on or after November 17, 2000, must be credited to the General Revenue Fund. Until November 17, 2000, the PUCO must distribute the moneys credited to the Hazardous Materials Transportation Fund for specified purposes (see below). The bill removes November 17, 2000, as the cut-off date for crediting \$800,000 of forfeiture moneys annually to the Hazardous Materials Transportation Fund. Thus, under the bill, the first \$800,000 of forfeitures collected each fiscal year must be credited to the Hazardous Materials Transportation Fund. Any forfeitures in excess of that amount must be credited to the General Revenue Fund each fiscal year. Furthermore, the PUCO must distribute moneys credited to the Hazardous Materials Transportation Fund as discussed below.

Under current law, the PUCO must distribute moneys from the Hazardous Materials Transportation Fund for emergency response planning and for the training of safety, enforcement, and emergency services personnel in proper techniques for the management of hazardous materials releases. Of the moneys,

50% must be distributed to Cleveland State University, and 50% to other educational institutions, state agencies, regional planning commissions, and political subdivisions. The bill reduces the percentage distributed to other educational institutions, state agencies, regional planning commissions, and political subdivisions from 50% to 45% and requires that 5% of the moneys from that fund be retained by the PUCO for administration purposes and for training employees.

COURTS AND CORRECTIONS

- Increases from 9% to up to 11% the percentage of amounts that the Attorney General collects that must be paid into the Attorney General Claims Fund.
- Provides that moneys received pursuant to specified contracts between the State Public Defender and a county public defender commission, a joint county public defender commission, or a board of county commissioners be credited to either the Multi-county: County Share Fund or the Trumbull County: County Share Fund instead of to the County Representation Fund.
- Eliminates an existing provision that requires the State Public Defender, no later than February 1 of each even-numbered year, to report to specified governmental personnel an estimate of the amount of money that will be needed in the next biennium for existing cost subsidies provided in criminal cases.
- Requires the State Public Defender, on or before July 31 in each state fiscal year, to notify the clerk of the court of common pleas of each county whether the General Assembly has, or has not, appropriated funding for that state fiscal year for reimbursement payments under the existing cost subsidies provided in criminal cases.
- Provides that, if the clerk of a court of common pleas is notified under the provision described in the preceding paragraph that, for a specified state fiscal year, the General Assembly has not appropriated funding for reimbursement payments under the existing cost subsidies in criminal cases, the clerk and the State Public Defender are exempt from the duties otherwise imposed on them relative to those subsidies.

- In the existing provisions governing the payment of an award of legal fees, court costs, and expenses to private legal counsel hired to represent the Ohio Public Defender Commission or the State Public Defender, etc., in a malpractice or other civil action or proceeding arising out of responsibilities under the Public Defender Law or in a civil action under the U.S. Constitution or U.S. Code: (1) provides that payment initially is to be made out of the State Public Defender's appropriations and is not to be attempted out of the Emergency Purposes Account or out of another appropriation for emergencies or contingencies unless the State Public Defender's appropriations do not have a sufficient available balance to pay the entire award, and (2) modifies the method of making a payment out of that Account or the other appropriation.
- Modifies the authority of the administrator of the Legal Rights Service, if attempts at the administrative resolution of complaints received by the Service are unsuccessful, to pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of the law establishing the Service.
- Repeals the limitations relative to "facilities that are designed to accommodate or house more than 150 children at any one time" that currently applies to four types of Department of Youth Services' grants of financial assistance to counties for the construction, acquisition, operation, or maintenance of schools, forestry camps, detention or district detention homes, or other facilities.

CONTENT AND OPERATION

Increase in percentage of amounts collected that must be paid into the Attorney General Claims Fund

(sec. 109.081)

Current law

Current law requires that 9% of all amounts that the Attorney General collects on claims due to the state, whether by the Attorney General's own employees or agents or by special counsel the Attorney General appoints, must be paid into the state treasury to the credit of the Attorney General Claims Fund. The fund must be used to pay expenses incurred by the Attorney General's office.

Changes proposed by the bill

The bill increases the percentage described in the immediately preceding paragraph from 9% to "up to 11%." The Attorney General, after consultation with the Director of Budget and Management, must determine the exact percentage of the collected amounts that must be paid into the state treasury to the credit of the fund.

State Public Defender--County Representation Fund

(sec. 120.04)

Existing law

The County Representation Fund receives moneys paid to the state for the provision of legal representation by the State Public Defender. The moneys are received through the application of two provisions:

(1) When the State Public Defender is designated by the court or requested by a county public defender or joint county public defender to provide legal representation for an indigent person in any case, other than pursuant to a contract described in (2), below, the State Public Defender must send an itemized bill for 50% of the actual cost of the representation to the county in which the case is filed. The county, upon receipt of the bill, must pay 50% of the actual cost of the legal representation as set forth in the bill. All moneys received from counties pursuant to this provision must be credited to the County Representation Fund (sec. 120.06(D)).

(2) Existing law also authorizes the State Public Defender to contract with a county public defender commission or a joint county public defender commission to provide all or any part of the services that a county public defender or joint county public defender is required or permitted to provide. If a county is not served by a county public defender commission or a joint county public defender commission, existing law authorizes the State Public Defender to contract with the board of county commissioners of that county to represent indigent persons who are charged with violating a section of the Revised Code or a municipal ordinance. All money received by the State Public Defender pursuant to such a contract must be credited to the County Representation Fund (sec. 120.04(C)(7)).

The State Public Defender must use all moneys credited to the fund to provide legal representation for indigent persons when designated by the court or requested by a county or joint county public defender (sec. 120.06(D)).

Operation of the bill

Under the bill, moneys received pursuant to a contract described in (2) under "**Existing law**" are to be credited either to the Multi-county: County Share Fund or, if received as a result of a contract with Trumbull County, the Trumbull County: County Share Fund. The County Representation Fund will no longer receive these moneys (sec. 120.04(C)(7)).

Cost subsidies in criminal cases

(secs. 120.04, 2949.17, 2949.19, 2949.20, and 2949.201)

Existing law

Transportation cost bill. Under existing law, county sheriffs generally have the duty to transport convicted felons to a correctional institution. In order to obtain reimbursement for the county for the expenses of transporting indigent convicted felons, the clerk of the court of common pleas must prepare a transportation cost bill for each indigent convicted felon so transported for an amount equal to 10¢ per mile from the county seat to the state correctional institution and return for the sheriff and each of the guards and 5¢ per mile from the county seat to the institution for each prisoner. (R.C. 2949.17.)

Reimbursement when a final judgment of reversal. Existing law specifies that if the judgment in a criminal case is appealed, if the state is the appellee, and if the appellate court issues a final judgment of reversal as provided in existing R.C. 2953.07, the clerk of the court of common pleas of the county in which sentence was imposed must certify the case to the State Public Defender (the SPD) for reimbursement, in the clerk's reimbursement report required under existing R.C. 2949.19, as described in the next paragraph (R.C. 2949.20).

Criminal cost subsidy. Under existing law, the clerk of the court of common pleas must report to the SPD all cases in which an indigent person was convicted of a felony, all cases in which reimbursement is required regarding a final judgment of reversal as described in the preceding paragraph, and all transportation cost bills that are prepared as described in the second preceding paragraph. The reports must be filed for each fiscal quarter within 30 days after the end of the quarter on a form prescribed by the SPD and must be accompanied by a certification of a judge of the court that in all cases listed in the report the defendant was determined to be indigent and convicted of a felony or that the case is reported regarding a final judgment of reversal, and that for each transportation cost bill submitted the convicted felon was determined to be indigent.

The SPD must review the reports and prepare a transportation cost voucher and a quarterly subsidy voucher for each county for the amounts the SPD finds to be correct. To compute the quarterly subsidy, the SPD: (1) first subtracts the total of all transportation cost vouchers approved for payment for the quarter from one-fourth of the SPD's total appropriation for criminal costs subsidy for the fiscal year of which the quarter is part, and (2) then computes a base subsidy amount per case by dividing the remainder by the total number of cases from all counties the SPD approves for subsidy for the quarter. The quarterly subsidy voucher for each county is the product of the base subsidy amount times the number of cases submitted by the county and approved for subsidy for the quarter. Payment is made to the clerk.

The clerk must keep a record of all cases submitted for the subsidy in which the defendant was bound over to the court of common pleas from the municipal court. Upon receipt of the quarterly subsidy, the clerk must: (1) pay to the clerk of the municipal court, for municipal court costs in such cases, an amount that does not exceed \$15 per case, (2) pay foreign sheriffs for their services, and (3) deposit the remainder to the credit of the county's general fund. The clerk of the court of common pleas then must stamp his or her records "subsidy costs satisfied." (R.C. 2949.19.)

Estimate of money needed for the criminal cost subsidy. Under existing law, on or before February 1 in even-numbered years, the SPD must report to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, the Office of Budget and Management, and the Legislative Budget Office an estimate of the amount of money that will be required for the next fiscal biennium to make the payments required under the criminal cost subsidy, as described above (R.C. 2949.201).

Operation of the bill

The bill modifies the operation of the existing provisions described above that pertain to cost subsidies in criminal cases, in circumstances in which the General Assembly has not appropriated money for the subsidies, as follows:

(1) It eliminates the existing provision that requires the SPD, no later than February 1 of each even-numbered year, to report to specified governmental personnel an estimate of the amount of money that will be needed in the next biennium for the subsidies (R.C. 2949.201).

(2) It enacts a provision that requires the SPD, on or before July 31 in each state fiscal year, to notify the clerk of the court of common pleas of each county whether the General Assembly has, or has not, appropriated funding for that state

fiscal year for reimbursement payments under the subsidies, as described above in "**Criminal cost subsidy**" (R.C. 120.04(B)(6) and 2949.201).

(3) It enacts a provision that specifies that, if the clerk of a court of common pleas is notified by the SPD under the provision described in the preceding paragraph that, for a specified state fiscal year, the General Assembly has not appropriated funding for reimbursement payments pursuant to the criminal cost subsidy under R.C. 2949.19: (a) the clerk is exempt from the duties imposed upon the clerk relative to that subsidy as described above in "**Criminal cost subsidy**," relative to transportation cost bills as described above in "**Transportation cost bill**," and relative to reimbursement when a final judgment of criminal conviction is reversed as described above in "**Reimbursement when a final judgment of reversal**," and (2) upon providing the notice, the SPD is exempt from the duties imposed upon the SPD relative to that subsidy as described above in "**Criminal cost subsidy**" (R.C. 2949.17(B), 2949.19(A) and (B), and 2949.20).

Payment of private legal counsel hired to represent the Ohio Public Defender Commission or the State Public Defender, etc., in a malpractice or other civil action or proceeding arising out of responsibilities under the Public Defender Law or in a civil action under the U.S. Constitution or U.S. Code

(sec. 120.06)

Existing law

General authority to contract with, and obtain payment for, private legal counsel. Existing law provides that, notwithstanding certain specified provisions in the Attorney General Law and the Public Defender Law that pertain to representation by the Attorney General (the AG), an assistant Attorney General, or special counsel of an officer or employee of the state or of an entity of state government, the State Public Defender (the SPD) may elect to contract with, and to have the state pay (as described below) for the services of, private legal counsel to represent specified entities or individuals (see below) in a malpractice or other civil action or proceeding that arises from alleged actions or omissions related to responsibilities derived under the Public Defender Law, or in a civil action that is based upon alleged violations of the United States Constitution or the United States Code, including a federal civil rights action under 42 U.S.C.A. 1983, and that arises from alleged actions or omissions related to responsibilities derived pursuant to the Public Defender Law, if the State Public Defender determines, in good faith, that the defendant in the civil action or proceeding did not act manifestly outside the scope of the defendant's employment or official responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner. The provision applies regarding private legal counsel to represent, in the

specified types of actions or proceedings, the Ohio Public Defender Commission (the OPDC), the SPD, assistant SPDs, other employees of the Commission or the SPD, or attorneys described in R.C. 120.41(C) who contracted with the Commission or the SPD to provide legal services to indigent or other persons. If the SPD elects not to contract pursuant to this provision for private legal counsel in a civil action or proceeding, then, in accordance with specified provisions of the Attorney General Law and the Public Defender Law, the AG must represent or provide for the representation in the civil action or proceeding of the OPDC, SPD, assistant SPDs, other employees of the OPDC or the SPD, or attorneys described in R.C. 120.41(C). (R.C. 120.06(E)(1).)

Payment mechanism. Subject to the limitations described below, payment from the state treasury for the services of private legal counsel with whom the SPD has contracted pursuant to the above-described authority may be accomplished only through the following procedure (R.C. 120.06(E)(2)(a)):

(1) The private legal counsel must file with the AG: (a) a copy of the contract, (b) a request for an award of legal fees, court costs, and expenses earned or incurred in connection with the defense of the OPDC, the SPD, an assistant SPD, an employee, or an attorney in a specified civil action or proceeding, (c) a written itemization of those fees, costs, and expenses, including the signature of the SPD and the SPD's attestation that the fees, costs, and expenses were earned or incurred pursuant to the above-described authorization to the best of the SPD's knowledge and information, and (d) certain other specified information regarding the fees, costs, and expenses involved and the legal services provided.

(2) Upon receipt of a request for an award of legal fees, court costs, and expenses and the requisite supportive documentation, the AG must: (a) review the request and documentation, (b) determine whether any of the limitations specified below apply to the request, and (c) if an award of legal fees, court costs, or expenses is permissible after applying the limitations, prepare a document awarding legal fees, court costs, or expenses to the private legal counsel. The document must identify the private legal counsel, specify the total amount of the award determined by the AG, itemize the award as to legal fees, court costs, and expenses, specify any limitation applied as described below to reduce the amount sought, state that the award is payable from the state treasury as described below, and be approved by the inclusion of the signatures of the AG, the SPD, and the private legal counsel.

(3) The AG must forward a copy of the award document described in the preceding paragraph to the Director of Budget and Management. The Director must apply for the payment of the award out of the Emergency Purposes Account or any other appropriation for emergencies or contingencies, and payment out of

that account or any other appropriation for emergencies or contingencies is authorized if there are sufficient moneys greater than the sum total of then-pending Emergency Purposes Account requests, or requests for releases from the other appropriation. If sufficient moneys exist in the Emergency Purposes Account or the other appropriations to pay the award, the Director must cause payment of the award to be made to the private legal counsel. If sufficient moneys do not exist in that account or the other appropriations, the private legal counsel must request the General Assembly to make an appropriation sufficient to pay the award, and no payment may be made until the appropriation has been made. The private legal counsel must make the request during the current biennium and during each succeeding biennium until a sufficient appropriation is made.

Limitations on award. An award of legal fees, court costs, and expenses pursuant to the above-described provisions is subject to the following limitations (R.C. 120.06(E)(2)(b)):

(1) The maximum award or maximum aggregate of a series of awards of legal fees, court costs, and expenses to the private legal counsel in connection with the defense in a specified civil action or proceeding cannot exceed \$50,000.

(2) The private legal counsel cannot be awarded legal fees, court costs, or expenses if they are covered by a policy of malpractice or other insurance.

(3) The private legal counsel may be awarded legal fees and expenses only to the extent that they are reasonable in light of the legal services rendered by the private legal counsel.

Denial of a request for an award; appeal mechanism. If the AG denies a request for an award of legal fees, court costs, or expenses to private legal counsel because of the application of a specified limitation, the AG must notify the private legal counsel in writing of the denial and of the limitation applied. A private legal counsel who receives a denial of an award notification or who refuses to approve an award document because of the proposed application of a specified limitation may commence a civil action against the AG in the Court of Claims to prove the private legal counsel's entitlement to the award sought, to prove that the specified limitations do not prohibit or otherwise limit the award sought, and to recover a judgment for the amount of the award sought. A civil action under this provision must be commenced no later than two years after receipt of a denial of award notification or, if the private legal counsel refused to approve an award document because of the proposed application of a specified limitation, no later than two years after the refusal. A Court of Claims judgment in favor of the private legal counsel must be paid from the state treasury in accordance with the payment mechanism described above. (R.C. 120.06(E)(2)(c) and (d).)

Operation of the bill

The bill modifies the mechanism for payment of an award to private legal counsel hired by the SPD under the existing provisions described above. It does not change the existing provisions that require the private legal counsel to file with the AG a request for an award and specified information and documents, the existing provisions that require the AG to perform certain duties upon receipt of a request for an award, or the existing provisions that identify the content of the award document the AG must prepare and forward to the Director of Budget and Management (R.C. 120.06(E)(2)(a)(i) and (ii)). But it modifies the procedures that are to be followed after the AG forwards an award document to the Director (R.C. 120.06(E)(2)(a)(iii)).

Under the bill, when the award document is so forwarded to the Director, the award of legal fees, court costs, or expenses must be paid out of the SPD's appropriations, to the extent there is a sufficient available balance in those appropriations. If the SPD does not have a sufficient available balance in the SPD's appropriations to pay the entire award, the Director then must make application for a transfer of appropriations out of the Emergency Purposes Account or any other appropriation for emergencies or contingencies in an amount equal to the portion of the award that exceeds the sufficient available balance in the SPD's appropriations. A transfer out of the Emergency Purposes Account or any other appropriation for emergencies or contingencies is authorized if there are sufficient moneys greater than the sum total of then-pending Emergency Purposes Account requests, or requests for releases from the other appropriation. Payment then is accomplished in the manner provided in existing law, with modifications: (1) if a transfer of appropriations out of the Emergency Purposes Account or other appropriation for emergencies or contingencies is made to pay an amount equal to the portion of the award that exceeds the sufficient available balance in the SPD's appropriations, the Director must cause the payment to be made to the private legal counsel, and (2) if sufficient moneys do not exist in the Emergency Purposes Account or other appropriation for emergencies or contingencies to pay an amount equal to the portion of the award that exceeds the sufficient available balance in the SPD's appropriations, the private legal counsel must request the General Assembly to make an appropriation sufficient to pay an amount equal to the portion of the award that exceeds the sufficient available balance in the SPD's appropriations, and no payment in that amount may be made until the appropriation has been made; the private legal counsel must make the request during the current biennium and during each succeeding biennium until a sufficient appropriation is made. (R.C. 120.06(E)(2)(a)(iii).)

Legal Rights Service: legal and other remedies

(sec. 5123.60)

Existing law

Under existing Ohio law, two of the primary functions of the Legal Rights Service are to act directly or contract with other organizations or individuals for the provision of services to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented by the Service and to receive and act upon complaints concerning institutional and hospital practices and conditions of institutions for mentally retarded or developmentally disabled persons and hospitals for the mentally ill. Whenever possible, the administrator of the Legal Rights Service must attempt to facilitate the resolution of complaints through administrative channels. If attempts at administrative resolution prove unsatisfactory, existing law authorizes the administrator to "initiate actions in mandamus and such other legal and equitable remedies" that may be necessary to accomplish the purposes of the law establishing the Legal Rights Service. (Sec. 5123.60(A) and (G).)

The Legal Rights Service receives federal assistance under the federal law that provides allotments to support a protection and advocacy system in each state to protect the legal and human rights of individuals with developmental disabilities. One of the requirements for receiving an allotment under federal law is that a protection and advocacy system must have the authority to "pursue legal, administrative, and other appropriate remedies or approaches" to ensure the protection of and advocacy for those rights. (42 U.S.C.A. 6041 and 6042(a)(2)(A)(i).)

Operation of the bill

The bill continues the primary functions of the Legal Rights Service as described above in "*Existing law*." Regarding the administrative resolution of complaints, the bill modifies the authority of the administrator of the Legal Rights Service if attempts at administrative resolution of complaints prove unsatisfactory by replacing the provision authorizing the administrator to "initiate actions in mandamus and such other legal and equitable remedies" with a provision authorizing the administrator to "pursue any legal, administrative, and other appropriate remedies or approaches" (identical to the federal law's provision described above in "*Existing law*") that may be necessary to accomplish the purposes of the law establishing the Legal Rights Service. (Sec. 5123.60(G).)

Financial assistance provided by the Department of Youth Services

(secs. 5139.27, 5139.271, 5139.28, and 5139.281)

The Department of Youth Services (DYS) Law authorizes DHS to grant specified types of financial assistance to one or more counties if certain conditions are satisfied and subject to certain *limitations*. The bill repeals the following limitations that relate to the described types of financial assistance that DHS may grant:

(1) Under continuing law, if certain conditions are satisfied, DHS (with Controlling Board approval) may grant specified financial assistance to one or more counties to defray the cost of the construction or acquisition of a school, forestry camp, or other facility in which delinquent, unruly, dependent, abused, or neglected children or juvenile traffic offenders may be held for training, treatment, and rehabilitation. The bill repeals one limitation with respect to this type of financial assistance: financial assistance cannot currently be granted for the construction or acquisition of any school, forestry camp, or other facility designed to accommodate *more than 150 children* at any one time.

(2) Under continuing law, if certain conditions are satisfied, DHS (with Controlling Board approval) may grant specified financial assistance to defray a county's share of the cost of acquiring or constructing a district detention home for alleged or adjudicated delinquent children. The bill repeals one limitation with respect to this type of financial assistance: financial assistance cannot currently be granted for the construction of a district detention home designed to accommodate more than 150 children at any one time.

(3) Under continuing law, if certain conditions are satisfied, DHS may grant specified financial assistance to one or more counties to defray the costs of the operation and maintenance of schools, forestry camps, or other facilities as described in (1) above that are used solely for the rehabilitation of adjudicated delinquent or unruly children. The bill repeals one limitation with respect to this type of financial assistance: financial assistance cannot currently be granted if a school, forestry camp, or other facility house more than 150 children at any one time.

(4) Under continuing law, if certain conditions are satisfied, DHS may grant specified financial assistance to defray a county's share of the cost of operating and maintaining a detention home or district detention home for alleged or adjudicated delinquent children. The bill repeals one limitation with respect to this type of financial assistance: financial assistance cannot currently be granted

for the operation or maintenance of a detention home or district detention home that houses more than 150 children at any one time.

HEALTH AND HUMAN SERVICES

- Permits the creation of planning and service areas throughout the state in which agencies on aging will administer the federal Older Americans Act on behalf of the Department of Aging.
- Requires the Children's Trust Fund Board to make a block grant to each child abuse and child neglect advisory board, rather than granting funds to individual child abuse and child neglect prevention programs.
- Authorizes the Director or Department of Health, whenever required or authorized to examine or evaluate persons for professional competency or licensure, to provide for the examination or evaluation by contracting with another entity, and specifies that the fees the entity collects are not required to be deposited into the state treasury.
- Repeals law that provides that the Director of Health must pay a minimum amount of money to each health service agency that performs certain activities to implement the certificate of need program at the local level.
- Continues until July 1, 2001 (from July 1, 1999) the moratorium on accepting certificate of need applications for certain long-term care beds.
- Increases by \$2 the fee for a certification of birth or certified copy of a vital record, other than such a certification or record issued by the Department of Health's Office of Vital Statistics or a local health district.
- Raises certain, and eliminates certain other obsolete or inapplicable, fees charged medical practitioners under the Department of Health's radiation control program.
- Renames the "Alcoholism-Detoxification Centers Fund" the "Statewide Treatment and Prevention Fund" and replaces the "Drivers' Treatment and Intervention Fund" with the renamed "Statewide Treatment and Prevention Fund."

- Requires the Board of Nursing to establish a practice intervention and improvement program under which the Board may abstain from taking disciplinary action against an individual who is failing to meet acceptable and prevailing standards of safe and effective nursing care.
- Provides that, for the Board of Nursing to abstain from taking disciplinary action under the program, the Board must have reason to believe that the individual's practice deficiency can be corrected through remediation and the individual must enter into an agreement with the Board to seek remediation as prescribed by the Board, comply with the terms and conditions of the remediation, and successfully complete the remediation.
- Requires the Board of Nursing to designate an administrator to operate the program.
- Establishes a fee of \$100 for processing a reinstatement of any expired license or certificate issued by the Board of Nursing, excluding those considered inactive and changes the current fee of \$300 for biennial renewal of authorization to approve continuing nursing education programs to a fee of \$150 for each year authorization is renewed.
- Requires an optometrist seeking reinstatement of a delinquent certificate to pay a renewal fee for the year in which application for reinstatement is made, rather than all delinquent annual renewal fees.
- Clarifies that the renewal fees an optometrist on inactive status must pay for reinstatement are for the year in which application for reinstatement is made.
- Increases the application fee to \$40 for an entity organized for the purpose of practicing veterinary medicine applying to the Board of Pharmacy for a license as a terminal distributor of dangerous drugs.
- Establishes a fee of \$35 for the issuance by the State Medical Board of a duplicate certificate of registration as a physician assistant.
- Increases the current application fee of \$275 made to the State Medical Board for the biennial renewal of a certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatry to \$305.

- Provides that the members of the School Psychology Examination Committee are to be paid for each day employed in the discharge of their official duties, including any necessary expenses incurred by these duties, at a rate established by the Director of Administrative Services.
- Increases to \$400 (from \$200) the maximum fee the Board of Psychology may charge for biennial registration of a psychologist or school psychologist.
- Increases fees for the registration of sanitarians and sanitarians-in-training and authorizes the Board of Sanitarian Registration to establish fees for the registration of training agencies and review of continuing education hours.
- Establishes higher fees for the renewal of biennial veterinary licenses and the issuance of veterinary technician registrations issued by the State Veterinary Medical Licensing Board, and makes clarifying changes in the provisions governing the fees for licenses and registrations.
- Increases fees charged by the Hearing Aid Dealers and Fitters Licensing Board.
- Eliminates appeals to the Hearing Aid Dealers and Fitters Licensing Board by a person whose hearing aid dealer's and fitter's license or trainee permit is suspended or revoked by the Board after a hearing or opportunity for a hearing.
- Requires the Ohio Board of Dietetics to adopt rules specifying the time that a limited permit to practice dietetics is valid and prohibits the Board from renewing a limited permit.
- Provides that, for state fiscal years 2000 and 2001, a county is responsible for only 77% of its share of the costs of the Ohio Works First and Prevention, Retention, and Contingency Programs.
- Permits the Department of Human Services to expand the benefits provided through an electronic benefit transfer (EBT) system to include food stamp benefits, any other assistance the Department provides, and benefits provided by a private entity or other government agency that

enters into an agreement with the Department for the distribution of the benefits through the EBT system.

- Authorizes the Department of Human Services to designate which counties will participate in the EBT system, specify the date a designated county will begin participation, and specify which benefits will be provided through the EBT system in a designated county.
- Provides that the Director of Human Services may continue to operate a children's health insurance program, to be known as CHIP Part I, initially authorized by an executive order under which health assistance is available to uninsured individuals under age 19 with family incomes not exceeding 150% of the federal poverty guidelines.
- Authorizes the Director of Human Services to submit a state child health plan to the United States Secretary of Health and Human Services to operate CHIP Part II under which health assistance is available no sooner than January 1, 2000 to uninsured individuals under age 19 with family incomes above 150% of the federal poverty guidelines but not exceeding 200% of the guidelines.
- Provides that, if the Director of Human Services determines that federal financial participation for CHIP Part II is insufficient to provide health assistance to all the individuals the Director anticipates are eligible, the Director may refuse to accept new applications or make the eligibility requirements more restrictive.
- Provides that application for the Department of Human Services (DHS) to pay the funeral, cremation, cemetery, and burial expenses of certain deceased public assistance recipients is to be made to a county department of human services and requires the county department to either approve the payment or submit the application to DHS for its consideration approval.
- Eliminates law under which an incentive payment under the LEAP Program is not to result in a decrease in the allotment of food stamp benefits a household receives.

- Eliminates the limitation on the number of months the earned income disregard is applied for assistance groups participating in Ohio Works First.
- Repeals law that provides that an assistance group participating in Ohio Works First or receiving financial assistance from the Disability Assistance Program receives, as part of its monthly financial assistance payment, a monthly energy assistance payment.
- Provides that the Department of Human Services may establish an assessment rate under the Hospital Care Assurance Program that is the same for all hospitals or two or more assessment rates that apply to hospitals according to categories the Department establishes based on hospitals' total facility costs.
- Delays termination of the Hospital Care Assurance Program until July 1, 2001.
- Provides that a resident of a residential treatment center certified as an alcohol and drug addiction program, rather than an active participant in a certified alcohol or drug addiction program, may qualify for the Disability Assistance Program.

CONTENT AND OPERATION

Planning and service areas for administering the federal Older Americans Act

(sec. 173.011)

The Department of Aging is the state agency designated to administer funds granted to Ohio from the federal government under the Older Americans Act of 1965. The bill permits the Department, when administering these funds, to divide the state into separate multi-county regions called "planning and service areas" and to designate one public entity or one private nonprofit entity to be each area's "agency on aging." That agency will administer programs under the Older Americans Act within its planning and service area on behalf of the Department.

Following an appropriate hearing, the Department will have the power to issue an adjudication order to withdraw or provisionally maintain the designation of an entity as an agency on aging. But, the Department first must adopt rules under the Administrative Procedure Act to establish criteria for designating

agencies on aging and providing procedures and grounds for withdrawing or provisionally maintaining the designation of an entity as an agency on aging.

Children's Trust Fund

(secs. 3109.17 and 3109.18; Section 140)

The Children's Trust Fund finances child abuse and child neglect prevention programs through fees for copies of birth records, certifications of birth, death records, and divorce or dissolution filings. The Children's Trust Fund Board may also accept gifts and apply for and accept federal funds. Under current law, the Children's Trust Fund Board is required to make grants to public or private agencies for the purpose of child abuse and child neglect prevention based on a state allocation plan. The Board must develop a state plan for each fiscal biennium, as well as criteria for county allocation plans and individual projects. It must also approve or reject county allocation plans or, if the county has no advisory board, approve or reject individual projects.

The boards of county commissioners in Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, and Summit counties are each required to establish a child abuse and child neglect advisory board. Other counties are permitted to establish advisory boards. Annually, each advisory board is required to perform a number of functions, including (1) giving public notice about the availability of funds to all potential applicants, (2) reviewing applications for funding, (3) submitting an allocation plan to the Children's Trust Fund Board, (4) monitoring the operation of the plan, and (5) establishing procedures for evaluating programs. Funds that are not spent by the counties or recipient within the time specified must be returned to the Treasurer of State.

The bill requires an advisory board to perform its duties every two years, rather than annually, which is consistent with the requirements imposed on the Children's Trust Fund Board under existing law. The bill eliminates the requirement that specified counties establish advisory boards and permits the board of county commissioners to designate the county family and children first council to serve as the advisory board. The Children's Trust Fund Board is no longer to make grants to public or private agencies. Rather, the Board is to make a block grant to each advisory board. Counties that do not have an advisory board cannot receive money from the Fund. Consistent with the move to block granting, criteria for child abuse and child neglect prevention programs are to be determined by advisory boards, not the Children's Trust Fund Board. Similarly, individual applications are to be reviewed and approved only by advisory boards and are not to be forwarded to the Children's Trust Fund Board for review. Grant funds that are not spent by the recipient must be returned to the advisory board. If the

advisory board does not redistribute the funds within the time specified in the original grant, they must be returned to the Treasurer of State.

Under current law, a recipient of funds must file two copies of an annual report with the advisory board or, if no such board exists, the Children's Trust Fund Board. The advisory board then files one copy of the report with the Department of Human Services for compilation. The bill requires a grant recipient to file one copy of the annual report with the advisory board. The advisory board must file with the Children's Trust Fund Board a report regarding its allocation plan that includes any information required by the Board.

The bill's provisions regarding the Children's Trust Fund take effect January 1, 2001, although the Children's Trust Fund Board is permitted to make grants to child abuse and child neglect prevention programs during the period January 1, 2001 through June 30, 2001.

Administration of examinations and evaluations by the Department of Health

(sec. 3701.044)

At times, the Director of Health or Department of Health is required or authorized to conduct or administer an examination or evaluation of individuals for the purpose of determining competency or for issuing a license or other authority to practice or perform duties. The bill stipulates that the Director or Department may provide for the examination or evaluation by contracting with any public or private entity to conduct or administer the examination or evaluation.

Disposition of fees

The bill specifies that a contract with an entity to conduct or administer an examination or evaluation may authorize the entity to collect and retain, as all or part of the entity's compensation under the contract, any fee paid by an individual for the examination or evaluation. It further specifies that the entity is not required to deposit the fees collected into the state treasury.

Confidentiality of testing materials

The bill prohibits the Director or Department of Health from disclosing test materials, examinations, or evaluation tools used in any examination or evaluation the Director or Department conducts, administers, or provides for by contract. Disclosure may occur, however, when considered to be necessary by the Director or Department. The bill provides that the test materials, examinations, and evaluation tools are not public records and are not subject to inspection or copying.

Corresponding changes

(secs. 3721.31, 3721.33, 3742.03, 3742.04, 3742.05, 3742.08, 3742.19, and 4773.04)

In establishing the general authority of the Director or Department of Health to contract for testing services, the bill makes corresponding changes in three areas of existing law: competency evaluation of nurse aides used by nursing homes, licensing of lead abatement professionals, and licensing of radiology professionals. These changes include certain corrective or clarifying changes, including a clarification of the authority to charge an "examination only" fee for certain persons subject to licensure as lead abatement professionals. According to representatives of the Department of Health, this provision has been implemented by charging persons who are registered sanitarians or certified industrial hygienists for the cost of examination and issuance of licenses as lead abatement professionals, but not for participating in training programs leading toward licensure. Thus, the bill eliminates the reference to an "examination only" fee.

Medicare Initial Certification Fund

(secs. 3701.04(C) and 3701.043)

The bill corrects an inconsistency in current law regarding the collection of fees by the Department of Health for conducting the initial certification of providers of health services for the Medicare program. By moving the statute that creates the Medicare Initial Certification Fund to a new section of the Revised Code, the bill clarifies that the fees collected for Medicare certification are not included in the requirement that fees be deposited in the Department's General Operations Fund.

Payments to health service agencies

(secs. 3702.52 and 3702.58; technical change: 3702.57)

Current law requires the Director of Health to pay a minimum amount of money to each health service agency that performs certain activities to implement the certificate of need program at the local level. The bill eliminates this requirement.

Moratorium on long-term care beds

(sec. 3702.68; Sections 3 and 4)

The bill continues, until July 1, 2001, a provision that was scheduled to expire July 1, 1999, prohibiting the Director of Health from accepting for review any application for a certificate of need (CON) for any of the following purposes:

(1) Approval of beds in a new health care facility or an increase in beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds;

(2) Approval of beds in a new county home or county nursing home, or an increase of beds in an existing county home or county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Medicare or nursing facility beds under Medicaid;

(3) An increase of hospital beds registered as long-term care beds or skilled nursing facility beds or recategorization of hospital beds that would result in an increase of beds registered as long-term care beds or skilled nursing facility beds.

The Director continues to be required to accept for review a CON application for nursing home beds in a health care facility, or skilled nursing facility beds or nursing facility beds in a county home or county nursing home, if the application concerns replacing or relocating existing beds within the same county. The Director also must accept for review an application seeking CON approval for existing beds located in an infirmary that is operated exclusively by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and was providing care exclusively to members of such a religious order on January 1, 1994.

A prohibition against the Director accepting for review an application for a CON to recategorize hospital beds as skilled nursing beds continues indefinitely beyond July 1, 2001.

Vital records fee

(sec. 3705.24)

Under current law, the fee for a certified copy of a vital record or for a certification of birth is prescribed by the Public Health Council if the document is issued by the Office of Vital Statistics in Ohio Department of Health or by the local board of health if it is issued by a health district.² To the fee established by

² A vital record is a certificate or report of a matter such as a birth, death, or marriage. A certification of birth is a document that attests to a birth, but does not necessarily include all of the information in a birth certificate.

the Public Health Council or board of health for certain records an additional fee is added for the Children's Trust Fund. Current law also provides that the fee for a certified copy of a vital record or for a certification of birth that is not issued by the Office of Vital Statistics or a local health district is \$5, plus any Children's Trust Fund fee. The bill would increase the \$5 statutory fee to \$7, plus any Children's Trust Fund fee, but it is not clear when the increase would apply. According to a representative of the Department of Health, copies of these records are issued by the Office of Vital Statistics or local health districts in almost all cases.

Radiation control program fees for medical practitioners

(secs. 3748.07 and 3748.13)

The bill increases to \$160 (from \$150) the fee a dentist, physician, podiatrist, chiropractor, or business entity consisting of such medical practitioners (other than a hospital) must pay the Department of Health for the biennial registration of radiation-generating equipment. The fee such a medical practitioner or business must pay for an inspection of records and operating procedures of handlers that install sources of radiation (assembler-maintainer inspection) is increased to \$233 (from \$200).

Fees medical practitioners and businesses must pay for the inspection of the following are also increased:

Equipment	Current Law Fee	Fee Under Bill
First dental x-ray tube	\$80	\$94
Each additional dental x-ray tube at the same location	\$40	\$47
First medical x-ray tube ³	\$160	\$187
Each additional medical x-ray tube at the same location	\$80	\$94
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$320	\$373
First nonionizing radiation-generating equipment of		

³ Current law refers to this category of x-ray tube as an x-ray tube that is not a dental, cabinet, or gauging x-ray tube or analytical x-ray equipment used in nonhealth-care applications. The bill specifies that these x-ray tubes are medical x-ray tubes.

Equipment	Current Law Fee	Fee Under Bill
any kind	\$160	\$187
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$80	\$94

Current law provides that an additional fee is charged for an inspection if, at the time of inspection, there is no radioactive material license or radiation-generating equipment registration for the facility housing the equipment and no license or registration application is pending. The bill increases the additional fee to \$290 (from \$250).

At the request of an individual holding or seeking a radioactive material license or radiation-generating equipment registration or when the Director of Health, during an inspection, considers a review to be necessary, the Director of Health is permitted to conduct a review of shielding plans or the adequacy of shielding. The bill increases the fee for the review charged to the medical practitioners and businesses to \$466 (from \$400) for each room where a source of radiation is used.

The bill repeals statutorily prescribed inspection fees for radioactive material licensed or on hand at the time of an inspection. These fees have been superseded by fees established in rules adopted by the Public Health Council. The bill also repeals statutorily prescribed inspection fees not applicable to the medical practitioners and businesses (inspections for gauging x-ray tubes, cabinet x-ray tubes, and analytical x-ray equipment used in nonhealth-care applications).

Renaming of the "Alcoholism-Detoxification Centers Fund" to the "Statewide Treatment and Prevention Fund"; elimination of the "Drivers' Treatment and Intervention Fund" and substitution of the new "Statewide Treatment and Prevention Fund" in its place

(secs. 3793.10, 4301.10, 4301.30, 4511.191, and 4511.83.)

The existing Alcoholism-Detoxification Centers Fund provides some of the funding for the Department of Alcohol and Drug Addiction Services. The bill renames the Alcoholism-Detoxification Centers Fund the "Statewide Treatment and Prevention Fund." The bill also eliminates the existing Drivers' Treatment and Intervention Fund, which is used to pay the costs of driver treatment and intervention programs, and replaces it with the new Statewide Treatment and Prevention Fund. The bill also makes corresponding changes in cross-references.

Board of Nursing Provisions

Practice intervention and improvement program

(secs. 4723.06, 4723.28, and 4723.282)

The Board of Nursing licenses registered nurses and licensed practical nurses and issues certificates of authority to registered nurses to practice as certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners. When the Board determines pursuant to an adjudication that an individual holding a license or certificate has failed to practice in accordance with acceptable and prevailing standards of safe nursing care, the Board is authorized to deny, revoke permanently, suspend, or place restrictions on the license or certificate; reprimand or otherwise discipline the license or certificate holder; or impose a fine of not more than \$500 per violation.

The bill requires the Board to establish a practice intervention and improvement program under which the Board may abstain from taking disciplinary action against a license or certificate holder failing to meet acceptable and prevailing standards of safe and effective nursing care as identified through an investigation. To abstain from taking disciplinary action under the program, the Board must have reason to believe that the individual's practice deficiency can be corrected through remediation. The individual must enter into an agreement with the Board to seek remediation as prescribed by the Board, comply with the terms and conditions of the remediation, and successfully complete the remediation.

An individual participating in remediation is responsible for all financial obligations that may arise from obtaining or completing the remediation and, when the remediation begins, must sign a waiver permitting any entity that provides services related to the remediation to release to the Board information regarding the individual's progress. In the absence of fraud or bad faith, the entity reporting on the individual's practice deficiency, or progress or lack of progress in remediation, is not liable in damages to any person as a result of making the report. The entity must report to the Board if the individual fails to complete the remediation. If the individual fails to complete the remediation or the Board determines that remediation cannot correct the individual's practice deficiency, the Board is required to proceed with disciplinary action. The Board is permitted to take disciplinary action if the individual fails to comply with the terms and conditions required under the program.

The Board is to designate an administrator to operate the program and, in accordance with the Administrative Procedure Act, adopt rules to establish the following:

- (1) Criteria for use in identifying an individual's practice deficiency;
- (2) Requirements that an individual must meet to be eligible for remediation and the Board's abstention from disciplinary action;
- (3) Standards and procedures for prescribing remediation that is appropriate for an individual's identified practice deficiency;
- (4) Terms and conditions that an individual must meet to be successful in completing the remediation prescribed;
- (5) Procedures for the Board's monitoring of the individual's remediation;
- (6) Procedures for maintaining confidential records regarding individuals who participate in remediation;
- (7) Any other requirements or procedures necessary to develop and administer the program.

Records held by the Board for the purposes of the program are confidential, not public records, and not subject to discovery by subpoena or admissible as evidence in any judicial proceeding. The administrator of the program is to maintain all records in the Board's office in accordance with the Board's record retention schedule.

Nursing fee changes

(sec. 4723.08)

The bill establishes a fee of \$100 for processing a reinstatement of any expired license or certificate issued by the Board of Nursing, not including a license or certificate the Board has classified as inactive. The bill also would change the current fee of \$300 for the biennial renewal of authorization to approve continuing nursing education programs and courses to a fee of \$150 for each year for which authorization to approve continuing nursing education programs and courses is granted.

Reinstatement of certificates issued by the State Board of Optometry

(secs. 4725.16 and 4725.17)

Continuing law provides that a certificate of licensure, topical ocular pharmaceutical agents certificate, or therapeutic pharmaceutical agents certificate issued by the State Board of Optometry expires annually. To renew a certificate, an optometrist must file a renewal application with the Board and pay the renewal

fee. An optometrist who fails to apply for renewal or pay the renewal fee prior to December 31 forfeits his or her authority to practice optometry, and the certificate is classified delinquent in the Board's records.

An optometrist whose certificate is classified delinquent is permitted to submit a written application to the Board for reinstatement. The optometrist must satisfy certain requirements for the Board to reinstate the certificate, including the payment of a reinstatement fee and all delinquent annual renewal fees. The bill provides instead that the optometrist must pay the reinstatement fee and a renewal fee for the year in which application for reinstatement is made.

Under continuing law, an optometrist who intends not to continue practicing optometry in this state due to retirement or a decision to practice in another state or country is permitted to apply to the Board to have his or her certificates placed on inactive status. An optometrist whose certificates have been placed on inactive status is allowed to submit a written application to the Board for reinstatement. The optometrist must satisfy certain requirements for the Board to reinstate the certificates, including payment of the renewal fees for that year. The bill clarifies that the renewal fees are for the year in which application for reinstatement is made.

Board of Pharmacy fee increase

(sec. 4729.54)

The Board of Pharmacy issues licenses for terminal distributors of dangerous drugs. There are six categories of terminal distributor licenses, and the fee required to be submitted with the application for each type of license varies. The application fee is \$45 for a category I or limited category I license, \$112.50 for a category II or limited category II license, and \$150 for a category III or limited category III license. Regardless of the category of license sought, current law requires that an application fee of \$5 be collected with each application made for a terminal distributor of dangerous drugs license if the applicant is a professional association, corporation, partnership, or limited liability company organized for the purpose of practicing veterinary medicine. The bill would increase this \$5 application fee to \$40. All licenses must be renewed annually, and the application for renewal must be accompanied by a fee of the same amount as the fee for the initial license.

State Medical Board provisions

Certificate of registration as a physician assistant

(sec. 4730.11)

To receive a certificate of registration as a physician assistant, an applicant must file a written application on a form prescribed by the State Medical Board, meet the requirements for practice as a physician assistant, and pay a \$100 application fee. A physician assistant must renew the certificate every two years and pay a \$50 renewal fee. The bill would establish a fee of \$35 for the issuance of a duplicate certificate to replace one that is missing or damaged, to reflect a name change, or for any other reasonable cause.

Certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatry

(sec. 4731.281)

Current law requires that each person holding a certificate of registration to practice medicine and surgery, osteopathic medicine and surgery, or podiatry apply every two years to the State Medical Board for renewal of the certificate. The fee to be included with the application is \$275; the bill would increase it to \$305.

State Board of Psychology provisions

School Psychology Examination Committee

(sec. 4732.05)

The bill would provide that the members of the State Board of Psychology's School Psychology Examination Committee, which is responsible for the preparation and administration of the school psychology licensing examination, are to receive payment for each day employed in the discharge of their official duties, and any necessary expenses incurred through the discharge of these duties. The rate and method of payment is to be set by the Director of Administrative Services.

Board of Psychology biennial registration fee

(sec. 4732.14)

The Board of Psychology requires each person licensed as a psychologist or school psychologist to register with the Board every two years. Current law grants authority to the Board to require that a biennial registration fee be submitted with registration information in an amount set by the Board, not to exceed \$200. The bill would increase the maximum amount that may be charged by the Board for biennial registration to \$400.

State Board of Sanitarian Registration fee increases

(sec. 4736.12)

The bill increases the following fees that are assessed by the State Board of Sanitarian Registration:

- (1) To apply as a sanitarian-in-training; from \$45 to \$55;
- (2) For sanitarians-in-training to apply for registration as sanitarians; from \$45 to \$55;
- (3) For persons other than sanitarians-in-training to apply for registration as sanitarians; from \$90 to \$110.

Current law authorizes the Board to establish the renewal fee for registered sanitarians and sanitarians-in-training but limits the Board by specifying that the fee cannot exceed \$42.50. The bill increases the limit to \$58.

The bill creates a new fee for late application for renewal and sets it at \$25.

Additionally, the bill authorizes the Board to adopt rules establishing fees for the following:

- (1) Application for the registration of a training agency approved under rules adopted by the Board and for the annual registration renewal of an approved training agency;
- (2) Application for the review of continuing education hours submitted for the Board's approval by approved training agencies or by registered sanitarians or sanitarians-in-training.

Veterinary license and registration fees

(sec. 4741.17)

The bill makes changes in several of the fees charged for the issuance of biennial licenses and registrations by the State Veterinary Medical Licensing Board and clarifies some of the statutory language regarding those fees. The licenses and registrations expire on March 1 of each even-numbered or odd-numbered year, respectively.

The bill changes the fees charged for the renewal of a biennial veterinary license as follows:

Renewal of Biennial Veterinary License

<u>Application postmarked</u>	<u>Current law</u>	<u>The bill</u>
Through March 1	\$125	\$155
March 2-April 1	\$175	\$225
After April 1	\$225	\$450

Current law establishes fees for the registration of veterinary technicians based on the date on which an application is postmarked. The bill instead establishes separate fees for initial and renewal registrations. Under the bill, the fee for an initial registration on or after March 1 in an odd-numbered year is \$35 and, in an even-numbered year, \$25. The bill applies the existing fees to renewal registrations, but makes the following changes in them:

Renewal of Biennial Veterinary Technician Registration

<u>Application postmarked</u>	<u>Current law</u>	<u>The bill</u>
Through March 1	\$25	\$35
March 2-April 1	\$30	\$45
After April 1	\$35	\$60

For initial veterinary licenses, current law establishes a higher fee in an even-numbered year and a lower fee in an odd-numbered year. The bill specifies that the fees apply on and after March 1 in the applicable year.

Hearing aid dealer's and fitter's fees

(secs. 4747.05, 4747.06, 4747.07, and 4747.10)

The bill increases fees charged by the Hearing Aid Dealers and Fitters Licensing Board.

<i>Type of fee</i>	<i>Fee in current law</i>	<i>Fee under the bill</i>
Fee for a hearing aid dealer's or fitter's	\$200	\$250

<i>Type of fee</i>	<i>Fee in current law</i>	<i>Fee under the bill</i>
license		
Fee for renewal of a hearing aid dealer's or fitter's license, if the fee is paid on or before February 1	\$125	\$150
Fee for renewal of a hearing aid dealer's or fitter's license, if the fee is paid on or before March 1	\$150	\$175
Fee for renewal of a hearing aid dealer's or fitter's license, if the fee is paid after March 1	\$175	\$200
Fee for a duplicate copy of a hearing aid dealer's or fitter's license	\$10	\$15
Fee for a hearing aid dealer's and fitter's trainee permit	\$75	\$100
Fee for renewal of a hearing aid dealer's and fitter's trainee permit	\$75	\$100

Appeal of suspension or revocation of hearing aid dealer's and fitter's license

(sec. 4747.13)

Under current law, a person whose hearing aid dealer's and fitter's license or trainee permit is suspended or revoked by the Hearing Aid Dealers and Fitters Licensing Board after a hearing or opportunity for a hearing may appeal to the Board or the court of common pleas. The bill eliminates appeals to the Board.

Renewal of limited permits issued by the Ohio Board of Dietetics

(secs. 4759.05 and 4759.06)

The Ohio Board of Dietetics has authority to issue a limited permit to a person who has fulfilled all licensure requirements, but has not passed the licensing examination administered by the Board. Under current law, the Board may renew a limited permit if the applicant has failed the examination required by the Board and has applied to take the next available examination. The permit and renewal permit expire 30 days after the examination results are made public. The

bill requires the Board to adopt rules specifying the time that a limited permit is valid and prohibits the Board from renewing a limited permit.

County share of Ohio Works First and Prevention, Retention, and Contingency

(sec. 5101.16)

Counties are responsible for a share of the costs of certain public assistance programs, including the Ohio Works First (OWF) and Prevention, Retention, and Contingency (PRC) Programs. OWF is a time-limited income maintenance program for families with or expecting a child. Under PRC, a family with at least one child receives assistance or services needed to overcome immediate barriers to achieving or maintaining self-sufficiency and personal responsibility.

A county's share of the costs of OWF and PRC for a state fiscal year is the county's share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child day-care, provided under the former Aid to Dependent Children and Job Opportunities and Basic Skills Training Programs. For state fiscal years 1998 and 1999, counties had to pay only 80% of their share. The bill provides that, for state fiscal years 2000 and 2001, the counties have to pay only 77% of their share.

Distributing benefits through electronic benefit transfer

(secs. 117.45, 131.01, 5101.33, 5101.331, and 5101.541)

The Director of Human Services is permitted to make any payment of Ohio Works First, Disability Assistance, or other cash assistance paid under a program administered by the Department through the medium of electronic benefit transfer (EBT). The bill authorizes the Department to distribute the following benefits through EBT as well: food stamp benefits, assistance (not just cash assistance) provided under any other program administered by the Department, and benefits provided by a private entity or another government agency.⁴ For the Department to

⁴ Current law requires that the Department of Human Services establish a system of mail issuance of food stamp allotments utilizing direct coupon mailing. The Department must provide an alternative system for distributing food stamp benefits in counties where (1) the Department can document significant diminution of demand for mail issuance of food stamp coupons or (2) the loss rate for coupons issued through the mail exceeds any tolerable loss rate established by the United States Department of Agriculture. The bill provides that the Department also must provide an alternative distribution system in counties where the Department provides for food stamp benefits to be distributed through the EBT system.

distribute benefits provided by a private entity or another government agency, the Department must enter into a written agreement with the entity or agency.

The bill authorizes the Department to designate which counties will participate in the EBT system, specify the date a designated county will begin participation, and specify which benefits will be provided through the EBT system in a designated county.

Current law provides for the Department to contract with an agent to supply debit cards. The Department also must (1) inform the eligible individuals about the use of the EBT system, (2) furnish them with the cards and information that will enable them to access their benefits through the system, (3) periodically prepare vouchers for the payment of the benefits by EBT, and (4) arrange with specific financial institutions or vendors or county departments of human services for cards to be credited electronically with the proper amounts at their facilities. The bill provides that the Department may arrange for the eligible individuals to have their cards credited electronically at the facilities of a private entity or other government agency that has entered into an agreement with the Department for the distribution of benefits through EBT.

The bill requires that the Department satisfy any applicable requirements of federal and state law. The Department is permitted to adopt rules in accordance with the Administrative Procedure Act for the efficient administration of the EBT system and agreements with private entities and other government agencies.

Current law requires the Director of Human Services or the Director's agent to inform the Auditor of State of the amount of reimbursement that is due each financial institution or vendor that has paid public assistance or aid under the former General Assistance Program through the EBT system. The General Assistance Program was abolished in 1995. The bill eliminates this provision of law.

Children's Health Insurance Program

The Balanced Budget Act of 1997 created a health insurance program for uninsured children. The program is known as the Children's Health Insurance Program (CHIP).

CHIP Part I

(secs. 5101.50 and 5101.501)

The bill allows the Director of Human Services to continue to operate CHIP as initially authorized by an executive order. Health assistance so provided is to be

known as the Children's Health Insurance Program Part I. CHIP Part I's continued operation is subject to available federal financial participation. If operated, CHIP Part I is to provide health assistance to uninsured individuals under age 19 with family incomes not exceeding 150% of the federal poverty guidelines. As authorized by federal law governing CHIP, the Director may provide for the health assistance to be provided through a separate child health insurance program, the Medicaid program, or a combination of these programs.

CHIP Part II

(secs. 329.04, 5101.51, 5101.511, 5101.512, 5101.513, 5101.514, 5101.515, 5101.516, 5101.517, and 5101.518)

The bill authorizes the Director of Human Services to submit a state child health plan to the United States Secretary of Health and Human Services to provide health assistance to uninsured individuals under age 19 with family incomes above 150% of the federal poverty guidelines but not exceeding 200% of the guidelines. If the Director submits the plan, the Director must provide that the health assistance (1) will not begin before January 1, 2000 and (2) will be available only while federal financial participation is available for it. If the plan is submitted and approved, the Director is to implement the health assistance in accordance with the plan. The health assistance is to be known as the Children's Health Insurance Program Part II. As with CHIP Part I, the Director may provide for the health assistance under CHIP Part II to be provided through a separate child health insurance program, the Medicaid program, or a combination of these programs.

The Director is authorized to contract with a government or private entity or individual to perform the Director's administrative duties regarding CHIP Part II, other than submission of the state child health plan and adoption of rules. The Director may determine applicants' eligibility by (1) using employees of the Department of Human Services, (2) assigning the duty to county departments of human services, or (3) contracting with a government or private entity or individual. If the Director assigns the duty to county departments, the county departments must perform the duty.

If the Director determines that federal financial participation for CHIP Part II is insufficient to provide health assistance to all the individuals the Director anticipates are eligible, the Director is allowed to refuse to accept new applications or make the eligibility requirements more restrictive. To the extent permitted by federal law, the Director is permitted to require an individual receiving health assistance under CHIP Part II to pay a premium, deductible, coinsurance payment, or other cost-sharing expense.

The bill requires that the Director establish an appeal process for individuals aggrieved by a decision regarding eligibility for CHIP Part II. The process may be identical to, similar to, or different from the appeal process under existing law for Medicaid, Ohio Works First, and other human services programs.

Rules

(secs. 5101.502 and 5101.512)

The Director of Human Services is authorized to adopt rules as necessary for the efficient administration of CHIP Part I and II, including rules that establish (1) the conditions under which health assistance services will be reimbursed, (2) the method of reimbursement applicable to services reimbursable under the programs, and (3) the amount of reimbursement, or the method by which the amount is to be determined, for each reimbursable service. If rules are adopted, the Director must adopt them in accordance with the Administrative Procedure Act (Revised Code Chapter 119.).

Exemption from competitive selection

(sec. 127.16)

Current law provides, with certain exceptions, that no state agency using money that has been appropriated to it directly may make any purchase from a particular supplier that would amount to \$50,000 or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the Controlling Board. The bill provides a new exception: the Department of Human Services' purchases of health assistance services under CHIP Part I and CHIP Part II.

Payment of indigent burial expenses

(sec. 5101.52)

Under certain circumstances, the Department of Human Services (DHS) pays for funeral, cremation, cemetery, and burial expenses of deceased recipients of Ohio Works First, Disability Assistance, and Supplemental Security Income (SSI), persons who would have been eligible for SSI had they not resided in a county home, and persons who received in December, 1973, assistance under a former program for the aged, disabled, or needy blind. The deceased person must have resided in an unincorporated area and not have had, at the time of death,

funds available for the expenses. The total cost of the expenses cannot exceed the amount DHS will pay.

Current law permits a person entitled to receive payment for the expenses to apply to DHS to defray the expenses. The bill provides that application is to be made to a county department of human services. The county department that receives the application must either make the determination of whether to approve payment of the expenses or submit the application to DHS for DHS to make the determination. As is the case with DHS under continuing law, a county department may approve payment only to the extent of the difference between the deceased person's resources, in real and personal property and insurance, and the amount DHS will pay.

LEAP Program incentive payment's effect on food stamp benefits

(sec. 5101.544)

Current law authorizes the Department of Human Services to adopt rules to conduct one or more special demonstration programs called the Learning, Earning, and Parenting (LEAP) Program. Under LEAP, an Ohio Works First participant under age 20 who is a natural or adoptive parent or pregnant must satisfy school attendance requirements to earn an incentive payment and avoid a reduction in cash assistance.

Current law governing the Food Stamp Program provides that, to the extent federal law and regulations or a federal waiver permit, an incentive payment under the LEAP Program is not to result in a decrease in the allotment of food stamp benefits a household receives. The bill eliminates this law with the result that a LEAP Program incentive payment could cause a reduction in a family's food stamp benefit allotment if considered net monthly income. Under rules adopted by the Department of Human Services, the food stamp benefit allotment provided to a family is reduced by 30% of the family's net monthly income.⁵

Ohio Works First earned income disregard

(secs. 5107.10 and 5115.01)

An assistance group participating in Ohio Works First must not have countable income that equals or exceeds the maximum amount of cash assistance the group is eligible to receive under the program. However, in determining whether the assistance group's countable income equals or exceeds that amount, an

⁵ *Ohio Administrative Code §§ 5101:4-4-39 and 5101:4-5-01.*

earned income disregard is applied so that the group may earn income and, depending on the amount of that income, maintain eligibility to participate in Ohio Works First. Under the disregard, the first \$250 and 50% of the remainder of the assistance group's gross earned income is not counted when determining how much countable income the group has.

Current law limits the number of months the earned income disregard may be applied to the first 18 months after the first month the assistance group receives gross earned income while participating in Ohio Works First. The bill eliminates this limitation. The result is that the earned income disregard will be applied for as many months as the assistance group has earned income while participating in Ohio Works First, rather than a maximum of 18 months. Neither current law nor the bill provide for the earned income disregard to be applied in determining an assistance group's initial eligibility for Ohio Works First.

Current law provides that a person is ineligible for the Disability Assistance Program if the person is ineligible to participate in Ohio Works First because the person's extended eligibility for Ohio Works First made possible by the earned income disregard has ceased due to the limited number of months it is applied. The bill eliminates this because the limitation on the earned income disregard is abolished and, therefore, no one will be ineligible for Ohio Works First on the basis that the earned income disregard expired.

Monthly energy assistance payments

(secs. 5107.77 and 5115.08 (repealed); technical change: sec. 5101.83)

Current law provides that an assistance group participating in Ohio Works First or receiving financial assistance from the Disability Assistance Program receives, as part of its monthly financial assistance payment, a monthly energy assistance payment based on the size of the assistance group. The monthly energy assistance payment does not increase the monthly financial assistance payment provided to the assistance group. The bill repeals the law providing for the energy assistance payment but does not change the calculation of the monthly financial assistance payment.

Hospital Care Assurance Program

(secs. 5112.03, 5112.06, 5112.07, and 5112.09; Sections 128, 129, and 148)

Under the Hospital Care Assurance Program, hospitals are annually assessed an amount based on their total facility costs. The Department of Human Services distributes the money generated by the assessment, and federal matching

funds generated by the assessments, to hospitals for use in providing care to indigents that is otherwise uncompensated.⁶

Under current law, the Department is required to assess each hospital at the same rate. The bill provides instead that the Department may establish an assessment rate that is the same for all hospitals or two or more assessment rates that apply to hospitals according to categories the Department establishes based on hospitals' total facility costs. The Department must assess hospitals in a manner consistent with federal statutes and regulations.

The Hospital Care Assurance Program terminates on July 1, 1999. The bill delays the Program's termination until July 1, 2001.

Disability Assistance for individuals receiving substance abuse treatment

(sec. 5115.01)

Under current law, an active participant in an alcohol or drug addiction program certified by the Ohio Department of Alcohol and Drug Addiction Services (ODADAS), including a former recipient of Supplemental Security Income (SSI) who lost eligibility for SSI because of the enactment of federal law called the Contract With America Advancement Act of 1996, may qualify for the Disability Assistance Program. A person on a waiting list to participate in an alcohol or drug addiction program, or otherwise not participating in a program while waiting for treatment services at a program to become available, is not considered an active participant.

The bill provides instead that a resident of a residential treatment center certified by ODADAS as an alcohol and drug addiction program may qualify for the Disability Assistance Program. As under current law for active participants in a certified alcohol or drug addiction program, a resident of a certified residential treatment center is to have a representative payee receive and distribute the resident's financial assistance provided under the Disability Assistance Program.

TAXATION

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- Expands the purposes for which a board of county commissioners may contract with a profit or nonprofit association or corporation to provide

⁶ A portion of the assessment also goes to pay the expenses of the Legislative Budget Office.

health and human services or social services to county residents with the proceeds of a property tax levy.

- Extends the extra 2¢ earmark of wine tax revenue to the Ohio Grape Industries Fund until July 1, 2001.
- Extends the expiration date of the authority for counties and municipal corporations to enter into agreements granting tax abatements in enterprise zones from June 30, 1999, to June 30, 2004.
- Eliminates the transfer of railroad corporation franchise taxes from the General Revenue Fund to the Rail Development Fund.
- Extends for five years the life of the corporation franchise tax credit available to a taxpayer that increases its investment in new machinery and equipment over its prior average levels of new investment.
- Clarifies the time of "purchase" of machinery and equipment manufactured or assembled by the taxpayer.
- Restricts related taxpayers to a single credit.
- Prohibits a vendor whose license has been suspended or revoked under the sales tax law from obtaining a new transient or other special license from the Tax Commissioner while the suspension or revocation is in effect.
- Allows the Tax Commissioner to make refunds upon order of a bankruptcy court.
- Modifies the procedure for the sale of cigarettes and other tobacco products that have been seized for nonpayment of the required tax and the distribution of the sale proceeds.
- Gives the Tax Commissioner explicit authority to inspect places where cigarettes or tobacco products are stored or sold.

CONTENT AND OPERATION

Use of county property tax levies for health and human services or social services

(sec. 307.851)

Existing law

Under current law, a board of county commissioners in a county that has enacted a property tax levy to supplement the county general fund for purposes of public assistance, human or social services, relief, welfare, hospitalization, health, or the support of general or tuberculosis hospitals may enter into a contract with any profit or nonprofit corporation or association to provide particular services, funded with the proceeds of the levy. These services are (1) alcohol, drug addiction, and mental health services, (2) services for the mentally retarded or developmentally disabled, and (3) public health services.

Before entering into such a contract, the board of county commissioners must notify, in writing, the alcohol, drug addiction, and mental health services board, the board of mental retardation and developmental disabilities, or the board of health of the health district or combined general health district of that county, regarding its intention to enter into the contract. A board so notified has 30 days in which to inform the board of county commissioners regarding its intention to provide the services itself or to authorize the board of county commissioners to enter into the contract. If the board of county commissioners receives no response to the notice within the 30-day period, the notified board is deemed to have authorized the proposed contract.

Changes proposed by the bill

The bill authorizes a board of county commissioners to enter into a contract with any profit or nonprofit corporation or association to provide any or all health and human services or social services provided to county residents (rather than just the specific services described in items (1), (2), and (3) under "Existing law," above), funded with the proceeds of a tax levy approved for the purposes of public assistance, human or social services, relief, welfare, hospitalization, health, or the support of general or tuberculosis hospitals. Similar to existing law, the board of county commissioners must give written notice to the particular county *agency, board, department, or other entity that is required to provide, oversee, or acquire related mandated or essential services* (italicized words added by the bill), regarding the board of county commissioner's intention to enter into such a contract. The agency, board, department, or other entity then has 30 days to decide whether to provide the services itself or to authorize the board of county commissioners to enter into the contract, and, if the board of county

commissioners receives no response to the notice within the 30-day period, the notified agency, board, department, or other entity is deemed to have authorized the proposed contract.

Extension of extra 2¢ earmark to Ohio Grape Industries Fund

(sec. 4301.43)

Current law imposes a tax on the distribution of wine, vermouth, sparkling and carbonated wine, and champagne at rates ranging from 30¢ per gallon to \$1.48 per gallon. Of this amount, 3¢ is credited to the Ohio Grape Industries Fund for the encouragement of the state's grape industry, and the remainder is credited to the General Revenue Fund. The amount credited to the Ohio Grape Industries Fund is scheduled to drop to 1¢ on July 1, 1999. The bill extends the 3¢ earmarking until July 1, 2001.

Extension of enterprise zone authority

(secs. 5709.62, 5709.63, and 5709.632)

The authority for counties and municipal corporations to enter into agreements granting tax abatements and other incentives to businesses that locate in enterprise zones is set to expire on June 30, 1999. The bill extends the expiration date to June 30, 2004.

Elimination of transfer of franchise tax money from General Revenue Fund to Rail Development Fund

(sec. 4981.09)

The Rail Development Fund exists for the purpose of acquiring, rehabilitating, or developing rail property or service and for planning and maintaining rail transportation systems. Money in the fund comes from the sale, transfer, or lease of rail property and from corporate franchise taxes paid into the General Revenue Fund by railroad corporations, and may be supplemented by federal loans. Under current law, the Tax Commissioner must certify to the Director of Budget and Management twice a year the amounts paid into the General Revenue Fund by railroad operators, and the Director must then transfer half of the amount certified to the Rail Development Fund. The bill eliminates the certification requirement and the transfer of railroad corporations franchise taxes to the fund.

Extension of manufacturer's investment tax credit

(sec. 5733.33; Section 147)

Under current law, a corporation franchise tax credit is available to a business that purchases new manufacturing machinery and equipment that it installs in Ohio. To be eligible for the credit, the cost of the new machinery and equipment purchased during a calendar year for use in a county must exceed the business's average new manufacturing machinery and equipment investment for that county during a three-year baseline period. In addition, the new machinery and equipment must be purchased no later than December 31, 2000, and must be installed in Ohio no later than December 31, 2001. A parallel credit is allowed against the state income tax for sole proprietors and investors in pass-through entities (see Revised Code section 5747.31, not in the bill).

The bill extends the life of these credits for five years, so that purchases made by December 31, 2005, are eligible for the credit, as long as the machinery or equipment is installed in Ohio by December 31, 2006. For purchases made during the extension period, the bill changes the baseline years used to determine the taxpayer's average baseline investment in a county. Specifically, for determining the eligibility of purchases made in 2001, the business must compare the purchases to its average investment in the county during 1995-1997; for determining the eligibility of purchases made in 2002, the business must compare the purchases to its average investment in the county during 1996-1998; and so on, so that purchases in the last year the credit is available, 2005, must be compared to average investments in the county during 1999-2001.

Clarification of "purchase"

(sec. 5733.33(A)(3)(b))

Existing law states that machinery or equipment is considered to be purchased at the time the taxpayer's agreement to acquire it becomes binding. The bill leaves this rule in place for property that is not manufactured or assembled by the taxpayer, but provides that property manufactured or assembled primarily by the taxpayer is considered purchased when the taxpayer puts it into service in the county for which the taxpayer will be calculating the credit.

Single credit for related taxpayers

(sec. 5733.33(I))

The bill restricts related taxpayers, such as parent and subsidiary corporations or multiple corporations that have a certain percentage of their stock

owned by the same individuals or entities, to a single investment credit under section 5733.33. The related taxpayers may allocate the credit among themselves as they elect. The bill does not permit the acquisition of new machinery or equipment to be treated as a purchase for purposes of the credit if the acquisition would not qualify as such a purchase without regard to the consolidation of related taxpayers. (That is, a taxpayer may not claim the credit by acquiring the machinery or equipment from a related taxpayer if the acquisition would not otherwise qualify for the credit.)

Prohibition of new vendor's license while previous license is suspended or revoked

(sec. 5739.31)

Under the current sales tax law, a person whose vendor's license has been suspended or revoked may not obtain a new license from the county auditor while the suspension or revocation is in effect. However, the law does not prohibit such a person from obtaining a transient, limited, service, or delivery vendor's license from the Tax Commissioner. The bill prevents a person whose vendor's license has been suspended or revoked from obtaining a new license from either the county auditor or the Tax Commissioner while the suspension or revocation is in effect.

Tax refunds upon bankruptcy court order

(sec. 5705.05)

Under current law, the Tax Commissioner does not have authority to refund taxes upon court order unless the taxpayer makes a written application for a refund. The bill authorizes the Commissioner to make refunds pursuant to orders from bankruptcy courts, without requiring taxpayers to make written applications.

Sale of cigarettes on which tax has not been paid

(secs. 5743.08 and 5743.55)

Existing law authorizes the Tax Commissioner to seize cigarettes on which the cigarette tax has not been paid and to sell them in the county where they were seized upon five days' notice posted on the premises or published in a local newspaper. From the proceeds of the sale, the taxes owed plus a 100% penalty are paid into the state treasury, except that any cigarette taxes owed on the seized items to a county or convention facilities authority are paid to the authority. Any remaining balance is paid to the person who had possession of the cigarettes. If the quantity of the cigarettes seized does not warrant a sale, the Tax Commissioner

may destroy the cigarettes rather than sell them. The bill eliminates the notice-of-sale and 100% penalty provisions, permits a sale wherever it would be most convenient and economical, directs that the costs of the sale be paid from the proceeds, treats any surplus as revenue arising from the tax, and authorizes the Commissioner to destroy the cigarettes if either the quantity or quality makes a sale unwarranted.

The law governing the seizure and sale of tobacco products other than cigarettes, is similar to the current law described above for cigarettes. With respect to these tobacco product provisions, the bill also eliminates the notice-of-sale requirement, permits the sale of other tobacco products wherever it would be most convenient and economical, and modifies the language pertaining to the disposition of the sale proceeds.

Cigarette inspections by Tax Commissioner

(secs. 5743.14, 5743.59, and 5743.99)

Current law implicitly authorizes the Tax Commissioner to inspect places where cigarettes or other tobacco products are sold or stored by prohibiting anyone from hindering such an inspection. The bill makes the authority to inspect explicit.

The bill also makes it a fourth degree felony for any person to prevent or hinder the Tax Commissioner from making full inspection of any place where cigarettes subject to state taxation are sold or stored, or to prevent or hinder the full inspection of related invoices, books, records, or papers. (The same penalty exists under current law with regard to tobacco products.)

NOTE ON EFFECTIVE DATES

(Sections 136 to 146)

Section 1d of Article II of the Ohio Constitution states that "laws providing for *** appropriations for the current expenses of the state government and state institutions *** shall go into immediate effect," and "shall not be subject to the referendum." The Ohio Supreme Court has held that the presence in an act of an appropriation for current expenses does not necessarily put the entire act into immediate effect. *State, ex rel. Ohio AFL-CIO, v. Voinovich* (1994), 69 Ohio St.3d 225. In response to this case, the General Assembly enacted R.C. 1.471, which provides that a codified or uncodified section of law contained in an act that contains an appropriation for current expenses is not subject to the referendum and goes into immediate effect if (1) it is an appropriation for current expenses, (2) it is an earmarking of the whole or part of an appropriation for current expenses, or (3)

its implementation depends upon an appropriation for current expenses that is contained in the act. The statute states that the General Assembly shall determine which sections go into immediate effect.

The bill includes a default provision stating that except as otherwise specifically provided, the amendment, enactment, or repeal of a codified section in the bill is subject to the referendum and takes effect on the 91st day after the act is filed with the Secretary of State (barring the filing of a referendum petition). The bill also includes many exceptions to the default provision, that provide that specified codified provisions are not subject to the referendum and go into immediate effect.

The bill provides that its uncodified sections are not subject to the referendum and take effect immediately, except as otherwise specifically provided. The uncodified sections that are subject to the referendum are identified with an asterisk in the bill, and take effect on the 91st day after the act is filed with the Secretary of State (barring the filing of a referendum petition).

The bill also specifies that an item that composes the whole or part of an uncodified section contained in the bill (other than an amending, enacting, or repealing clause) has no effect after June 30, 2001, unless its context clearly indicates otherwise.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	---	---

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