



**Sub. H.B. 283\***

123rd General Assembly

(As Reported by S. Finance & Financial Institutions)

(excluding appropriations, fund transfers, and similar provisions)

**Reps. Thomas, Jones, Core, Amstutz, Corbin, Mottley, Metzger, Mead, Hoops, Vesper, Stapleton, O'Brien, Carey, Perz, Coughlin, Goodman, Wilson, Boyd, Perry, Opfer, Barrett, Evans, Womer Benjamin, Winkler, Harris, Haines, Bateman, Austria, Krupinski, Sykes, Olman, Jolivette, Damschroder, R. Miller, Healy**

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## GENERAL

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- Designates as confidential certain documents prepared by the staff of specified legislative agencies for General Assembly members and their staff members and certain materials related to these documents.
  - Establishes the attorney-client privilege between the legal counsel for each legislative caucus and specified parties.
  - Expands the exemption of the Legislative Budget Office from having to prepare local impact statements on pending budget bills to include any bill that makes the principal biennial operating appropriations for one or more state agencies.
  - Makes the Correctional Institution Inspection Committee and the Legislative Committee on Education Oversight subcommittees of the Legislative Service Commission and requires both committees to direct the work of their staffs subject to the oversight and direction of the Commission.
  - Requires the deposit of all Ohio Ethics Commission receipts into the Ohio Ethics Commission Fund, and permits the Commission to use moneys in the Fund for both the Commission's operation and its statutory functions.

- Modifies, through June 30, 2001, 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 the Secretary of State to conduct a study and prepare a report concerning whether the amount of fees charged to corporations, partnerships, and certain other entities for filing and recording services are valid and appropriate in comparison to the actual cost of providing the services.
- 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.
- Repeals the provision of law authorizing the Governor or the Auditor of State to require the presence and assistance of either the Attorney General or the Secretary of State at any audit of the Treasurer of State's office.
- Requires the Auditor of State to conduct, at least annually, a fiduciary training program for members and employees of state boards and commissions, and specifies that any registration fees from the program are to be deposited by the Auditor of State into the Auditor of State Training Program Fund.
- Restates the authority of the Auditor of State, except as otherwise provided by law, to make any payment from the state treasury by direct deposit instead of by paper warrant, and states that this authority includes the payment of tax refunds.
- 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.

- Authorizes the Director of Budget and Management to waive in fiscal year 2000 a portion of the costs to certain local governments in fiscal emergency for the continued performance of their financial supervisor, if the performance has been required for longer than eight years.
- Makes changes in the Local Government Fiscal Emergency Law relative to designations of persons to serve in the absence of certain ex officio members of a financial planning and supervision commission (Treasurer of State and Director of Budget and Management) and relative to the time period for Governor appointments to such a commission.
- Modifies the conditions and procedures governing the authority of the Director of Development to convert, transfer, control, and account for foreign currency and to establish foreign currency accounts to pay the operating expenses of the foreign offices of the Department of Development; and authorizes the Director to establish U.S. dollar accounts for this purpose.
- Reestablishes the "sunset" Urban and Rural Initiative Grant Program to be administered by the Department of Development generally in the same manner as prior to January 1, 1999, with the exceptions that the total amount of grants awarded under the program cannot exceed \$2 million and that there is no cap on an individual grant awarded under the program in a fiscal year.
- Changes the definition of "minority business enterprise" under the Minority Business Development Law.
- Requires certain contractors to annually file descriptions of their written affirmative action programs and implementation progress reports with the Equal Employment Opportunity Office of the Department of Administrative Services.
- 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.
- Transfers jurisdiction over the state-owned building located at 25 South Front Street, Columbus, Ohio, from the Ohio Department of Transportation to the Department of Administrative Services.
- Creates the Special Investigations Fund to receive amounts transferred to the Inspector General by the Controlling Board to pay costs of investigations.
- 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.
- Establishes the Assistive Technology Device Linked Deposit Program to make available lower-cost loans allowing certain individuals with disabilities to obtain assistive technology devices, and requires the Treasurer of State to implement and monitor compliance with this Program.
- Makes commissioning a portrait of each departing governor for display in the State House a public function of the Ohio Historical Society.
- Revises the consent Ohio gives to the United States for acquisition of land in Ohio required for a governmental purpose and revises the jurisdiction ceded to the United States over those lands.
- Authorizes a regional council of government to acquire, by specified means, real and personal property that is to be used by or for the benefit of one or more of its members.
- Specifically authorizes a regional council of government to issue prescribed types of revenue securities for the purpose of using their proceeds to purchase that real and personal property.
- Authorizes registrants under the Mortgage Loan Law to charge an alternative prepayment penalty on loans secured by an interest in real estate.

- Modifies the Unclaimed Funds Law relative to what constitutes unclaimed funds, length of the required dormancy period, unclaimed funds reports, notice to owners, unclaimed funds audits, confidentiality of records, and funds resulting from "business to business transactions."
- Makes revisions in the Banks Law, Savings and Loan Associations Law, and Savings Banks Law relative to the words that may be used as part of the designation or name under which business is conducted; a bank's funding of dividends or distributions from surplus; extensions of credit to executive officers, directors, or principal shareholders of a bank; the purchase of a savings and loan association's own permanent stock; and the limitation on real estate loans and extensions of credit made to any one borrower by a savings bank.
- 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.
- Modifies real estate licensing requirements and procedures for real estate brokers, brokerages, and salespersons, including modifications relating to the establishment of a staggered continuing education schedule based on a licensee's birthday and the payment of testing service processing fees to the Superintendent of Real Estate.
- Specifically defines a warehouse receipt to mean an electronic or written document.
- Eliminates the prohibition against and the administrative penalty for originating a mortgage loan at a location where a mortgage broker's certificate of registration is not maintained and where the mortgage broker business is not regularly transacted.
- Requires the Firemen and Policemen's Death Benefit Fund to continue paying survivor benefits to surviving spouses of law enforcement officers and firefighters killed in the line of duty despite remarriage and to resume benefits to surviving spouses whose benefits were terminated due to remarriage.

- Repeals the requirement that the Superintendent of Industrial Compliance in the Department of Commerce enforce or report violations of school truancy laws.
- Increases from \$30 to \$50 the documentary service charge certain retail sellers may charge in connection with the filing, recording, or releasing of an instrument securing the payment of the obligation owed on a retail installment contract.
- Creates civil immunity for the state and political subdivisions for damages caused by the failure of any state or political subdivision's information technology system or product to be "Y2K" compliant unless: the Y2K failure is the proximate cause of the damages and the state or political subdivision failed to make a good faith effort prior to December 31, 1999, to be Y2K compliant.
- Specifies that Y2K actions against the state must be filed in the Court of Claims.
- Prohibits the Ohio Educational Telecommunications Network Commission from charging or collecting broadcasting fees from Ohio Government Telecommunications of the Capitol Square Review and Advisory Board.
- 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.
- Changes from 11 to 7 the number of regional library systems that the State Library Board may approve.
- Changes the allocation and certification procedure for the Capital Donations Fund administered by the Ohio Arts and Sports Facilities Commission.
- Requires the Governor to have the advice and consent of the Senate in making appointments to fill vacancies in the partisan positions on the Ohio Elections Commission.

- Requires boards of elections, by August 1, 2000, to generally use United States Census Bureau geographical units to determine precinct boundaries.
- Requires boards of elections, effective August 1, 2000, to report precinct boundary changes to the Secretary of State within 45 days.
- Requires that county central committee members continue to represent a precinct, city ward, or township for the remainder of a member's term regardless of a change in precinct boundaries to comply with the bill's general use of census units to determine precinct boundaries requirement.
- Restricts members of the Ohio Elections Commission from being an officer of a county central committee or a district, city, township, or other committee of a political party or an officer of an executive committee of any of those committees.
- Allows a tax reduction to horse race permit holders so that they may recover for costs incurred for any cleanup, repair, or improvement required at their race tracks as a result of the 1997 Ohio River flood.
- Extends to December 31, 2014, from December 31, 2004, the final date on which horse racing permit holders are eligible to take tax reductions to recover the costs that they incurred in renovation, reconstruction, or remodeling projects costing at least \$6 million, at their race tracks.
- Allows the Civil Rights Commission to delegate to the Executive Director of the Civil Rights Commission the authority to perform administrative duties necessary to carry out the Commission's responsibilities, including the authority to appoint, remove, and discipline the Commission's employees.
- Removes the authority of the Ohio Civil Rights Commission to oversee and coordinate the activities of the Commission on African-American Males, to, in effect, make the Commission on African-American Males an independent commission but establishes the Ohio Civil Rights Commission as the fiscal agent of the Commission.

- Creates the Civil Rights Commission General Reimbursement Fund to receive money paid to the Commission for goods and services and to pay operating costs of the Commission.
- 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.
- Authorizes B-1 (wholesale beer distributor) permit holders to sell to qualified persons rather than for "home use."
- Creates the D-5j liquor permit that may be issued only within a community entertainment district located within a municipal corporation with a population of at least 100,000.
- Requires that the Executive Director of the Accountancy Board be paid in accordance with Pay Range 18 of Salary Schedule E-1.
- Removes the requirements that certified public accountant (CPA) examinations be written and include the subjects of accounting and auditing and instead specifies that a person must have passed an examination that is administered in the manner, and that covers the subjects, that the Accountancy Board prescribes by rule.
- Revises provisions that govern the retaking of a CPA examination.
- 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 and increases the delinquency fee for restoration of expired certificates.
- Specifies that a motor vehicle dealer or a motor vehicle auction owner is not a credit service organization for purposes of the Ohio Credit Services Organization Act.

- 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.
- Defines "the practice of natural hair styling" and "braiding" and exempts the practice of natural hair styling and natural hair stylists from regulation or licensure under both the Barber Law and the Cosmetologists Law.
- 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 \$50.
- 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.
- Requires persons who operate ambulances and other emergency vehicles to renew their licenses and permits annually rather than every two years and reduces caps for the license and permit fees by half.

- Requires members of the Office of the Ohio Consumers' Counsel governing board to be compensated \$150 per board meeting that they attend in person.
- Addresses the use of public ways by utility service providers and cable operators, including the granting of consent by political subdivisions and the levying of taxes or other charges for using a public way; and declares the construction or operation of equipment by a utility service provider or cable operator to be "a matter of statewide concern."
- Creates the Ohio Commission on Fatherhood to organize a state summit on fatherhood every four years and prepare an annual report that identifies resources available to fund fatherhood-related programs and explores the creation of initiatives relative to fatherhood.
- Indexes for inflation the income limits used to determine eligibility for the Ohio Energy Credit Program and specifies that the first adjustment is to be made for the 1999-2000 winter heating season.
- Changes the title of the Deputy Director of the Emergency Management Agency to Executive Director.
- Renames the local fund used for the entertainment and welfare of residents of the Ohio Veterans' Home from the Home Improvement Fund to the Residents' Benefit Fund, and allows the Residents' Benefit Fund to receive and disburse any donations made for events sponsored by the Ohio Veterans Hall of Fame.
- Changes the basis for fees paid by residents of the Ohio Veterans' Home so that the fees are based upon the level of care provided to each resident, instead of limiting the levels of care upon which the fee is based to domiciliary services and nursing home services, and requires the board of trustees of the Home to determine authorized levels of care for the Home's residents.
- 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.
- Extends the sunset of the Rural Industrial Park Loan Program for a period of two years--until June 30, 2001.
- Transfers all jurisdiction over state-owned real estate located in Hamilton County in conjunction with the Colerain Connector Project from the Ohio Department of Transportation to the city of Cincinnati.

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## CONTENT AND OPERATION

### *Confidentiality of certain legislative documents*

(R.C. 101.30)

The bill requires legislative staff to maintain a *confidential relationship* with each General Assembly member, and with each member of the General Assembly staff, with respect to communications between the member of the General Assembly or General Assembly staff and legislative staff. Except as otherwise described below, a *legislative document arising out of this confidential relationship* is *not a public record* for purposes of the provision of the Public Records Law that requires public records to be made available for public inspection and copying.<sup>1</sup> (R.C. 101.30(B).)

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<sup>1</sup> *The Public Records Law imposes the following duties upon public offices regarding their records: (a) all public records must be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours, (b) upon request, a person responsible for public records must make copies available at cost, within a reasonable period of time, and (c) in order to facilitate broader access to public records, governmental units must maintain public records in a manner that they can be made available for inspection in accordance with (a) and (b) above. Section 149.011(A) and (B) defines "public office" and "state agency" to include the General Assembly and any legislative agency.*

The bill defines "legislative document" to include, but not be limited to, all of the following: (1) a working paper, work product, correspondence, preliminary draft, note, proposed bill or resolution, proposed amendment to a bill or resolution, analysis, opinion, memorandum, or other document in whatever form or format prepared by legislative staff for a General Assembly member or for General Assembly staff, (2) any document or material in whatever form or format provided by a member of the General Assembly or General Assembly staff to legislative staff that requests, or that provides information or materials to assist in, the preparation of any of the items described in item (1) above, or (3) any summary of a bill or resolution or of an amendment to a bill or resolution in whatever form or format that is prepared by or in the possession of a member of the General Assembly or General Assembly staff, if the summary is prepared before the bill, resolution, or amendment is filed for introduction or presented at a committee hearing or floor session, as applicable (R.C. 101.30(A)(1)). The bill defines "legislative staff" as the staff of the Legislative Service Commission (LSC), the Legislative Budget Office of the LSC, or any other legislative agency included in LSC's budget group (see below) and "General Assembly staff" as an officer or employee of either house of the General Assembly who acts on behalf of a General Assembly member or on behalf of a committee of either house of the General Assembly (R.C. 101.30(A)(2) and (3)). Both the bill and the 122nd General Assembly's biennial budget act, Am. Sub. H.B. 215, place in LSC's budget group the LSC, the Legislative Budget Office, the Legislative Office of Education Oversight, the Correctional Institution Inspection Committee, and the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research (Section 64 of the bill; Section 76 of Am. Sub. H.B. 215).

The bill provides that a legislative document *is a public record* (1) if it is an analysis, synopsis, fiscal note, or local impact statement prepared by legislative staff that is required to be prepared by law, or by rule of either house of the General Assembly, for the benefit of the members of either or both of those houses or any legislative committee and (2) if it has been presented to those members. A legislative document also *is a public record* if a General Assembly member for whom legislative staff prepared the legislative document does any of the following: (1) files it for introduction with the Clerk of the Senate or Clerk of the House of Representatives, if it is a bill or resolution, (2) presents it at a committee hearing or floor session, if it is an amendment to a bill or resolution or is a substitute bill or resolution, or (3) releases it, or authorizes General Assembly staff or legislative staff to release it, to the public. (R.C. 101.30(C).)

The bill also authorizes the LSC Director, when it is in the public interest and with the LSC's consent, to release to the public any legislative document in the possession of LSC staff arising out of a confidential relationship with a *former*

*member* of the General Assembly or former member of the General Assembly staff who is not available to make the document a public record as described in the immediately preceding paragraph because of death or disability, whom the LSC Director is unable to contact for that purpose, or who fails to respond to the LSC Director after the LSC Director has made a reasonable number of attempts to make such contact (R.C. 101.30(B)).

**Attorney-client privilege between the legal counsel for each legislative caucus and specified parties**

(R.C. 101.301)

The bill provides that the members of the General Assembly who are members of a caucus, and the officers and employees of the General Assembly who either serve that caucus or serve the members of the General Assembly who are members of that caucus, are *clients*, for purposes of the statute that generally prohibits an attorney from testifying concerning a communication made by a client or the attorney's advice to a client (R.C. 2317.02(A), not in the bill) and for purposes of any other statutory or common law attorney-client privilege recognized in Ohio, of the employee of the House of Representatives or Senate who serves as legal counsel for that caucus. For this purpose, "caucus" means all of the members of the House of Representatives, or all of the members of the Senate, who are members of the same political party.

**Expansion of budget bill exemption from local impact statement requirement**

(R.C. 103.143)

Current law requires the Legislative Budget Office to prepare local impact statements for bills that could result in additional costs to school districts, counties, townships, or municipalities. But the law does not apply to any of the following:

--The main biennial operating appropriations bill, and the biennial operating appropriations bills for the Bureau of Workers' Compensation, the Industrial Commission, and agencies supported by motor fuel tax revenue;

--The bill that primarily contains corrections and supplemental appropriations to the biennial operating appropriations bills;

--The main biennial capital appropriations bill, and the bill that primarily contains reappropriations from previous capital bills.

The bill adds to this list of exemptions any other bill that makes the principal biennial operating appropriations for one or more state agencies.

**Correctional Institution Inspection Committee and Legislative Committee on Education Oversight as subcommittees of Legislative Service Commission**

(R.C. 103.71 and 3301.68)

Current law establishes the Correctional Institution Inspection Committee (CIIC) and authorizes it to employ a director and other staff that are necessary for it to carry out its duties. The bill makes CIIC a subcommittee of the Legislative Service Commission (LSC) and requires CIIC, subject to the oversight and direction of LSC, to direct the work of its director and staff. Current law also establishes the Legislative Committee on Education Oversight (LCEO) and the Legislative Office of Education Oversight (LOEO) and requires the Committee to direct LOEO's work. The bill makes LCEO a subcommittee of LSC and provides that in directing the work of LOEO, LCEO must do so subject to the oversight and direction of LSC.

**Ohio Ethics Commission--deposit of receipts into Ohio Ethics Commission Fund**

(R.C. 102.02)

Under current law, (1) all *fees* that the Ohio Ethics Commission receives in relation to financial disclosure statements filed under the Public Officers--Ethics Law and (2) all *moneys* that the Commission receives as a result of settlements of complaints made under the Law are required to be deposited into the Ohio Ethics Commission Fund and are required to be used solely for expenses related to the Commission's *operation*. The bill generally requires the deposit of all of the Commission's *receipts* (including, but not limited to, the latter fees and moneys) into the Ohio Ethics Commission Fund and requires the Commission to use all moneys in the fund solely for expenses related to both the Commission's operation and its *statutory functions*.

**Fees collected by the Secretary of State**

(R.C. 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 below) 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, through June 30, 2001, 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, through June 30, 2001, into the state treasury to the credit of the Corporate and Uniform Commercial Code Filing Fund. Beginning on July 1, 2001, the current law described in the immediately preceding paragraphs will again apply.

***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, through June 30, 2001, 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. Beginning on July 1, 2001, the current law described in the immediately preceding paragraphs will again apply.

**Study concerning amount of filing and recording fees charged by Secretary of State's office**

(Section 90)

The bill requires the Secretary of State to conduct a study of fees charged to corporations, partnerships, and certain other entities for filing and recording services in order to compare the fee amounts with the actual cost of providing the services for which the fees are charged. The purpose of the study is to determine whether the amounts of the fees being charged are valid and appropriate with respect to the services being provided. The Secretary of State must complete a report summarizing the results of the study and, not later than December 31, 2000, must submit the report to the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

**Annual audit of the Auditor of State's office**

(R.C. 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.

**Repeal of provision of law requiring presence and assistance of Attorney General or Secretary of State for audits of the Treasurer of State's office**

(R.C. 117.16 and 121.24)

Under existing law, at least annually or more often in the discretion of the Auditor of State, the Auditor of State is required to audit the accounts and transactions of the office of the Treasurer of State, ascertain the condition of the state treasury and the custodial funds of the Treasurer of State, and make an inventory of the assets of the state treasury and those custodial funds. The Auditor of State must sign the audit report and submit one copy to the Treasurer of State, Governor, Attorney General, and Secretary of State (R.C. 117.15--not in the bill). Existing law authorizes the Governor or Auditor of State to require either the Secretary of State or the Attorney General to be present at any of these audits. If so requested, the Attorney General or Secretary of State must be present at, assist in, and certify the correctness of the audit, or certify any errors or omissions in it. (R.C. 117.16.)

The bill repeals the provision of law authorizing the Governor or the Auditor of State to require the presence and assistance of either the Attorney General or the Secretary of State at any audit of the Treasurer of State's office (R.C. 117.16) and makes a conforming cross-reference deletion in another statute (R.C. 121.24(B)).

**Auditor of State--fiduciary training program**

(R.C. 117.44 and 117.441)

**Current law**

Under current law, the Auditor of State is required to hold training programs for persons elected for the first time as township clerks, city auditors,

and village clerks and to develop and provide an annual continuing education program for village clerks. Any other interested person must be allowed to attend any of these Auditor of State training programs as long as that person pays the full requisite registration fee. In addition, under current law, the Auditor of State and the Treasurer of State must jointly offer educational programs for newly elected county treasurers and annual continuing educational programs for "continuing" county treasurers.

**Changes proposed by the bill**

The bill requires the Auditor of State to conduct a fiduciary training program for members and employees of state boards and commissions. The Auditor of State is required to determine the manner and content of the program and may charge a registration fee to defray the actual and necessary expenses of the program. The program is required to be offered at least annually. The attendance of members and employees of state boards and commissions at the program is discretionary.

If the Auditor of State charges a registration fee, the Auditor of State must deposit it into the Auditor of State Training Program Fund established under existing law to cover expenses of the previously described educational and training programs offered by the Auditor of State for local officials and by the Auditor of State and Treasurer of State for county treasurers.

**Making payments from the state treasury by direct deposit**

(R.C. 117.45 and 5747.11)

At present all payments from the state treasury are required to be made by (1) electronic benefit transfer (the electronic delivery of public assistance benefits, by means of a debit card through automated teller machines, point-of-sale terminals, or other electronic media), (2) direct deposit (a form of electronic funds transfer in which money is electronically transferred into a person's account at a financial institution, or (3) warrant (an order, looking and circulating much like a bank check, that is drawn upon the Treasurer of State by the Auditor of State and that directs the Treasurer of State to pay the person named a specified amount).

Specifically:

(1) The Director of Human Services may provide for the payment of any "public assistance benefits" through the medium of electronic benefit transfer. (R.C. 5101.33 of the bill redesignates public assistance benefits as "benefits" and includes in the new term noncash assistance, such as food stamp benefits.)

Otherwise, payment must be by warrant unless the recipient requests payment by direct deposit.

(2) State employees may choose to be paid by direct deposit.

(3) Any public official may make any payment by direct deposit if the payee supplies the name of a financial institution and account to which the payment is to be credited.

(4) All other payments from the state treasury must be made by paper warrant.

The bill alters the fourth requirement to state that all other payments from the state treasury must be made either by paper warrant or by direct deposit. The bill also states that this includes tax refunds. However, no payment can be made by direct deposit without the cooperation of the payee as well as the payer, since payment cannot be made to a payee who does not have an account in a financial institution or who does not supply it to the payer for purposes of making the payment.

### **Changes to the Local Government Fiscal Emergency Law**

(R.C. 118.01, 118.05, and 118.08; Section 131)

#### **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 continues this composition of a financial planning and supervision commission.

Existing law allows for the designation of certain persons to serve in case of an absence of an ex officio member of a financial planning and supervision 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 their respective offices to serve

in their absence, in addition to their existing authority to designate certain employees of their respective offices.

The bill also generally requires the Governor to make the Governor's three appointments to a financial planning and supervision commission within 30 days after the receipt of specified nominations.

### **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 existing law.

### **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.

### **Responsibility for compensation due certain financial supervisors**

Under the existing Local Government Fiscal Emergency Law, "expenses" incurred for services of the financial supervisor are paid for a period of 24 months by the financial planning and supervision commission from an appropriation of the General Assembly. Expenses incurred beyond 24 months generally are borne by the municipal corporation, county, or township in fiscal emergency, unless the Director of Budget and Management waives the "costs" and allows payment in accordance with the law permitting payment of a specified portion of the "compensation due" for the continued performance of the financial supervisor for specified time periods up until 37 months. If the continued performance of the financial supervisor is required for a period of 37 months or more, the local government is responsible for 100% of the compensation due.

The bill creates a third instance in which the Director of Budget and Management may waive a portion of the "costs" to a local government, in this case for a financial supervisor's continued performance extending beyond 37 months. It

provides that, beginning in fiscal year 2000, if the continued performance of the financial supervisor has been required *longer than eight years* for any municipal corporation, county, or township that was declared to be in a fiscal emergency prior to fiscal year 1996, upon the Director's waiver, that municipal corporation, county, or township is responsible for 50% of the compensation due in fiscal year 2000 and for 100% of the compensation due in fiscal year 2001. (R.C. 118.08.)

**Foreign currency accounts of the Department of Development**

(R.C. 122.05)

Currently, the Director of Development is authorized to establish foreign currency accounts with banks in countries that have a foreign office of the Department of Development to pay the operating expenses of those offices. The Director also is authorized to establish accounts with domestic banks to deposit funds that have been converted to the currency of foreign countries where the offices are located. Existing law also requires the Director to establish procedures for the conversion, transfer, and control of foreign currency in domestic and foreign banks and procedures for the accounting of funds at the end of each biennium.

The bill grants new authority to the Director of Development to establish U.S. dollar accounts to pay the operating expenses of the Department's foreign offices. It also retains the Director's authority to establish foreign currency accounts for this purpose. The bill, however, eliminates the requirement that these foreign currency accounts be with banks in those countries; eliminates the authority of the Director to establish accounts with domestic banks to deposit funds that have been converted to the appropriate foreign currency; requires the Director of Development to establish procedures acceptable to the Director of Budget and Management for the conversion, transfer, and control of United States dollars (the same requirement currently exists with respect to foreign currency); and eliminates the express requirement that such procedures be established for the accounting of funds at the end of each biennium.

**Urban and rural initiative grant program**

(R.C. 122.19 to 122.22)

The bill recreates the urban and rural initiative grant program, which expired on January 1, 1999. The purpose of this program is to promote economic development and improve the economic welfare of the people of the state, to be accomplished by the Department of Development awarding grants to "eligible applicants" for use in an "eligible area" for any of the following purposes: (1) land

acquisition, (2) "infrastructure improvements," (3) voluntary actions undertaken on property eligible for the voluntary action program under the Voluntary Action Program Law, and (4) renovation of existing structures. (See "**Definitions applicable to the grant program**," below, for the meanings of "eligible applicant," "eligible area," and "infrastructure improvements.")

The bill specifies that as a condition of receiving a grant under the program, and with the exception described in the next sentence, an applicant must agree not to permit the use of a site that is developed or improved with such grant moneys to cause the relocation of jobs to that site from elsewhere in Ohio. A site developed or improved with grant moneys awarded under the program may be the site of jobs relocated from elsewhere in Ohio if the Director of Development does all of the following: (1) makes a written determination that the site from which the jobs would be relocated is inadequate to meet market or industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer, (2) provides a copy of this determination to the General Assembly members whose legislative districts include the site from which the jobs would be relocated, and to the Joint Legislative Committee on Tax Incentives, and (3) determines that the governing body of the area from which the jobs would be relocated has been notified in writing by the relocating company of the possible relocation.

The total amount of grants awarded under the program may not exceed \$2 million. No grant under the program may be awarded without the prior approval of the Controlling Board. No eligible applicant that receives from the program any grant of money for land acquisition, infrastructure improvements, or renovation of existing structures in order to develop an industrial park site in a rural county that is qualified under both this program and the existing rural industrial park loan program may use the money to compete against any existing Ohio industrial parks. An eligible applicant that receives a grant under the act must not be precluded from being considered for or participating in other financial assistance programs offered by the Department of Development, the Ohio Environmental Protection Agency, or the Ohio Water Development Authority.

#### **Eligibility under the grant program**

In order to be eligible for a grant under the urban and rural initiative grant program, the applicant must demonstrate both of the following to the Director of Development: (1) that the applicant is proposing to carry out the program's purposes as described above under "**Urban and rural initiative grant program**" in an entity that has been designated as an eligible area by the Director, and (2) the applicant's capacity to undertake and oversee the project, as evidenced by

documentation of the applicant's past performance in economic development projects.

In order for an applicant to be eligible for such a grant, the governing body of the entity that has been designated as an eligible area by the Director must do all of the following by resolution or ordinance: (1) designate the applicant that will carry out the program's purposes and that qualifies as one of the five categories of "eligible applicant" (see "*Definitions applicable to the grant program*," below), (2) specify the eligible area's financial participation in the project, (3) include a marketing strategy to be utilized in administering the project that includes details used in past successful projects, and (4) identify a management plan for the project. A governing body may designate the political subdivision it governs to be an eligible applicant.

In order to be eligible for such a grant for land acquisition, infrastructure improvements, or renovation of existing structures in order to develop an industrial park in a rural county that is qualified under both this program and the existing rural industrial park loan program, the applicant must be approved by the legislative authority of that qualified rural county. The Director must adopt rules in accordance with the Administrative Procedure Act establishing criteria for the legislative authority to use in determining whether to approve a qualified applicant.

#### *Administration of the grant program*

In administering the urban and rural initiative grant program, the Director is required to do all of the following: (1) annually designate, by January 1 of each year, the entities that constitute the eligible areas in this state, (2) adopt rules in accordance with the Administrative Procedure Act establishing procedures and forms by which eligible applicants in eligible areas may apply for a grant, which procedures must include a requirement that the applicant file a "redevelopment plan" (see "*Definitions applicable to the grant program*," below); standards and procedures for reviewing applications and awarding grants; procedures for distributing grants to recipients; procedures for monitoring the use of grants by recipients; requirements, procedures, and forms by which recipients who have received grants must report on their use of that assistance; and standards and procedures for terminating and requiring repayment of grants in the event of their improper use, (3) inform local governments and others in the state of the availability of the grants, and (4) prepare annually and make available to the Governor, President of the Senate, Speaker of the House of Representatives, and minority leaders of the Senate and the House of Representatives (a) a list of industrial park sites in the state, with specified information about each, and (b) the total number of grants awarded during the preceding calendar year, with specified information about each.

The bill requires that the rules described in the immediately preceding paragraph comply with the bill and include a rule requiring that an eligible applicant who receives a grant from the program provide a matching contribution of at least 25% of the amount of the awarded grant. The rules also must require that any eligible applicant for a grant for land acquisition demonstrate to the Director that the property to be acquired meets all state environmental requirements and that utilities for that property are available and adequate. The rules must require that any eligible applicant for a grant for property eligible for the voluntary action program established under continuing law receive disbursement of grant moneys only after receiving a covenant not to sue from the Director of Environmental Protection and must require that those moneys be disbursed only as reimbursement of actual expenses incurred in the undertaking of the voluntary action.

The rules also must require that whenever money is granted for land acquisition, infrastructure improvements, or renovation of existing structures in order to develop an industrial park site for a rural county that is qualified under both the program established by the act and the existing rural industrial park loan program, a substantial portion of the site must be used for manufacturing, distribution, high technology, research and development, or other businesses in which a majority of the product or service produced is exported out of state. Any retail use at the site must not constitute a primary use but only a use incidental to other eligible uses. Furthermore, the rules will require that whenever any money is granted under the circumstances described in the preceding sentence, the applicant must verify to the Department of Development the existence of a local economic development planning committee in a municipal corporation, county, or township whose territory includes the eligible area. The local economic development planning committee must then prepare and submit to the Department a five-year economic development plan for that political subdivision detailing how the proposed industrial park will complement other current or planned economic development programs in that political subdivision.

### **Definitions applicable to the grant program**

The bill defines "distressed area" as either a municipal corporation that has a population of at least 50,000 or a county, that meets at least two of the following criteria of economic distress: (1) its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least 125% of the average rate of unemployment for the United States for the same period, (2) it has a per capita income equal to or below 80% of the median county per capita income of the United States as determined by the most recently available figures from the United States Census Bureau, (3) in the case of a municipal corporation,

at least 20% of the residents have a total income for the most recent census year that is below the official poverty line as defined by the United States Office of Management and Budget and revised by the Secretary of Health and Human Services, and (4) in the case of a county, in "intercensal" years, the county has a ratio of "transfer payment income" to total county income equal to or greater than 25%.

"Eligible applicant" is defined as any of the following that are designated as such under the bill by the legislative authority of a county, township, or municipal corporation: a port authority, a community improvement corporation, a community-based organization or action group that provides social services and has experience in economic development, any other nonprofit economic development entity, and a county, township, or municipal corporation if it designates itself.

The bill defines "eligible area" as a "distressed area," a "labor surplus area," an "inner city area," or a "situational distress area" (see below), as designated annually by the Director.

"Infrastructure improvements" is defined to include site preparation, including building demolition and removal; retention ponds and flood and drainage improvements; streets, roads, bridges, and traffic control devices; parking lots and facilities; water and sewer lines and treatment plants; gas, electric, and telecommunications hook-ups; and waterway and railway access improvements.

The bill defines "inner city area" to mean, in a municipal corporation that has a population of at least 100,000 and does not meet the criteria of a "labor surplus area" or a "distressed area," targeted investment areas established by the municipal corporation within its boundaries that are composed of the most recent census block tracts that individually have at least 20% of their population at or below the state poverty level, or other census block tracts contiguous to such census block tracts.

"Labor surplus area" means an area designated as a labor surplus area by the United States Department of Labor.

"Redevelopment plan" is defined as a plan that includes all of the following: a plat; a land use description; identification of all utilities and infrastructure needed to develop the property, including street connections; highway, rail, air, or water access; utility connections; water and sewer treatment facilities; storm drainage; and parking, and any other elements required by a rule adopted by the Director.

The bill defines "situational distress area" as a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer "that will adversely affect the county's or municipal corporation's economy." In order to be designated as a situational distress area for a period not to exceed 36 months, the county or municipal corporation may petition the Director. The petition must include documentation that demonstrates all of the following: (1) the number of jobs lost by the closing or downsizing, (2) the impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the Ohio Bureau of Employment Services, (3) the annual payroll associated with the job loss, (4) the amount of state and local taxes associated with the job loss, and (5) the impact of the closing or downsizing on the suppliers located in the county or municipal corporation.

### **Changes pertaining to the Minority Business Development Law**

(R.C. 122.71, 122.75, 122.751, and 125.111)

#### **Definition of "minority business enterprise"**

Under existing law, the Minority Development Financing Advisory Board and the Director of Development are invested with the powers and duties provided by law to promote the welfare of Ohio residents by encouraging the establishment and expansion of minority business enterprises. The Minority Business Development Loan Program and the Minority Business Bonding Program are two programs available to assist minority business enterprises.

Under existing law, a "minority business enterprise" is defined as an individual or entity that is owned and controlled by United States citizens who are *residents of Ohio* and who are members of certain specified economically disadvantaged groups (Blacks, American Indians, Hispanics, and Orientals). The bill changes this definition to also include *nonresidents of Ohio* who have a "significant presence" in Ohio and who are members of the economically disadvantaged groups. (R.C. 122.71(E)(1).)

#### **Other changes**

The bill removes existing authority for the Minority Business Development Division in the Department of Development to accept and review loan applications of minority business enterprises and to transmit its finding to the Minority Development Financing Advisory Board (for use by the Board in its review of a loan application and recommendation to the Director of Development) (R.C. 122.92).

The bill maintains two provisions in existing law that currently have the same section number (R.C. 122.75). For the version of the section as it resulted from Am. Sub. H.B. 117 of the 121st General Assembly, the bill changes the section number to 122.751. For the version as it resulted from Am. Sub. H.B. 356 of the 121st General Assembly, the bill repeals and reenacts the section with the same section number. Other changes made by the bill to these provisions are technical only.

The bill amends the provision of law requiring contractors doing business with the state or any of its political subdivisions under a purchase contract to agree not to discriminate against applicants for employment and employees. This provision of law currently requires contractors to have a written affirmative action program for the employment of the economically disadvantaged persons specified by law and to annually file a description of it and a progress report on its implementation with the Ohio Civil Rights Commission and the Minority Business Development "Office" (i.e., Division). The bill removes the requirement for filing with the Minority Business Development "Office" and the Ohio Civil Rights Commission and replaces it with a requirement that filings be made with the Equal Employment Opportunity Office of the Department of Administrative Services. (R.C. 125.111.)

#### **Training of civil service personnel**

(R.C. 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 (R.C. 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 (R.C. 124.01(A)--not in the bill).

#### **Human Resources Services Fund**

(R.C. 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**

(R.C. 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**

(R.C. 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**

(R.C. 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.

### **Transfer of jurisdiction**

(Section 134)

The bill transfers the jurisdiction, including all control and supervision, over the state-owned building located at 25 South Front Street, Columbus, Ohio, from the Ohio Department of Transportation to the Department of Administrative Services.

### **Funding special investigations by the Inspector General**

(R.C. 124.481)

The bill creates the Special Investigations Fund in the state treasury for the purposes of (1) receiving amounts transferred to the office of the Inspector General by the Controlling Board from the Board's Emergency Purposes appropriation, and (2) paying costs of investigations conducted by the Inspector General. However, it also prohibits the Inspector General from requesting any Controlling Board transfer that would cause the unobligated, unencumbered balance in the fund to exceed \$100,000 at any one time.

The bill also prohibits the Inspector General, in requesting a transfer from the Controlling Board, from disclosing any information that would risk impairing an investigation if it became public. However, after the investigation has been completed, the Inspector General is to report to the Controlling Board the object and cost of the investigation, although not any information that is (1) designated as confidential by law, or (2) appears reasonably necessary for the Inspector General to designate as confidential to protect the safety of a witness or to avoid disclosure of investigative techniques that, if disclosed, would enable persons who have been or are committing wrongful acts or omissions to avoid detection.

### **Designation of funds to retain their own interest**

(R.C. 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"**

(R.C. 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 may participate only 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 allows *any rebates or revenue shares* received from any payment card program that the Director establishes to be deposited into the State Accounting Fund. The

bill also authorizes any miscellaneous collections that reimburse that fund to be deposited into the fund.

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

(R.C. 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 R.C. 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**

(R.C. 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**

(R.C. 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**

(R.C. 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.

### **Assistive Technology Device Linked Deposit Program**

(R.C. 135.63 and 135.91 to 135.97)

The bill establishes the Assistive Technology Device Linked Deposit Program, which permits certain individuals with disabilities to obtain lower-cost loans to acquire assistive technology devices. The bill defines an assistive technology device linked deposit as a certificate of deposit (CD) placed by the Treasurer of State with an eligible lending institution at up to 3% below current market rates, as determined and calculated by the Treasurer of State. In return, the eligible lending institution must agree to lend the value of the deposit to individuals with disabilities at 3% below the present borrowing rate applicable to

each individual with a disability at the time of the deposit of state funds with the institution. (R.C. 135.91(E).)

With respect to these loans, the bill sets forth definitions, individual eligibility requirements, eligibility requirements for lending institutions and loans made under the Program, and the duties of the Treasurer of State with respect to this Program, and provides for the limited liability of Ohio and the Treasurer of State under this Program.

**Investment in linked deposits**

(R.C. 135.63)

Currently, the Treasurer of State, after considering the investment, liquidity, and cash flow needs of Ohio, may invest not more than 12% of the state's total average investment portfolio in small business linked deposits and agricultural linked deposits. The bill adds that the Treasurer of State also may invest in assistive technology device linked deposits that are established by the bill.

**Individual eligibility requirements**

(R.C. 135.91(A), (B), and (C))

The bill defines an "eligible individual with a disability" who is authorized to obtain loans under the Assistive Technology Device Linked Deposit Program, as follows:

(1) An Ohio resident whose independence and quality of life would be improved by an assistive technology device;

(2) An individual with a disability who cannot secure funding through governmental sources, private insurance, or other means to obtain assistive technology devices that will enable that individual to live independently and enhance that individual's employment opportunities.

(3) A parent, custodian, or guardian who applies for a loan under the bill on behalf of an individual described in (1) above.

"Disability" has the same meaning as under the federal "Americans with Disabilities Act of 1990." "Assistive technology device" is defined as any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability. It does not include hearing aids, text telephones, computer talking software, Braille printers, optical scanners, closed

circuit televisions, manual or motorized wheelchairs, or home and van modifications.

**Eligible lending institutions; deposit agreements; loan requirements**

(R.C. 135.91(D), 135.92, 135.93, and 135.94)

To participate in the Assistive Technology Device Linked Deposit Program, the bill defines an "eligible lending institution" as a financial institution that (1) is eligible to make loans, (2) is a public depository of state funds under the Uniform Depository Act, and (3) agrees to participate in the Program.

Under the bill, an eligible lending institution must enter into a deposit agreement with the Treasurer of State that includes requirements necessary to carry out the Program and reflective of the market conditions prevailing in the institution's lending area. The agreement must include maturity specifications designated by the Treasurer of State applicable to CDs placed with the lending institution by the Treasurer. Also, interest is to be paid at times determined by the Treasurer of State. In addition, the agreement may include specifications as to the duration of loans made under the Program.

Under the bill, an eligible lending institution must accept and review applications for loans under this Program and apply usual lending standards to determine the creditworthiness of each applicant. The institution then must forward a loan package to the Treasurer of State in the form and manner specified by the Treasurer. The loan package must include information required by the Treasurer of State, including the amount of the loan requested and a note from the eligible individual's physician that (1) attests to the individual's disability, (2) specifies that the individual would benefit from an assistive technology device, and (3) identifies the appropriate assistive technology device. The eligible lending institution also must certify (a) that the applicant for the loan is an eligible individual with a disability, and (b) the borrowing rate applicable to the individual.

On the loan application, the bill requires that an individual certify that the loan will be used exclusively to obtain an assistive technology device. The bill provides that whoever knowingly makes a false statement concerning the loan application is guilty of falsification, which generally is a first degree misdemeanor.

Upon the placement of an assistive technology device linked deposit with an eligible lending institution and in accordance with the deposit agreement discussed above, the institution must lend funds to an eligible individual listed in the loan package and approved by the Treasurer of State. The bill specifies that

the loan is to be at an interest rate of 3% below the present borrowing rate applicable to each individual with a disability.

Finally, the bill requires that an eligible lending institution certify compliance with the bill's provisions in the form and manner prescribed by the Treasurer of State and must comply fully with the Uniform Depository Act.

**Duties of the Treasurer of State; reporting requirements**

(R.C. 135.95 and 135.96)

Under the Assistive Technology Device Linked Deposit Program, the bill specifies that the Treasurer of State may accept or reject an assistive technology device linked deposit program loan package or any portion of the package submitted by an eligible lending institution based on (1) the Treasurer's evaluation of each eligible individual with a disability included in the package, and (2) the amount of funds to be deposited.

Upon acceptance of the assistive technology device linked deposit loan package or any portion of the package, the bill authorizes the Treasurer of State to place CDs with the eligible lending institution at 3% below current market rates, as determined and calculated by the Treasurer. However, under the bill, when necessary, the Treasurer of State may place CDs prior to acceptance of an assistive technology device linked deposit loan package.

In addition, the bill provides that the Treasurer of State must take any steps necessary to implement the Assistive Technology Device Linked Deposit Program and monitor compliance of eligible lending institutions and eligible individuals with disabilities including the development of guidelines as necessary.

Annually, by February 1, the Treasurer of State must report on the Assistive Technology Device Linked Deposit Program for the preceding calendar year to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The report must set forth the assistive technology device linked deposits made under the Program during the year. The report also must include information about (1) the nature, terms, and amounts of the loans upon which the assistive technology device linked deposits were based, and (2) the eligible individuals with disabilities to whom the loans were made.

The bill further provides that the Speaker of the House must transmit copies of this report to the chairperson of the standing House committee that customarily considers legislation regarding human services. In addition, the President of the

Senate must transmit copies of the report to the chairperson of the standing Senate committee that customarily considers legislation regarding human services.

**Limited liability of Ohio and the Treasurer of State**

(R.C. 135.97)

The bill specifies that neither the state of Ohio nor the Treasurer of State are liable to any eligible lending institution in any manner for payment of principal or interest on a loan made under the bill's provisions to an eligible individual with a disability. In addition, the bill provides that any delay in payments or default on the part of an eligible individual with a disability with respect to loans made under the bill's provisions does not in any manner affect the deposit agreement between the eligible lending institution and the Treasurer of State.

**Ohio Historical Society--departing governor portrait**

(R.C. 149.30)

**Current law**

The Revised Code does not currently provide for the commissioning of a portrait of each departing governor. Consequently, if an individual portrait is *not privately* commissioned and funded, the General Assembly might need to consider adopting legislation authorizing in "uncodified law" the commissioning of the individual portrait and providing for its funding.

**Changes proposed by the bill**

Under the bill, the commissioning of a portrait of each departing governor for display in the State House becomes a public function of the Ohio Historical Society. The Society may accept private contributions for the purpose of funding the portraits and, in the discretion of its board of trustees, also may apply for that purpose the funds appropriated to the Society by the General Assembly as consideration for the Society's carrying out of its statutorily specified public functions.

**Granting consent to the United States to acquire property in Ohio**

(R.C. 159.03 and 159.04)

**Existing law**

Section 8, Article I of the United States Constitution provides that the Congress has the power to exercise exclusive legislation over all places purchased

by the consent of the legislature of the state in which the property is located, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.

R.C. 159.03 gives the consent of Ohio in accordance with clause 17, Section 8, Article I, United States Constitution, to the acquisition, between May 6, 1902, and March 14, 1980, by the United States, by purchase, condemnation, or otherwise, of any land in Ohio required for sites for custom houses, courthouses, post offices, arsenals, or other public buildings whatever, or for any other purposes of the government. R.C. 159.03 gives, on and after March 14, 1980, the consent of Ohio to the acquisition by the United States by purchase, condemnation, or otherwise, of any land in Ohio required for sites for national parks, national monuments, or national recreational areas provided acquisition of the land commenced prior to March 14, 1980.

Under R.C. 159.04, exclusive jurisdiction in and over any land acquired by the United States is ceded to the United States, for all purposes except the service upon those sites of all civil and criminal process of Ohio courts. The jurisdiction so ceded continues no longer than the United States owns the lands. The Governor may accept, on behalf of Ohio, retrocession of full or partial jurisdiction over any roads, highways, or other lands in federal enclaves where the appropriate federal authority offers the retrocession. The Governor must deliver the documents executed by the federal authority and the Governor concurring in the retrocession, for recording, to the office of the recorder of the county in which the lands are located.

### **Operation of the bill**

The bill repeals the provision granting consent to the acquisition by the United States of any land in Ohio required for sites for national parks, national monuments, or national recreational areas provided acquisition of the land commenced prior to March 14, 1980. Under the bill, Ohio consents to the acquisition, *after* May 6, 1902, by the United States, by purchase, condemnation, *lease* (added by the bill), or otherwise, of any land in Ohio required for sites for custom houses, courthouses, *correctional institutions* (added by the bill), post offices, arsenals, or other public buildings whatever, or for any other purposes of the government.

The bill also revises the jurisdiction over the land acquired by the United States. Under the bill, exclusive *or concurrent* jurisdiction in and over any land acquired by the United States is ceded to the United States. The bill repeals the limitation regarding service of process upon those sites. The jurisdiction ceded continues only as long as the United States owns *or holds legal interest in* (added by the bill) the lands. The granting of exclusive or concurrent jurisdiction to the

United States takes effect only upon the granting of either form of jurisdiction by the Governor to the United States and the acceptance of either form of jurisdiction by the United States. The bill specifies that nothing in R.C. 159.04 is intended to modify, revoke, or in any way affect any prior grant of jurisdiction by the state to the United States that was made prior to the effective date of the amendment. (R.C. 159.04.)

### **Regional councils of government**

(R.C. 167.03)

#### **Existing law**

Under existing law, a regional council of government ("regional council") is created when the governing bodies of any two or more counties, municipal corporations, townships, special districts, school districts, or other political subdivisions enter into an agreement with each other or with the governing bodies of similar political subdivisions of another state for the establishment of a regional council consisting of those political subdivisions. *Membership* in a regional council consists of the counties, municipal corporations, townships, special districts, school districts, and other political subdivisions that enter into the agreement establishing the regional council or that subsequently are admitted to membership in the regional council.

Under existing law, a regional council must exercise certain specified powers and may exercise certain other functions. The bill adds an additional *permissive function* for a regional council: acquiring real and personal property to be used by or for the benefit of one or more of its members. The property may be purchased by cash, installment payments with or without a mortgage, lease-purchase agreement, lease with an option to purchase, *or* from the proceeds of the issuance of *revenue securities*, including refunding securities. For purposes of this provision, "securities" means bonds, notes, or other evidence of obligation issued in temporary or permanent form, including book-entry securities.

The bill specifically authorizes a regional council to issue *prescribed types* of revenue securities for the property purchases. Those revenue securities are not general obligations of Ohio, the regional council itself, any of its members, or any Ohio political subdivision. Except as mentioned below, they must be secured only (1) by a pledge of and lien on the regional council's *revenue* (whether derived from agreements with its members and other persons or derived from its ownership or operation of any property financed with the proceeds of its securities) including available rates, charges, rents, interest subsidies, debt charges, grants, or payments by federal or state agencies, and (2) by the regional council's *covenants* to maintain

rentals, rates, and charges to produce revenue sufficient (a) to pay all current expenses of the property payable by the regional council, (b) to pay the debt charges on the securities, (c) to establish and maintain any contractually required special funds relating to the securities or the property, and, if the securities are anticipatory securities, (d) to issue the revenue securities in anticipation of the issuance of which the securities are issued. The revenue securities also may be secured by a pledge of and lien on the proceeds of any securities issued to fund or refund the revenue securities.

The revenue securities will not be subject to any other statutory provisions governing the issuance of securities or obligations by Ohio or any of its political subdivisions or agencies (including the Uniform Public Securities Law in R.C. Chapter 133.). They are entitled to the benefit of the statutory provisions pertaining to (1) "charity" payroll deduction plans for state, political subdivision, and certain other public officers and employees and (2) the procurement of liability insurance by the state or its political subdivisions in connection with harm caused by an officer's or employee's operation of a motor vehicle, aircraft, or watercraft under specified circumstances, the satisfaction by the state or its political subdivisions of associated judgments, and the compromise by the state or its political subdivisions of associated claims (R.C. 9.81, 9.82, and 9.83).

In connection with the revenue securities, a regional council's officers must execute the necessary documents to provide for the pledge, protection, and disposition of the pledged revenues from which debt charges and any special fund deposits are to be paid. Those documents include the issued revenue securities, trust agreements, leases, and other financing documents.

**Department of Commerce**

**Unclaimed Funds Law revisions**

**What constitutes unclaimed funds; length of dormancy period** (R.C. 169.02). As described below, the bill modifies the length of time that some items of unclaimed funds must remain dormant before they are to be reported to the Department of Commerce.

<b>ITEM OF UNCLAIMED FUNDS</b>	<b>DORMANCY PERIOD <i>CURRENT LAW</i></b>	<b>DORMANCY PERIOD <i>THE BILL</i></b>
Life insurance proceeds	5 years	3 years
Public utility deposits, advance payments, or	5 years	1 year

refunds		
Instruments representing an ownership interest	7 years	5 years
Money orders that are not third-party bank checks	7 years	5 years
Intangible property from a safe-deposit box	5 years	3 years
Intangible property held by a fiduciary	5 years	3 years
Intangible property held by the United States government or any state	5 years	3 years
Proceeds from an other than life insurance policy	5 years	3 years
Security deposits	5 years	1 year
Certain credits	1 year	3 years
Intangible property not otherwise specified in the statute	5 years	3 years

The bill also specifies that any underlying share or other intangible instrument representing an ownership interest in a business association, in which the issuer has recorded on its books the issuance of the share but has been unable to deliver the certificate to the shareholder, constitutes unclaimed funds if such underlying share is unclaimed for five years. In addition, an underlying share constitutes unclaimed funds if a dividend, distribution, or other sum payable as a result of the underlying share has remained unclaimed by the owner for five years.

**Unclaimed funds reports** (R.C. 169.03(A)). Holders of unclaimed funds are currently required to report certain information about those funds to the Director of Commerce. More detailed information, such as the name, last known address, and social security number of the owner, a description of the funds, and the amount due, is required for each item of unclaimed funds that has a value of \$10 or more. With respect to items each having a value of less than \$10, only the number of items within each fund category and their aggregated value is required.

Under the bill, the dollar threshold for this reporting requirement is increased from \$10 to \$50.

**Notice to owners** (R.C. 169.03(D)). Prior to filing its annual report with the Director, a holder of unclaimed funds must send notice to each owner of an item of unclaimed funds valued at \$25 or more. Under the bill, such notice is required only for items valued at \$50 or more.

**Unclaimed funds audits; confidentiality of records** (R.C. 169.03(F) and 169.09). Existing law authorizes the Director to contract with persons to examine the records of holders of unclaimed funds. Such persons are to determine compliance with the Unclaimed Funds Law and to collect and remit to the Department the amounts found to be unclaimed.

The bill prohibits the Director from entering into such a contract with a person *unless* the person does all of the following:

- (1) Agrees to maintain the confidentiality of the records examined;
- (2) Obtains a corporate surety bond issued by a bonding company or insurance company authorized to do business in Ohio. The bond must be in favor of the Director and in the penal sum determined by the Director.
- (3) Agrees to conduct the audit in accordance with rules adopted by the Director. Under the bill, the Director must adopt rules to prescribe uniform methods for conducting unclaimed funds audits and for determining when such an audit is appropriate.

Existing law requires holders to retain unclaimed funds records for five years beyond the specified dormancy period, or until completion of an unclaimed funds audit, whichever occurs first. Under the bill, a holder cannot be required to make records available for a longer period of time, except for records pertaining to instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, or pertaining to debt of a publicly traded corporation. The bill also states that a holder that is audited can only be required to make available those records that are relevant to an unclaimed funds audit of that holder as prescribed by the Director.

The bill permits a holder to appeal the findings of an unclaimed funds audit to the Director. It also requires the Director to adopt rules establishing procedures for considering such an appeal.

Under current law, records audited are confidential and cannot be disclosed, except under specified circumstances. The bill provides additional circumstances under which such records may be disclosed: as part of a joint examination conducted with or pursuant to an agreement with another state, the United States government, or any governmental subdivision, agency, or instrumentality of another state or the United States; as required pursuant to a subpoena or court order; or as disclosed to the unclaimed or abandoned property administrator of another state for use by that state in administering the state's abandoned or unclaimed property laws, if the other state is required to keep the records confidential.

**Funds resulting from "business to business transactions"** (Section 131). The bill requires the Director to prepare a report that analyzes both of the following:

(1) The total amount of unclaimed funds collected by the Department over a period of at least six months;

(2) What portion of that amount represents unclaimed funds resulting from business to business transactions. "The term business to business transactions" includes, but is not limited to, outstanding credit balances, checks or memoranda, overpayments for goods or services, unidentified remittances, nonrefunded overcharges, accounts receivable, discounts, refunds, and rebates.

To facilitate the collection of the necessary data, the Director may adopt rules establishing the methods by which the Department is to separately identify those unclaimed funds that are the result of business to business transactions. Not later than January 1, 2001, the Director must submit a copy of the report to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate.

**Revisions in the Banks Law, Savings and Loan Associations Law, and Savings Banks Law**

(R.C. 1101.15, 1107.15, 1109.23, 1151.07, 1151.201, 1161.09, and 1161.38)

According to the Division of Financial Institutions of the Department of Commerce, the changes described below reflect parity rules adopted by the Division, which rules have expired or will soon expire. (Parity rules are those that allow state-chartered financial institutions to immediately exercise powers that have been extended to federally chartered financial institutions. Parity rules expire if they are not enacted into law within 30 months of their adoption.) To codify

these rules, the bill amends the Banks Law, the Savings and Loan Associations Law, and the Savings Banks Law, as follows:

(1) The bill expands the words that banks, savings and loan associations, and savings banks may use as part of the designation or name under which business is conducted. Under the bill, a bank, savings and loan association, or savings bank may use the word "savings," "building," "loan," "savings and loan," "building and loan," "bank," "banker," or "banking." The bill also removes the current restriction in the Savings and Loan Associations Law and the Savings Banks Law against using the words "trust," "federal," "national," "U.S.," "United States," or "international." (R.C. 1101.15, 1151.07, and 1161.09.)

(2) The bill permits a bank's board of directors to fund dividends or distributions from surplus, if approved by the Superintendent of Financial Institutions and the holders of at least two-thirds of the outstanding shares of each class of the bank's stock (R.C. 1107.15).

(3) Current law generally prohibits a bank from extending credit to any of its executive officers, directors, or principal shareholders, or to any of their related interests, except under certain circumstances.

--The bill specifies that an extension of credit made pursuant to a benefit or compensation program is not prohibited, *if* the program is available to all employees of the bank and the program does not give preference to any officer, director, or principal shareholder of the bank, or to any related interest of an officer, director, or principal shareholder, over other bank employees. (R.C. 1109.23(B).)

--The bill also revises the circumstances under which a person who is an executive officer or director of a subsidiary of a company that controls a bank, is *not* considered an executive officer or director of the bank for purposes of this statute. Existing law states that any executive officer, director, or principal shareholder of any company of which the bank is a subsidiary, or any other subsidiary of that company, is deemed to be an executive officer, director, or principal shareholder of the bank. The Superintendent of Financial Institutions may make exceptions to this general statement for any person who (a) is an executive officer or director of a subsidiary of a company that controls a bank and (b) does not have authority to participate in major policymaking functions of the bank.

Under the bill, exceptions can be made for such a person *only if* the assets of the subsidiary do not exceed 10% of the consolidated assets of the company that

controls the bank, and the subsidiary is not controlled by any other company. (R.C. 1109.23(H).)

(4) The bill gives a savings and loan association general authority to purchase its own permanent stock, if the purchase is not inconsistent with its articles, constitution, or bylaws. Under current law, such a purchase can be made only (a) to avoid the issuance of, or to eliminate, fractional shares or (b) from a decedent's estate. (R.C. 1151.201.)

(5) The bill revises the current limitation on real estate loans and extensions of credit made to any one borrower by a savings bank. Under existing law, a savings bank is generally prohibited from making any loan or extension of credit to any one borrower in excess of 15% of its unimpaired capital and surplus. The bill instead prohibits loans or extensions of credit to any one borrower that, in the aggregate, exceed 15% of the savings bank's unimpaired capital and surplus or \$500,000, whichever is greater. (R.C. 1161.38.)

**Prepayment penalties under the Mortgage Loan Law**

(R.C. 1321.57(G))

Existing law allows a registrant under the Mortgage Loan Law to charge a prepayment penalty of up to 1% of the original principal amount of any loan secured by an interest in real estate. "Prepayment penalty" is defined as a charge for prepayment of a loan at any time prior to five years from the date the loan contract is executed.

Under the amendment, a registrant may contract for and charge--as an **alternative** to the prepayment penalty described above--a prepayment penalty for the prepayment of a loan prior to **three** years after the date the loan contract is executed. The amount that can be charged is as follows:

<b>MAXIMUM PREPAYMENT PENALTY</b> <b>(percentage of the original principal amount of the loan)</b>	<b>WHEN THE LOAN IS PAID IN FULL</b>
3%	Prior to one year after the date the loan contract is executed
2%	From one year, but prior to two years, after the date the loan contract is executed
1%	From two years, but prior to three years,

	after the date the loan contract is executed
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A registrant is **not** permitted to charge this alternative prepayment penalty if (1) the loan is a refinancing by the same registrant or a registrant to whom the loan has been assigned, (2) the loan is paid in full as a result of the sale of the real estate securing the loan, or (3) the loan is paid in full with the proceeds of an insurance claim against an insurance policy that insures the life of the borrower or that covers loss, damage, or destruction of the real estate securing the loan.

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

(R.C. 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**

(R.C. 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.

**Real estate broker, salesperson, and brokerage licensing**

(R.C. 4735.06, 4735.07, 4735.09, 4735.14, and 4735.141; Section 28.01)

The bill makes several modifications in the real estate licensing requirements and procedures for real estate brokers, brokerages, and salespersons.

**Continuing education**

The bill eliminates the continuing education schedule of existing law and establishes a new schedule for continuing education required to be completed and submitted to the Division of Real Estate and Professional Licensing. The bill also provides that this new schedule applies to persons licensed as salespersons who subsequently become licensed brokers.

Under the bill, a licensed broker or salesperson must submit satisfactory proof to the Division that the licensee has satisfactorily completed 30 classroom hours of continuing education prescribed by rule by the Ohio Real Estate Commission on or before the licensee's birthday occurring three years after the date of initial licensure and on or before that date every three years thereafter. In addition, the bill provides the following schedule with respect to current continuing education requirements applicable to persons licensed before January 1, 2001:

(1) All continuing education due in the year 2000, must be completed and submitted to the Division on or before the licensee's birthday in the year 2001, and on or before the same date every three years thereafter.

(2) All continuing education due in the year 2001, must be completed and submitted to the Division on or before the licensee's birthday in the year 2002, and on or before the same date every three years thereafter.

(3) All continuing education due in the year 2002, must be completed and submitted to the Division on or before the licensee's birthday in the year 2003, and on or before the same date every three years thereafter.

In addition to other continuing education requirements, under current law, a licensed broker or salesperson must complete ten hours of classroom instruction according to a specified schedule. For licensed brokers, this instruction covers issues regarding real estate brokerage. For licensed salespersons, this instruction covers issues regarding consumers, real estate practice, ethics, and real estate law.

The bill retains the list of instruction subjects to be covered, but eliminates the existing schedule for completing this ten-hour requirement. Instead, it provides:

(1) Persons licensed on or after January 1, 1990, but before January 1, 2001, must submit proof of successful completion within 12 months after issuance of the appropriate license.

(2) Persons licensed on or after January 1, 2001, must submit proof of successful completion on or before the bill's first continuing education requirement must be met, as specified above.

Any person whose license is reactivated after that license has been suspended pursuant to law must complete and submit proof of completion of 30 hours of continuing real estate education to the Division on or before the licensee's birthday occurring three years after the licensee's license is reactivated.

Generally, under current law, a real estate salesperson licensed between January 1, 1987 and prior to January 1, 1990, must submit proof within a specified period of successful completion of 30 hours of education in real estate appraisal and real estate finance at a higher education institution. The bill eliminates this requirement.

Currently, to maintain licensure, a real estate broker or salesperson is required to complete 30 hours of continuing education prescribed by the Ohio Real Estate Commission every three years. The bill eliminates the current schedule and, instead, requires compliance with its continuing education schedule discussed above.

Under existing law, a license automatically is suspended for two years after noncompliance with these continuing education requirements and revoked after that suspension period. The bill provides for revocation within one year after that suspension period.

If a licensed broker or salesperson is 70 years of age or older, the licensee currently is required to complete nine hours of continuing education in subjects specified by law every three years. The bill retains the list of subjects to be

covered as part of continuing education for licensed brokers and salespersons who are 70 years of age or older, but specifies that the education is to be completed in accordance with the bill's continuing education schedule and applies to persons 70 or older by June 14, 1999.

### **Examination for licensure**

Current law requires a person to take an examination to obtain licensure as a real estate salesperson, but provides an *exception* for an applicant who was licensed by the Real Estate Commission or the Superintendent of Real Estate at some time in the two years preceding the current application for licensure. The bill eliminates this exception.

Current law allows the Superintendent of Real Estate, with the consent of the Real Estate Commission, to enter into an agreement with a national testing service to administer the real estate salesperson's examination and the real estate broker's examination. In addition, the Superintendent may require an applicant to pay the examination fee directly to the testing service and, if so, must reduce the examination application fee by the amount paid directly to the testing service. The bill eliminates the specified reduction in the examination application fee; it provides that in addition to a testing fee paid directly to the testing service, each applicant for the real estate salesperson's examination and for the real estate broker's examination also must pay a processing fee directly to the Superintendent in an amount determined by rule of the Commission.

The bill provides that the examination is waived in the case of an application from a nonresident real estate salesperson of a state having similar requirements and under the laws of which similar recognition is extended to Ohio real estate salespersons.

The bill also eliminates the current requirement that the examination for licensure as a real estate salesperson or as a broker be administered orally or in Braille to the blind and orally to persons with a disability rendering it impossible to take a written examination. Instead, the bill specifies that the examination be administered with reasonable accommodations in accordance with the federal "Americans with Disabilities Act of 1990."

### **Certificate of continuation of business; cancellation and expiration of license**

Existing law provides that a real estate license is valid until revoked or suspended. The bill retains this provision, but adds that the license also is valid until canceled or it expires by operation of law.

Under existing law, each licensed real estate broker must file with the Superintendent a certificate of continuation of business on a form prescribed by the Superintendent listing all real estate salespersons. The bill provides that a brokerage or salesperson also must file a certificate of continuation in business, and it eliminates the requirement that the certification of continuation in business list all real estate salespersons.

Current law specifies that the certificate must be mailed to the broker's place of business two months prior to the filing deadline established by the Real Estate Commission. The bill requires that the certificate be sent to the personal residence of each broker or salesperson and the place of business of the brokerage two months prior to the filing deadline for the certificate.

Currently, a broker's license must be revoked for failure to file a certificate in accordance with the law, *except* where the Superintendent, upon good cause, determines that the certificate of continuation in business could not be filed on the deadline, but was filed within 15 days after that date. The bill eliminates this exception and, instead, provides for the cancellation of the license of a broker, brokerage, or salesperson that fails to file a certificate on or before the filing deadline each year. Under the bill, a canceled license may be reactivated within one year of cancellation, provided that the renewal fee plus a penalty fee of 50% of the renewal fee is paid to the Superintendent. Failure to reactivate the license as provided by the bill results in revocation of the license.

The bill prohibits a person, partnership, association, corporation, limited liability company, or limited partnership from engaging in any act or acts for which a real estate license is required while that entity's license is canceled or revoked.

### **Warehouse receipts**

(R.C. 1301.01)

Under existing law, a "warehouse receipt" is a receipt issued by a person engaged in the business of storing goods for hire. Similar to a "bill of lading" or an "airbill," it is a document that can become a negotiable instrument and evidence of the existence of a warehouseman's lien on certain goods. Existing law does not specify the form or media for a warehouse receipt.

Under the bill, a warehouse receipt can be written or electronic.

### **Mortgage brokers originating mortgage loans**

(R.C. 1322.02 and 1322.10)

Currently, a mortgage broker registered under the Mortgage Broker Law, or the mortgage broker's employee, is prohibited from originating a mortgage loan at a location other than where the mortgage broker's certificate of registration is maintained and where the mortgage broker or the mortgage broker's employee regularly transacts mortgage broker business. For a violation of this prohibition, the Superintendent of Financial Institutions may suspend, revoke, or refuse to issue or renew a mortgage broker's certificate of registration.

The bill eliminates this prohibition and the administrative penalty that attaches to a violation.

### **Firemen and Policemen's Death Benefit Fund**

(R.C. 742.63)

The Firemen and Policemen's Death Benefit Fund pays death benefits to survivors of law enforcement officers and firefighters killed in the line of duty and is administered by the Board of Trustees of the Police and Firemen's Disability and Pension Fund, one of Ohio's state retirement systems.<sup>2</sup> Under current law, benefits paid to a surviving spouse terminate if the spouse remarries. The bill provides for continuation of survivor benefits despite remarriage and for resumption of benefits to surviving spouses that were terminated prior to the bill's effective date. Benefits begin on the first day of the month following receipt by the Board of an application on a form provided by the Board and are determined as of that date, even if benefits paid to surviving children are reduced or terminated as a result.

### **Superintendent of Industrial Compliance and school truancy laws**

(R.C. 4113.14)

Under current law, the Superintendent of Industrial Compliance in the Department of Commerce has the same authority as an attendance officer to enforce school attendance for a child found violating the school attendance laws and is required to make a complaint to the appropriate attendance officer about a child found violating the school attendance laws. The bill repeals this requirement.

### **Increasing the documentary service charge for certain retailers**

(R.C. 1317.07)

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<sup>2</sup> Law enforcement officers covered by the Death Benefit Fund include municipal police officers, sheriffs and deputy sheriffs, State Highway Patrol troopers, and others.

Under the Retail Installment Sales law, a retail seller may require a retail buyer who enters into a retail installment sale to execute and deliver a promissory note as evidence of the indebtedness and to execute and deliver a security agreement. No retail installment contract that is executed in connection with a retail installment sale is permitted to evidence any indebtedness in excess of the time balance fixed in the written instrument, but it may evidence any agreements of the parties for the payment of delinquent charges, taxes, and any lawful fee actually paid out, or to be paid out, by the retail seller to any public officer for filing, recording, or releasing any instrument securing the payment of the obligation owed on the retail installment contract. No retail seller, directly or indirectly, may charge, contract for, or receive from any retail buyer any further or other amount for examination, service, brokerage, commission, expense, fee, or other thing of value, except that if, on May 9, 1949, a documentary service charge was being paid as a matter of custom in a particular business and area, such a charge may be charged if it does not exceed \$30 per sale.

The bill increases this documentary service charge from \$30 per sale to \$50 per sale.

**State and political subdivision liability for year 2000 compliance**

(R.C. 2744.10)

Under the bill, the state or a political subdivision is not liable in any civil action or proceeding for any damages caused by the failure of any information technology system or product provided or used by those entities to be year 2000 compliant, unless the claimant proves, by clear and convincing evidence, both of the following: (1) the failure of the information technology system or product to be year 2000 compliant is the proximate cause of the damages alleged, and (2) the entity in question failed to make a good faith effort prior to January 1, 1999, to become year 2000 compliant.

The bill requires an action for damages against the state for failure to be year 2000 compliant to be filed in the Court of Claims. The bill does not specify where a similar action against a political subdivision must be filed.

For purposes of the above provisions, the bill defines "year 2000 compliant" to mean a computer system or systems that are, or will be, capable of accurately processing, storing, providing, and receiving data and time data from, into, and between the 20th and 21st centuries, including the years 1999 and 2000, and leap-year calculations, when used on a stand-alone basis or in combination with other hardware, firmware, or software, without creating new errors or side effects. The

processing of date and time data includes, but is not limited to, calculating, comparing, projecting, and sequencing.

The bill also defines "information technology system or product" to include a computer service, computer, computer system, computer network, or computer program, computer software, and data and also to include, but not be limited to, any software, firmware, microcode, hardware, embedded chips, or other system or product or any combination of those items that creates, reads, writes, calculates, compares, sequences, or otherwise processes date data.

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

(R.C. 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 Educational Telecommunications Network Commission and Ohio Government Telecommunications; broadcasting fees prohibited**

(R.C. 3353.07)

Under existing law, the Ohio Educational Telecommunications Network Commission is an independent agency responsible for operating and broadcasting educational television and radio. Ohio Government Telecommunications of the

Capitol Square Review and Advisory Board provides broadcast coverage of government activities, including coverage of legislative sessions of the General Assembly.

The bill prohibits the Commission from charging broadcasting fees from Ohio Government Telecommunications of the Capitol Square Review and Advisory Committee.

**State Library Board--regional library systems**

(R.C. 3375.90)

**Current law**

Under current law, public libraries in two or more counties, or four or more libraries, including two or more types, within a metropolitan area, may form a regional library system. An agreement for the formation of a regional library system is required to be approved by the governing bodies of the participating libraries. If approved, the agreement for the formation of a regional library system is required to be submitted to the State Library Board with both an application for that formation and a plan of service describing the purposes for which the system is to be formed and the means by which those purposes will be accomplished. The regional library system becomes operational upon approval by the State Library Board and the making by some authority of one or more grants for the system. The State Library Board may approve a maximum of eleven regional library systems.

**Changes proposed by the bill**

Under the bill, the State Library Board may approve a maximum of seven regional library systems. The approval process for regional library systems otherwise is unchanged.

**Capital Donations Fund of the Ohio Arts and Sports Facilities Commission**

(R.C. 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 Elections Commission--member appointments**

(R.C. 3517.152)

The bill requires the Governor to have the *advice and consent* of the Senate in making appointments to fill vacancies in the six partisan positions on the Ohio Elections Commission. Under current law (unaffected by the bill), the Governor must appoint a person to fill a vacancy in such a position by selecting one person from a list submitted by the legislative leaders of the political party from whose list of persons the Commission member being replaced previously was appointed by the Governor.

### **County boards of election and the Secretary of State's office**

(R.C. 3501.18 and 3501.21)

#### **Precinct boundary determinations**

**In general.** Current law authorizes each board of elections to divide a political subdivision within its jurisdiction into precincts and establish, define, divide, rearrange, and combine the election precincts within its jurisdiction and change the location of the polling place for each precinct when this is necessary to maintain the requirements as to the number of voters in a precinct and to provide for the convenience of the voters and the proper conduct of elections. No change in the number of precincts or in precinct boundaries may be made during the 25 days immediately preceding a primary or general election, or between January 1 and the day on which the members of county central committees are elected in the years in which those committees are elected. Each precinct must contain a number of electors, not to exceed 1,000, that the board of elections determines to be a reasonable number after taking into consideration the type and amount of available

equipment, prior voter turnout, the size and location of each selected polling place, available parking, availability of an adequate number of poll workers, and handicap accessibility and other accessibility to the polling place.

The bill *generally* requires each board of elections, no later than August 1, 2000, to determine all precinct boundaries using geographical units that will be used by the United States Department of Commerce, Bureau of the Census, in reporting the decennial census of Ohio for the year 2000. The bill *extends the date for compliance* with that requirement to April 1, 2002, when any part of the boundary of a precinct also forms a part of the *boundary of a General Assembly district* and the precinct boundary cannot be determined by August 1, 2000, using the Census Bureau's geographical units without making that part of the precinct boundary that also forms a part of the General Assembly district boundary different from that General Assembly district boundary.

**Waivers.** The bill authorizes boards of elections to apply to the Secretary of State for *waivers* from the bill's requirement that census units be used to determine precinct boundaries when it is not feasible to use them because of unusual physical boundaries or residential development practices which would cause unusual hardship for voters. A board seeking such a waiver is required to identify the affected precincts and census units, explain the reason for the waiver request, and include a map illustrating where the census units will be split because of the requested waiver. If the Secretary of State approves the waiver and notifies the board in writing of the approval, the board may change a precinct boundary as necessary, notwithstanding the requirement to use census units to determine precinct boundaries.

The bill also authorizes boards of elections to apply to the Secretary of State for a waiver from the requirement in existing law that precincts contain no more than 1,000 electors when the use of census units to determine precinct boundaries will cause a precinct to contain more than 1,000 electors. A board seeking such a waiver must identify the affected precincts and census units, explain the reason for the waiver request, and include a map illustrating where census units will be split because of the requested waiver. If the Secretary of State approves the waiver and notifies the board in writing of the approval, the board may change a precinct boundary as necessary to comply with the bill's requirement that census units be used to determine precinct boundaries.

**Effect of precinct boundary change on members of county central committee.** Under existing law, the controlling committees of each major political party are a state central committee consisting of two members representing either each congressional district in the state or each senatorial district in the state, a *county central committee* consisting of one member from each election precinct in

the county, or of one member from each ward in each city and from each township in the county, as the outgoing committee determines, and such district, city, township, or other committees as the rules of the party provide (R.C. 3517.03--not in the bill). The bill provides that, if the county board of elections changes the boundaries of a precinct (in order to meet the bill's requirement of using census units to determine the boundaries) in a manner that causes a member of a county central committee to no longer qualify as a representative of an election precinct in the county, of a ward of a city in the county, or of a township in the county, the member will continue to represent the precinct, ward, or township for the remainder of the member's term, regardless of the change in boundaries.

### **Notifications of precinct and other changes**

Under existing law, when a board of elections changes, divides, or combines any precinct, or relocates a polling place, it is required, prior to the next election, to notify each of the registrants in the precinct of the change by mail. The bill also requires that, on and after August 1, 2000, whenever a board changes the boundaries of any precinct, it must notify the Secretary of State of the change no later than 45 days after making the change.

### **Ohio Elections Commission--member qualifications**

(R.C. 3517.152)

### **Current law**

The seven members of the Ohio Elections Commission currently are not permitted to be an officer of the state central committee or of the executive committee of the state central committee of a political party. There currently are no prohibitions against the members serving as an officer of other committees of a political party.

### **Changes proposed by the bill**

Under the bill, the prohibition against members of the Ohio Elections Commission serving on political party committees is broadened. In addition to the prohibition against being an officer of the state central committee or of the executive committee of the state central committee of a political party, the members of the Commission will not be permitted to be an officer of a county central committee or a district, city, township, or other committee of a political party or an officer of the executive committee of a county central committee or a district, city, township, or other committee of a political party.

**Horse racing permit holders--tax deductions for specified purposes**

(R.C. 3769.20 and 3769.201)

The bill (1) allows a tax reduction so that horse racing permit holders may recover the cost they incurred for any cleanup, repair, or improvement required at their race track as a result of damage caused by the 1997 Ohio River flood (R.C. 3769.20(H) and 3769.201) and (2) extends from December 31, 2004, to December 31, 2014, the final date on which horse racing permit holders are eligible to take tax reductions, from the daily horse racing tax payments they owe the state, to recover the costs they incurred in making major capital improvements (renovation, reconstruction, or remodeling costing at least \$6 million) to their race tracks (R.C. 3769.20(A)).

A horse racing permit holder, in applying to the State Racing Commission for the tax reduction described in item (1) above, must submit evidence of payment of the cost of the cleanup, repair, or improvement in its application. The Commission must approve the tax reduction in the amount of the cost to the permit holder, net of any insurance proceeds, of any cleanup, repair, or improvement the Commission determines was required as a result of the damage caused by the flood. The permit holder must claim the tax reduction in the same manner as if it were a tax reduction for a major capital improvement project allowed under current law, although the permit holder need not have followed the unrestricted competitive bidding procedures required by current law for those projects. (R.C. 3769.201.)

The percentage of the latter tax reduction that may be taken each racing day must equal the percentage allowed under current law for major capital improvement projects involving race tracks. The tax reduction (1) is in addition to and must be taken after completion of any tax reduction for capital improvement projects approved under current law and (2) cannot be taken for a repair or improvement for which a tax reduction for capital improvement projects is taken under current law. (R.C. 3769.201.)

**The Civil Rights Commission's executive director authority over Commission employees**

(R.C. 4112.04)

The bill allows the Civil Rights Commission to delegate to the Executive Director of the Civil Rights Commission the authority to perform any administrative duties necessary to carry out the Commission's responsibilities.

### **Commission on African-American Males**

(R.C. 4112.12)

Under current law, the Ohio Civil Rights Commission (OCRC) is required to oversee and coordinate the activities of the Commission on African-American Males (CAAM). Under the bill, the OCRC is no longer required to oversee and coordinate the CAAM's activities, but it is required to act as the fiscal agent of the CAAM. The bill requires the OCRC to prepare and process payroll and other personnel documents, vouchers, purchase orders, encumbrances, and other accounting documents, in addition to maintaining accounting ledgers and preparing and monitoring budgets and allotment plans in consultation with the CAAM. The OCRC is authorized to perform routine support services as it considers appropriate to achieve efficiency, and other services that both the CAAM delegates and the OCRC accepts. The bill specifies that the OCRC does not have the authority to initiate or to deny personnel or fiscal actions for the CAAM.

Removing this oversight and coordinations authority even though retaining fiscal support duties results in the CAAM becoming an independent commission.

### **Creating the Civil Rights Commission General Reimbursement Fund**

(R.C. 4112.15)

The bill creates the Civil Rights Commission General Reimbursement Fund in the state treasury to pay (some of the) operating costs of the Commission. Money for the fund is to come from payments made to the Commission for (1) copies of investigative files or other Commission documents, as when a public records request is made, and (2) other goods and services furnished by the Commission.

### **Prevailing Wage Custodial Fund**

(R.C. 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 is 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.<sup>3</sup>

**State Employment Relations Board Training and Publications Fund**

(R.C. 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 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.

**Sales by wholesale beer distributors to qualified persons**

(R.C. 4303.06)

Current law authorizes the B-1 permit to be issued to a wholesale distributor to distribute or sell beer, ale, lager, stout, and other malt liquors, containing not more than 6% of alcohol by weight, *for home use* and to retail permit holders under rules that the Division of Liquor Control may adopt. The bill removes the reference to sale "for home use" and instead allows sale to qualified persons, defined to mean persons who are at least 21 years of age and who are not intoxicated, and, as under current law, to retail permit holders.

**Creation of the D-5j liquor permit**

(R.C. 4301.62, 4303.07, 4303.10, 4303.181, 4303.182, 4303.30, 4303.35, and 4399.12)

The bill creates the D-5j liquor permit that may be issued only within a community entertainment district located in a municipal corporation with a

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<sup>3</sup> *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.*

population of at least 100,000.<sup>4</sup> The fee for the D-5j permit is \$1,875. (R.C. 4303.181(J)(1), (2), and (5).)

The D-5j permit may be issued to either the owner or operator of a food service operation licensed under the Food Service Operation Law to sell (1) beer and intoxicating liquor at retail, only by the individual drink in glass and from the container, for consumption on the premises where sold and (2) beer and intoxicating liquor in the same manner and amounts not for consumption on the premises where sold as may be sold by the holders of D-1 (sale of beer for off-premises consumption) and D-2 (sale of wine and mixed beverages for off-premises consumption) liquor permits. The holder of a D-5j permit may exercise the same privileges, and must observe the same hours of operation, as the holder of a D-5 (night club) permit. (R.C. 4303.181(J)(1).)

The location of a D-5j permit may be transferred only within the geographic boundaries of the community entertainment district in which it was issued and must not be transferred outside the geographic boundaries of that district. Not more than one D-5j permit can be issued within each community entertainment district for each five acres of land located within the district, and not more than 15 D-5j permits may be issued within a single community entertainment district. Except as otherwise described in this paragraph, no quota restrictions can be placed upon the number of D-5j permits that may be issued. (R.C. 4303.181(J)(3) and (4).)

The bill also alters several sections of the Revised Code to reflect the creation of the D-5j permit and to grant expressly to the holder of this permit the privileges described above, including the ability to obtain the D-6 permit. The latter permit allows the Sunday sale of intoxicating liquor. (R.C. 4301.62, 4303.07, 4303.10, 4303.182, 4303.30, 4303.35, and 4399.12.)

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<sup>4</sup> *Current law defines a "community entertainment district" as a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of similar establishments: (a) hotels, (b) restaurants, (c) retail sales establishments, (d) enclosed shopping centers, (e) museums, (f) performing arts theaters, (g) motion picture theaters, (h) night clubs, (i) convention facilities, (j) sports facilities, (k) entertainment facilities or complexes, or (l) any combination of the establishments described in items (a) through (k) above that provide similar services to the community. The legislative authority of a municipal corporation may designate a community entertainment district under current law and, once designated, local option elections may be held in the entire municipal corporation on the sale of beer and intoxicating liquor in the entertainment district. Local option elections generally are held only in individual election precincts.*

## Accountancy Board Law changes

### Compensation of the Accountancy Board's Executive Director

(R.C. 4701.03)

The bill provides that if the Accountancy Board employs an executive director, the executive director must be paid in accordance with Pay Range 18 of Salary Schedule E-1. Beginning on the first day of the pay period that includes July 1, 1999, persons paid under this pay range may receive an annual salary ranging from a minimum annual salary of \$67,163 up to a maximum annual salary of \$88,026 (R.C. 124.152(C), not in the bill).

### Certified public accountant examinations

(R.C. 4701.06)

**Existing law.** The existing Accountancy Board Law includes in its requirements for a person to be granted a certificate of "certified public accountant" (CPA) a requirement that the person has passed a *written* examination in *accounting* and *auditing* and in any *related subjects* that the Board determines to be appropriate. The Board is required to adopt rules, consistent with the CPA requirements statute, for these examinations and for application to take them.

The existing Accountancy Board Law also requires the Board to waive certain *educational* requirements of candidates for a CPA certificate if it makes specified findings and if it is satisfied from the results of a "special *written* examination" that the Board gives a candidate that the candidate is as well equipped, educationally, as if the candidate met the applicable educational requirement. The Board again is required to provide by rule for the general scope of any special examinations for a waiver of the educational requirements.

Existing law permits the Board to use all or any part of the Uniform Certified Public Accountants' Examination and Advisory Grading Service, or either, as it considers appropriate to assist it in performing its duties CPA examination functions. The Board also may contract with qualified organizations for assistance in the administration of any examinations.

Finally, under existing law, the Board may prescribe by rule the terms and conditions under which a candidate who passes the CPA examination in one or more of the subjects referred to above *may be reexamined in only the remaining subjects, with credit for the subjects previously passed.* It also may provide by rule for a reasonable waiting period for a candidate's reexamination in a subject the candidate has failed. Subject to Board rules of those types and any other rules that

the Board may adopt governing reexaminations, a candidate is entitled to any number of CPA reexaminations, and no candidate can be required to be reexamined in all subjects unless a period of four years has elapsed since the candidate initially earned credit on the examination.

**Changes proposed by the amendment.** The bill still requires a person to have passed an examination in order for the person to receive a CPA certificate from the Accountancy Board. But, the bill no longer requires the examination (including any special "educational requirement waiver-related" examination) (1) to be *written* (i.e., it could be administered in writing, electronically, or otherwise) or (2) to include, as a matter of statutory law, accounting and auditing. The bill instead specifies that a person must have passed an examination that is administered *in the manner and that covers the subjects that the Board prescribes by rule*. In adopting those rules, the Board is required to ensure to the extent possible that the examination, the examination process, and the examination's passing standard are *uniform with the examinations, examination processes, and examination passing standards of all other states*. The bill also continues (in another location) existing law's authority for the Board to use all or any part of the Uniform Certified Public Accountants' Examination and Advisory Grading Service *of the American Institute of Certified Public Accountants* (italicized words added by the bill), and the bill provides (in a slightly modified form of existing law) for Board authority to contract with *third parties* to perform administrative services that relate to the CPA examination and that Board determines are appropriate in order to assist it in performing its duties in relation to the examination.

Finally, the bill modifies the provisions of existing law that govern the retaking of a CPA examination. Under the bill, the Board may prescribe by rule (1) the terms and conditions under which a candidate who passes *part but not all of* the examination may retake the examination and (2), similar to existing law, a reasonable waiting period for a candidate's reexamination. But, the bill deletes existing law's previously described provisions pertaining to (a) reexaminations in only the subjects that a candidate failed on a CPA examination and credit for subjects previously passed, (b) a candidate's generally being entitled to any number of reexaminations (subject to Board rules), and (c) a candidate not being required to be reexamined in all subjects unless at least four years has elapsed since the candidate initially earned credit on a CPA examination.

### **Landscape architects' license renewal**

(R.C. 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. (R.C. 4703.36(B).)

**Biennial fees**

(R.C. 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 (R.C. 4703.37(H)). The bill allows the Board to set a fee for biennial registration (R.C. 4703.37(C)(3)). (See "Landscape architect's license renewal," above.)

**Delinquency fee increase**

(R.C. 4703.37)

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 (R.C. 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. Under current law, a portion of the delinquency fee is a penalty equal to 10% for each delinquent year or part year (thereby calculated on the basis of an annual renewal structure). The bill increases the penalty portion of the delinquency fee from 10% to 25% of the total renewal fees for each biennial renewal period or part thereof during which the certificate was not renewed (thereby calculated on the basis of a biennial renewal structure).

**Credit service organizations; motor vehicle dealers and motor vehicle auction owners excluded from definition**

(R.C. 4712.01)

Current law, in part, defines a credit service organization as a person that receives valuable consideration from a buyer for obtaining an extension of credit for a buyer or providing advice or assistance to a buyer in connection with obtaining an extension of credit for that buyer. Specifically excluded from this definition of a credit service organization are several classes of financial institutions and other private and public entities. The bill extends the list of exclusions by specifying that a motor vehicle dealer or a motor vehicle auction

owner is not a credit service organization for purposes of the Ohio Credit Services Organization Act.

### **Board of Cosmetology provisions**

#### **Fee increases**

(R.C. 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**

(R.C. 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.

### **Natural hair styling**

(R.C. 4709.01 and 4713.01)

The bill defines "the practice of natural hair styling" as work done for compensation utilizing techniques performed by hand that result in tension on hair roots such as twisting, wrapping, weaving, extending, locking, or braiding of the hair, and which work does not include the application to the hair of dyes, reactive chemicals, or other preparations that would alter the color or structure of or straighten or curl the hair. In the bill, "braiding" is defined as the intertwinning of hair in a systematic motion to create patterns in a three-dimensional form, inverting the hair against the scalp along part of a straight or curved row of intertwined hair, or twisting the hair in a systematic motion and includes extending the hair with natural or synthetic hair fibers.

The bill removes from the definition of the practice of barbering "the performance of noninvasive hair weaving" and specifically exempts the practice of natural hair styling from regulation under either the law governing barbers or the one governing cosmetologists, thereby allowing persons who engage in the practice of natural hair styling only to be exempt from regulation or licensure.

## **Embalmers and Funeral Directors changes**

### **Embalmer licensure requirements**

(R.C. 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**

(R.C. 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 \$50*.

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**

(R.C. 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**

#### **Office space, temporary permits**

(R.C. 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.

### *Renewal periods and fees*

(R.C. 4766.04 and 4766.05)

The bill requires persons who operate ambulances and other emergency vehicles to renew their licenses and permits annually rather than every two years. Licenses or permits issued in 1998 and in 1999 prior to the bill's effective date are valid for two years from the date of issuance. In addition, the bill reduces the cap for the license fee from \$200 to \$100 and the cap for the permit fee from \$100 to \$50.

### *Compensation of Office of the Ohio Consumers' Counsel governing board*

(R.C. 4911.17)

Under existing law, members of the Office of the Ohio Consumers' Counsel governing board serve without compensation, but are reimbursed for actual and necessary expenses. The bill instead requires the board members to be compensated \$150 per board meeting that they attend in person, with a cap of \$1,200 per year. The bill retains reimbursement for actual and necessary expenses.

### *Use of public ways by utility service providers and cable operators*

(R.C. 4931.01, 4931.03, 4931.08, 4931.11, 4931.20, 4931.21, 4931.23, 4931.24, 4931.99, 4933.14, 4939.01 to 4939.03, and 5515.01)

The bill addresses the use of public ways by utility service providers and cable operators. "**Utility service provider**" is defined as a natural gas company, local exchange telephone company, interexchange telecommunications company, electric company, or any other person that occupies a public way to deliver natural gas, electric, or telecommunications services. "**Cable operator**" has the same meaning as in the federal Cable Communications Policy Act of 1984 (that is, "any person or group of persons . . . who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or . . . who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.") "**Public way**" means any public street, road, highway, public easement, or public waterway, and includes the entire width of any right of way associated with any public way. (R.C. 4939.01.)

### *"Matter of statewide concern"*

The bill states that the construction, repair, placement, maintenance, or operation of lines, poles, pipes, conduits, ducts, equipment, and related

appurtenances and facilities by a utility service provider or a cable operator is "a matter of statewide concern."

The state, or any political subdivision of the state, is prohibited from discriminating among utility service providers or cable operators, or granting a preference to any such provider or operator, in the issuance of permits or the passage of laws, ordinances, or resolutions for the use of public ways. The bill also prohibits the state or any political subdivision from creating any requirements for entry upon and use of the public ways that are not necessary to protect the health, safety, and welfare of the public. (R.C. 4939.02(B) and (E).)

### **Right to use public ways; granting of consent**

The bill states that a utility service provider or cable operator has the right to use any public way in the state, subject to the applicable provisions of the Revised Code. All equipment must be constructed and positioned in such a way that safety is not unreasonably compromised in the use of the public way.

The bill does not authorize any utility service provider or cable operator to use any public way owned by a political subdivision without first obtaining the consent of the political subdivision, if consent is required by the political subdivision. A utility service provider or cable operator that, as of the bill's effective date, occupies a public way, or has obtained the consent of a political subdivision to occupy a public way, does not have to apply for additional consent as to any equipment already in place. The political subdivision cannot discriminate against any other utility service provider or cable operator that seeks to use the same public way.

The bill requires that consent for the use of a public way be based on the lawful exercise of the police power of the political subdivision. It cannot be unreasonably withheld, and no preference or disadvantage can be created through the granting or withholding of consent. Additionally, consent for the use of a public way must be granted by a political subdivision within 30 days after a utility service provider or cable operator applies for such consent. (R.C. 4939.02(A), (C), (D), and (F).)

### **Taxes or other charges for use of a public way**

The bill prohibits a political subdivision from levying a tax or charge, or requiring any nonmonetary compensation or free service, for the right of using a public way for purposes of delivering natural gas, electric, telecommunications, or cable television service. A political subdivision may charge a construction permit fee *if* the fee applies to all persons seeking a construction permit. The fee must be

limited to the recovery of the direct incremental costs incurred by the political subdivision in inspecting and reviewing any plans and specifications and in granting the associated permit.

A utility service provider or cable operator that uses a public way is required to restore the public way to its former state of usefulness. If a utility service provider or cable operator fails to comply with this requirement, a political subdivision may charge the necessary costs to complete the restoration. (R.C. 4939.03.)

### **Provisions repealed**

The bill repeals the following sections in Chapter 4931. (the Public Utility Law on Telegraph and Telephone Companies):

- (1) R.C. 4931.01 (Lines shall not incommode the public);
- (2) R.C. 4931.03 (Use of highway);
- (3) R.C. 4931.08 (Lands subject to public use);
- (4) R.C. 4931.20 (Validity of ordinances);
- (5) R.C. 4931.23 (Consent of municipal corporation);
- (6) R.C. 4931.24 (Erecting poles in municipal corporations having subways).

### **Ohio Commission on Fatherhood**

(R.C. 5101.34, 5101.341, 5101.342, and 5101.343)

### **Commission duties**

The bill creates the Ohio Commission on Fatherhood. The Commission is to organize a state summit on fatherhood every four years and prepare an annual report that identifies resources available to fund fatherhood-related programs and explores the creation of initiatives to do the following:

- (1) Build the parenting skills of fathers;
- (2) Provide employment-related services for low-income, noncustodial fathers;
- (3) Prevent premature fatherhood;

(4) Provide services to fathers who are inmates in or have just been released from imprisonment in a state correctional institution or any other detention facility so that they are able to maintain or reestablish their relationships with their families;<sup>5</sup>

(5) Reconcile fathers with their families;

(6) Increase public awareness of the critical role fathers play.

The Commission is required to submit the annual report to the President and Minority Leader of the Senate, Speaker and Minority Leader of the House of Representatives, Governor, and Chief Justice of the Supreme Court. The first report is due not later than one year after the last of the initial appointments to the Commission is made.

### **Commission not subject to agency sunset law**

The bill provides that state law regarding the automatic expiration of statutorily created agencies does not apply to the Commission. That law provides that an agency created by statute after January 1, 1997, automatically expires four years after its creation, unless the General Assembly takes further action to extend its life.

### **Commission membership**

The Commission is to consist of the following 17 members.

(1) Two members of the Senate appointed by the President of the Senate, each from a different political party, and two members of the House of Representatives appointed by the Speaker of the House, each from a different political party. These members must be from legislative districts that include a county or part of a county that is among the one-third of counties in this state with the highest number per capita of households headed by females.

(2) The Governor, or the Governor's designee;

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<sup>5</sup> Current law defines "state correctional institution" as including any institution or facility that is operated by the Department of Rehabilitation and Correction and is used for the custody, care, or treatment of criminal, delinquent, or psychologically or psychiatrically disturbed offenders. "Detention facility" is defined as any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States.

(3) One representative of the judicial branch of government appointed by the Chief Justice of the Supreme Court;

(4) The Directors of Health, Human Services, Rehabilitation and Correction, and Youth Services and the Superintendent of Public Instruction, or their designees;

(5) One representative of the Ohio Family and Children First Cabinet Council appointed by the Chairperson of the Council;

(6) Five representatives of the general public appointed by the Governor. These members must have extensive experience in issues related to fatherhood.

The appointing authorities are required to make initial appointments to the Commission within 30 days after the bill's effective date.

#### **Terms of membership**

Of the initial members of the Commission representing the judicial branch, the Ohio Family and Children First Cabinet Council, and the general public, three are to serve a one-year term and four are to serve a two-year term. Such subsequent members are to serve two-year terms. A member of the Commission representing the General Assembly is to serve until the end of the General Assembly from which the member was appointed or until the member ceases to serve in the chamber of the General Assembly in which the member serves at the time of appointment, whichever occurs first. The Governor or the Governor's designee is to serve until the Governor ceases to be Governor. The Directors of Health, Human Services, Rehabilitation and Correction, and Youth Services and the Superintendent of Public Instruction or their designees are to serve until they cease, or the Director or Superintendent a designee represents ceases, to be Director or Superintendent.

The bill provides that each member is to serve from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies are to be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed is to serve for the remainder of that term. A member is to continue to serve subsequent to the expiration date of the member's term until the member's successor is appointed or until a period of 60 days has elapsed, whichever occurs first.

### **Compensation for members**

The bill provides that the members of the Commission are to serve without compensation. Members are to be reimbursed for necessary expenses.

### **Chairperson**

The Commission is required to elect a chairperson annually. The chairperson must be a member of the Commission.

### **Department of Human Services to house Commission and provide staff**

The Commission is to be housed in the Department of Human Services. The Department is required to provide staff and other support services for the Commission.

### **Ohio Commission on Fatherhood Fund**

The bill creates the Ohio Commission on Fatherhood Fund in the state treasury. Gifts, grants, donations, contributions, benefits, and other funds the Commission is authorized to accept from any public agency or private source to carry out any or all of the Commission's duties are to be deposited into the Fund and used solely to support the operations of the Commission.

### **Indexing eligibility for the Energy Credit Program**

(R.C. 5117.07, 5117.071, and 5117.09; Section 169)

The Ohio Energy Credit Program grants residential heating energy credits or payments to elderly or permanently and totally disabled low-income heads of household. The size of a householder's credit depends upon whether the household's "total income" (federal adjusted gross income with certain additions and subtractions) is \$5,000 or less or whether it is more than \$5,000 but not more than \$9,000. (A credit may also be based upon "current total income," which is half of total income because it is based on income during the first six months of the year.)

The bill requires the Tax Commissioner to adjust the total income and current total income limits for inflation each year, beginning with the 1999-2000 winter heating season, using the U.S. government's gross domestic product deflator. For total income, each year's adjustment for inflation is to be based on the preceding year's total income amounts, and each amount is to be rounded upward to the nearest \$10. The bill specifies that each year's current total income

limits are to equal one-half of the respective adjusted total income limits for that year. No adjustment is to be made for deflation.

**Emergency Management Agency**

(R.C. 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**

**Residents' Benefit Fund**

(R.C. 5907.11)

**Current law.** Under current law, the Superintendent of the Ohio Veterans' Home, with the approval of the Home's board of trustees, may establish a local fund to be used for the entertainment and welfare of the Home's residents. The fund is required to be designated as the *Home Improvement Fund*, to be operated for the exclusive benefit of the Home's residents, and to receive all revenue from the sale of commissary items and all moneys received as donations from any source. The Superintendent, with the approval of the Home's board of trustees, is required to establish rules for the fund's operation.

**Changes proposed by the bill.** The bill changes the law in two ways. First, the Home Improvement Fund is renamed as the *Residents' Benefit Fund*. Second, in addition to the moneys that currently are required to be deposited into the Home Improvement Fund, the bill permits the Residents' Benefit Fund to be used to receive and disburse any donations made for events sponsored by the Ohio Veterans Hall of Fame.

**Authorized levels of care**

(R.C. 5907.13 and 5907.141)

**Current law.** Under current law, 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. Subject to Controlling Board approval, the Home's board of trustees must adopt rules for determining a resident's ability to pay. Each resident must furnish the board statements of income, assets, debts, and expenses that the board requires for that purpose. The bill does not affect this existing law.

Current law further provides that each resident's fee must be *based upon the level of care received for domiciliary or nursing home services* and that each resident's assessment 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.

**Changes proposed by the bill.** The bill changes the latter provisions in two respects. First, it repeals the language of existing law that *limits the levels of care* upon which a resident's fee must be based to the following types of services: (a) domiciliary services and (b) nursing home services. Second, it specifies that a resident's fee must be based upon the level of care provided to each resident of the Home and requires the home's board of trustees to determine *authorized levels of care* for the Home's residents.

**Per diem grant provisions**

(R.C. 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**

(R.C. 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.

**Rural Industrial Park Loan Program**

(Sections 141 and 142)

The bill extends the date on which the Rural Industrial Park Loan Program that is administered by the Department of Development terminates from June 30, 1999, to June 30, 2001. The statutory provisions pertaining to that program are contained in sections 122.23 to 122.27 of the Revised Code and are not changed by the bill.

**Transfer of land in Hamilton County from ODOT to city of Cincinnati**

(Section 136)

Upon finalization of the dejournalization process, as established by the Ohio Department of Transportation, the bill transfers jurisdiction, including all control and supervision, over all real estate purchased by the state of Ohio in

conjunction with the Colerain Connector Project, otherwise known as HAM-127-5,47, from the Ohio Department of Transportation to the city of Cincinnati.

The city of Cincinnati must use the real estate for a public purpose. If the city of Cincinnati ceases to use the real estate for a public purpose, all right, title, and interest in the real estate shall immediately revert to the Ohio Department of Transportation without need for further action by the Ohio Department of Transportation.

## **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.
- Extends to 15 years the maximum maturity of bonds that are issued to finance energy conservation measures for school districts.
- Adds the Director of Development as a member to the Agricultural Financing Commission.
- Adds rabbits and poultry to the definition of "species" for purposes of existing law that authorizes the Director of Agriculture to provide financial assistance to nonprofit livestock associations to defray certain costs involved with livestock species exhibitions held at the Ohio Expositions Center.
- Changes the viticulture extension specialist of the Ohio Agricultural Research and Development Center who serves on the Ohio Grape Industries Committee from a voting to a nonvoting member.
- States that statutory provisions involving the Burr Oak Water System cease to apply if ownership of the system is transferred from the state.
- Recreates the Muskingum River Advisory Council that was sunsetted in 1998.
- Expands the types of employees of a soil and water conservation district who are eligible to receive donated sick leave to include certain employees who regularly work 25 to 39 hours per week or who render

any other standard service accepted as "full-time limited hours" by the district and makes other revisions to the donated sick leave policy for employees of districts.

- Increases the cap on boating safety education grants provided by the Division of Watercraft in the Department of Natural Resources from \$15,000 to \$30,000 annually.
- Authorizes the Division to make grants to public entities to operate marine patrols for the purpose of enforcing the Watercraft Certificates of Title Law, in addition to enforcing the Watercraft and Waterways Law under existing law, and to provide emergency response to boating accidents; provides that moneys for those purposes be disbursed on a cost share basis rather than on a matching basis and requires a grantee to provide at least 25% of the total program cost; and increases the cap on annual grants for those purposes from \$25,000 to \$30,000.
- Authorizes the Division, with the approval of the Director of Natural Resources, to distribute moneys to public and private entities for the purpose of administering federal assistance under the Clean Vessel Act of 1992.
- Authorizes the Director of Environmental Protection to adopt rules to create an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility in lieu of the current permitting and licensing requirements.
- Amends the current annual license fee structure for solid waste compost facilities by establishing lower fees for smaller facilities.
- Establishes a fee schedule for the discharge of air pollutants from synthetic minor facilities; extends the current discharge fees for public and industrial dischargers holding an NPDES permit to January 30, 2000, and establishes higher discharge fees for public and industrial dischargers for fees due January 30, 2001; increases the fee for persons applying for an NPDES permit; and 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.

- 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 or that use scrap tires.
- 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.
- Extends until June 30, 2001, authorization for the Environmental Protection Agency to use moneys in the Hazardous Waste Clean-up Fund for the purpose of funding the voluntary action program.
- Removes the requirement that the Director reimburse moneys from the Hazardous Waste Facility Management Fund used to pay the start-up costs of administering the voluntary action program.
- Requires that the Environmental Protection Agency use moneys in the Hazardous Waste Clean-up Fund to pay long-term costs or matching shares for actions taken under the federal Comprehensive Environmental Response, Compensation, and Liability Act rather than moneys from the Hazardous Waste Facility Management Fund.
- Creates the Environmental Protection Remediation Fund, specifies moneys that may be credited to the fund, and authorizes the

Environmental Protection Agency to utilize moneys in the fund to remediate contaminated sites where the Director of Environmental Protection has reason to believe there is a substantial threat to public health and safety.

- Requires the Director of Environmental Protection to conduct a study of the operations of the Division of Surface Water and the Division of Air Pollution Control in the Environmental Protection Agency and to make recommendations for improving efficiencies within those Divisions.
- 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.
- Revises the definition of "public water system" in the Safe Drinking Water Law to stipulate that the water from such a system be provided through pipes or other constructed conveyances.
- Increases to \$15,000 the maximum value of a contract that may be entered into without initiating competitive bidding under the Regional Water and Sewer Districts Law.

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## CONTENT AND OPERATION

### *Family Farm Loan Program*

(R.C. 122.011, 166.03, and 901.63; Sections 142 and 143)

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 (R.C. 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.

### *Energy conservation bonds for school districts*

(R.C. 133.20)

Current law authorizes a school district to incur indebtedness to finance the making or modification of installations or the remodeling of buildings for the purpose of significantly reducing energy consumption if the amount of money that the school district would spend on the installations or remodeling is not likely to exceed the amount of money it would save in energy and resultant operational and maintenance costs over the ensuing 15 years. However, bonds that are issued for those purposes have a maximum maturity of ten years. The bill extends to 15 years the maximum maturity of bonds that are issued to finance energy conservation measures for school districts.

### *Change in membership of the Agricultural Financing Commission*

(R.C. 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.

**Financial assistance for livestock species exhibitions at the Ohio Expositions Center**

(R.C. 901.41)

Under current law, the Director of Agriculture may provide financial assistance to statewide, multi-state, or national nonprofit livestock associations to defray not more than 50% of the rental costs of the Ohio Expositions Center for livestock species exhibitions that are open to the public. The Director also may allocate not more than \$50,000 of available moneys in a fiscal year to provide assistance to such an association to defray the costs of premium awards for a national multispecies exhibition held at the center where species from 15 or more states or nations are exhibited. For both of those purposes, current law defines "species" to mean dairy cattle, beef cattle, swine, and sheep. The bill adds rabbits and poultry to that definition.

**Ohio Grape Industries Committee**

(R.C. 924.51)

Under existing law, the viticulture extension specialist of the Ohio Agricultural Research and Development Center serves on the Ohio Grape Industries Committee. The bill makes that person a nonvoting member.

**Burr Oak Water System**

(R.C. 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.

### **Muskingum River Advisory Council**

(R.C. 1501.25; Section 153)

The Muskingum River Advisory Council existed until June 29, 1998. Membership consisted of four members from the General Assembly, four persons interested in the development of the river appointed by the Governor, two representatives of the Department of Natural Resources, one representative of the Department of Development, one representative of the Environmental Protection Agency, one representative of the Department of Transportation, one representative of the Ohio Historical Society, and ten persons appointed by county commissioners and mayors from the four counties through which the river flows. The council was required to prepare an annual report on the river area, the council's activities, recommended actions by the General Assembly or any state agency, and estimates of the cost of the recommendations. The council also was authorized to conduct various activities concerning the river and river area. The Department of Natural Resources was required to provide staff assistance to the council as needed.

The bill recreates the Muskingum River Advisory Council in statute. The membership is the same as under prior law, with the exception that a member appointed by the mayor of Coshocton and a member appointed by the mayor of McConnellsville are being added. The requirements governing the council are the same as in prior law, including the requirement for an annual report and staff assistance from the Department of Natural Resources.

The bill retains the authority in prior law for the council to provide all of the following: coordination among local governments and state agencies, with the addition of federal agencies; aid to civic groups and individuals who want to make improvements to the river; information and planning to state and local agencies responsible for specified types of development of the area; and updated information concerning potential hazards to flood control or navigation, erosion problems, debris accumulation, and deterioration of locks and dams. The bill does not include the prior authority for the council to investigate the feasibility of hydroelectric development and other commercial development on the river and to prepare a long-range plan for the development of the river.

Under the bill, the council is not exempt from existing law that requires boards and commissions to sunset four years after creation. Thus, the council will sunset at that time.

**Revisions to donated sick leave policy for employees of a soil and water conservation district**

(R.C. 1515.091)

Under current law, an employee of a soil and water conservation district is eligible to receive donated sick leave if the employee is a full-time, regular employee who has completed the prescribed probationary period, has used up all accrued paid leave, and has been placed on an approved, unpaid, medical-related leave of absence for a period of at least 30 working days because of the employee's own serious illness or that of a member of the employee's immediate family. The bill makes several revisions to these provisions.

First, it eliminates references to a "full-time, regular employee," which is not defined, and instead defines "full-time employee" as an employee of a soil and water conservation district whose regular hours of service for the district total 40 hours per week or who renders any other standard of service accepted as full-time by the district. The bill also defines "full-time limited hours employee" as an employee of a district whose regular hours of service total 25 to 39 hours per week or who renders any other standard of service accepted as full-time limited hours by the district. The bill then provides that both full-time employees and full-time limited hours employees are eligible to receive donated sick leave, thus expanding the types of employees who are eligible to receive it. The bill also specifies that the medical-related leave of absence of at least 30 working days that, under existing law, is an eligibility requirement for receiving donated sick leave must consist of at least 30 *consecutive* working days.

In addition, existing law provides that if a receiving employee does not use all donated sick leave during the employee's leave of absence, the unused balance must be returned, within three months after the end of the leave of absence and on a prorated basis, to each donating employee who donated sick leave to the receiving employee. The bill instead stipulates that the unused balance must remain in the account established under existing law that is used to dispense funds to the employing district of a receiving employee and must be used to dispense funds in the future to such a district.

**Division of Watercraft distribution of grants and other moneys**

(R.C. 1547.67, 1547.68, and 1547.72)

Under existing law, the Division of Watercraft in the Department of Natural Resources provides boating safety education grants to assist political subdivisions, conservancy districts, state departments, and nonprofit organizations in paying

personnel salaries and training, materials, supplies, equipment, and related expenses needed to conduct boating safety education programs. Moneys are distributed on a cost share basis. The Division may grant not more than \$15,000 per calendar year to a political subdivision, conservancy district, state department, or nonprofit organization. The bill increases the cap on the grant amount to \$30,000 per calendar year to each such entity.

In addition, current law authorizes the Division to make grants to political subdivisions, conservancy districts, and state departments to assist them in establishing or maintaining and operating a marine patrol for the purpose of enforcing the Watercraft and Waterways Law and rules adopted under it. The bill also allows the Division to make grants to those entities to establish or maintain and operate a marine patrol for the purpose of enforcing the Watercraft Certificates of Title Law as well as to provide emergency response to boating accidents on the water. Under existing law, moneys for the above purposes must be disbursed on a matching basis. A political subdivision, conservancy district, or state department may not receive more than \$25,000 per calendar year. The bill instead provides that moneys must be disbursed on a cost share basis and requires a grantee to provide at least 25% of the total program cost. In addition, the bill increases the cap on an annual grant to \$30,000.

The bill authorizes the Division, with the approval of the Director of Natural Resources, to distribute moneys for the purpose of administering federal assistance under the Clean Vessel Act of 1992. The Division may distribute the moneys to public and private entities for the construction, renovation, operation, and maintenance of pumpout stations and waste reception facilities and for any other purpose provided under the act. Public and private entities that receive such moneys may charge fees at the facilities in accordance with guidelines established under the Clean Vessel Act.

### **Environmental Protection Agency fees and programs**

#### **Authority for Director to adopt rules creating alternatives to permitting and licensing solid waste compost facilities**

(R.C. 3734.02 and 3734.05)

Current law generally provides that a person cannot establish a new or modify an existing solid waste facility without obtaining a permit from the Director of Environmental Protection. However, a person establishing a new compost facility or continuing to operate an existing compost facility that accepts exclusively source separated yard wastes instead must submit a completed registration to the Director. In addition, current law prohibits anyone from

operating or maintaining a solid waste facility, other than a registered yard waste compost facility, without an annual license issued by the applicable board of health or the Director.

The bill allows the Director to adopt rules to create an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility in lieu of the current permitting and licensing requirements. The rules may include requirements governing, at a minimum, the classification of solid waste compost facilities, the submittal of operating records, and the creation of a registration or notification system in lieu of the issuance of permits and licenses. In addition, the rules must specify the applicability of the permitting and licensing requirements in current law to a compost facility. Otherwise, the bill provides that those requirements do not apply to a solid waste compost facility if the Director has adopted the rules authorized under the bill.

**Solid waste compost facility license fees**

(R.C. 3734.06(A)(2))

Under existing law, the annual license fee for solid waste facilities is based on authorized maximum daily waste receipt in tons. A range of fees is established based on the size of the facilities. The annual license fees for compost facilities are one-half those of general solid waste facilities. The range of those compost facilities license fees is as follows:

<u>AUTHORIZED MAXIMUM DAILY WASTE RECEIPT (TONS)</u>	<u>ANNUAL LICENSE FEE</u>
100 or less	\$2,500
101 to 200	\$6,250
201 to 500	\$15,000
501 or more	\$30,000

The bill retains the fee structure for the three largest categories of solid waste compost facilities. However, it establishes lower fees for smaller facilities as follows:

<u>AUTHORIZED MAXIMUM DAILY WASTE RECEIPT (TONS)</u>	<u>ANNUAL LICENSE FEE</u>
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12 or less	\$300
13 to 25	\$600
26 to 50	\$1,200
51 to 75	\$1,800
76 to 100	\$2,500

**Air pollution control fees**

(R.C. 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**

(R.C. 3745.11(L), (M), (N), (O), (P), and (S) 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. It retains the current fee schedules for fees due January 30, 2000, and establishes higher fee schedules for fees due January 30, 2001, as follows:

**For public dischargers**

<u>Average Daily Discharge Flow</u>	<u>Fee Due By January 30, 2000 (Existing Fee)</u>	<u>Fee Due By January 30, 2001 (Increased Fee)</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

**For public dischargers**

<u>Average Daily Discharge Flow</u>	<u>Fee Due By January 30, 2000 (Existing Fee)</u>	<u>Fee Due By January 30, 2001 (Increased Fee)</u>
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, 2000 (Existing Fee)</u>	<u>Fee Due By January 30, 2001 (Increased Fee)</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
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 also 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 extends the surcharge, requires the \$6,750 surcharge to be paid by January 30, 2000, and increases the amount to \$7,500 for the surcharge due 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. In addition, the bill corrects an omission in current law in the description of the types of water systems to which the licensing fee schedule for any public water system that is not a community water system and that serves a transient population applies.

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 under the Water Pollution Control Law must pay a nonrefundable fee of \$200 at the time of application for the permit through June 30, 2002, and a \$15 fee after that date.

*Scrap tire management program and per-tire fee*

(R.C. 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 or that use scrap tires.

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**

(R.C. 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 Waste Facility Management Fund and Hazardous Waste Clean-up Fund**

(R.C. 3734.18 and 3734.28)

Existing law requires the Environmental Protection Agency to use moneys in the Hazardous Waste Clean-up Fund only for specified purposes, including, through June 30, 1999, the purposes of the voluntary action program, which has been established for the cleanup of certain contaminated property. The bill extends that use of moneys in the fund through June 30, 2001.

Current law authorizes the Director of Environmental Protection to use moneys in the Hazardous Waste Facility Management Fund to pay the start-up costs of administering the voluntary action program. However, not later than 13 years after the moneys are so used, the Director must reimburse the amount paid from the Hazardous Waste Facility Management Fund with moneys from the Voluntary Action Program Administration Fund. The bill eliminates the requirement that the Director reimburse the Hazardous Waste Facility Management Fund.

Under current law, if the Agency uses moneys in the Hazardous Waste Facility Management Fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and the moneys are reimbursed by grants or other moneys from any person, the reimbursed moneys must be placed in that fund for reuse for those purposes and not in the General Revenue Fund or the Hazardous Waste Clean-up Fund. The bill repeals this provision and instead requires the Agency to use moneys in the Hazardous Waste Clean-up Fund to pay such long-term operation and maintenance costs or matching shares for actions taken under CERCLA. The bill provides that if those moneys are reimbursed by grants or other moneys from the United States

or any other person, they must be placed in the Hazardous Waste Clean-up Fund and not in the General Revenue Fund.

**Environmental Protection Remediation Fund**

(R.C. 3734.281)

The bill provides that notwithstanding any provision of law to the contrary, any moneys set aside by the state for the cleanup and remediation of the Ashtabula River; any moneys collected from settlements made by the Director of Environmental Protection, including those associated with bankruptcies, related to actions brought under hazardous waste or water pollution control statutes; and any moneys received under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 may be paid into the state treasury to the credit of the Environmental Protection Remediation Fund created by the bill. The Environmental Protection Agency must use the moneys in the fund only for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location where the Director has reason to believe there is a substantial threat to public health or safety or the environment. Remediation may include the direct and indirect costs associated with Agency employees' overseeing, supervising, performing, verifying, or reviewing remediation activities. All investment earnings of the fund must be credited to the fund.

**Study of Divisions of Surface Water and Air Pollution Control**

(Section 46)

The bill requires the Director of Environmental Protection to conduct a study of the operations of the Division of Surface Water and the Division of Air Pollution Control in the Environmental Protection Agency and to make recommendations for improving efficiencies within those Divisions. The Director must submit a report containing findings and recommendations to the Governor, the Director of Budget and Management, the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader in the House of Representatives not later than June 30, 2000. The study may address standardization of permit application requirements; computerization of information regarding the status of permit applications, and the ability of permit applicants to access that information; definition and coordination of the roles of Agency district offices and the central office in the permitting process; review of unwritten Division policies and determination of which of those policies should be adopted as rules; and determination of the efficiency of implementing permits by rule and general permits. The bill requires the report to include recommendations concerning resource allocation, staff utilization, fee

structures, and permit processing as well as plans for the implementation of the recommendations to improve operational efficiency.

### **Hazardous materials transportation**

(R.C. 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.

**Definition of "public water system"**

(R.C. 6109.01)

For the purposes of the Safe Drinking Water Law, current law defines "public water system" as a system for the provision to the public of piped water for human consumption if the system has at least 15 service connections or regularly serves at least 25 individuals. The bill states that the water from a public water system may must be provided through pipes or other constructed conveyances.

**Value of contracts for which competitive bidding is not required under Regional Water and Sewer Districts Law**

(R.C. 6119.10)

The bill increases from \$10,000 to \$15,000 the maximum value of a contract that may be entered into without initiating competitive bidding requirements under the Regional Water and Sewer Districts Law.

## **COURTS AND CORRECTIONS**

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- Requires the Department of Administrative Services to conduct an ongoing study to monitor the performance of all state correctional facilities that are privately operated and managed, including the facilities located in the municipal corporations of Conneaut and Grafton.
- In relation to correctional facilities in Ohio that house out-of-state prisoners and are operated by a private contractor, modifies the provisions that must be in the contract between the private contractor and the involved local public entity to: require the private contractor to immediately report by telephone and in writing to specified persons all escapes from the facility and apprehensions of escapees; require the security classification schedule used for prisoners housed in the facility to be the same security classification schedule used by the Department of Rehabilitation and Correction (DRC); require that the facility will not be

used to house any prisoner who has a record of institutional violence involving the use of a deadly weapon *or* a pattern of committing acts of an assaultive nature against employees of, or visitors to, the facility; require that the facility not accept an out-of-state prisoner that is classified as being at a security level higher than medium security; require that the private contractor provide an individual performing correctional institution inspection services on behalf of the Correctional Institution Inspection Committee (CIIC) access to the facility; require that the private contractor provide at specified times to parties to the contract adequate proof that it has obtained an adequate policy of insurance; and require that no prisoner inside or on the premises of the facility be permitted to wear "street clothes."

- Provides that any private contractor that operates a correctional facility in Ohio for housing out-of-state prisoners pursuant to a contract entered into with a local public entity prior to March 17, 1998, must enter into a contract with the local public entity, no later than 30 days after the bill's effective date, that comports to the existing requirements and criteria for such contracts and to the provisions of the bill described in the preceding paragraph.
- In relation to correctional facilities in Ohio that house Ohio prisoners and are operated by a contractor, modifies the provisions that must be in the contract between the contractor and the involved public entity to: specify that, if the contractor is not accredited by the American Correctional Association, the contractor must continue complying with the DRC-adopted criteria and specifications that it satisfied in order to become the contractor and that remain applicable; require the contractor to immediately report to specified persons all escapes from the facility and the apprehension of all escapees; and require that no prisoner inside or on the premises of the facility be permitted to wear "street clothes."
- In relation to correctional facilities that are operated by the state, or by a county, a municipal corporation, or a combination of counties and municipal corporations, requires correctional officials to immediately report to specified persons all escapes from the facility.
- In relation to state correctional institutions, requires that no prisoner inside or on the premises of the institution be permitted to wear "street clothes."

- Authorizes CIIC to contract with persons for correctional institution inspection services and authorizes those persons to inspect correctional institutions on behalf of CIIC.
- 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.

- Requires that: (1) each request for reimbursement for the expenses of a county public defender's or joint county public defender's office that is filed with the State Public Defender include a completed financial disclosure form, in the form prescribed by the SPD, for each person provided representation during the period covered by the request, and (2) each request for payment for appointed counsel for indigent persons that is filed with a county that has an appointed counsel system and each related request for reimbursement that is filed with the SPD include a completed financial disclosure form, in the form prescribed by the SPD, for the indigent person in question.
- Reduces from five to three years the amount of specified law enforcement experience a person must have completed to qualify to hold the office of sheriff under one of the alternative training and law enforcement experience requirements set forth in the County Sheriff Law.
- 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.
- Prohibits the Department of Youth Services from disbursing any payment of state subsidy funds to which the county otherwise is entitled and the remainder of the applicable monthly allocation of the county for

- the care and custody of felony delinquents if a juvenile court fails to prepare and submit a required monthly statistical report to DYS within 180 days of the date DYS establishes for the report's submission.
- Specifies that, in the circumstances described in the preceding dotpoint, the state subsidy funds and the remainder of the applicable monthly allocation revert to DYS.
  - Requires a juvenile court to have an independent auditor certify the accuracy of the data in a monthly statistical report if the report states that the juvenile court adjudicated 500 or more children to be delinquent children for committing acts that would be felonies if committed by adults.
  - Creates an exception to the existing reduction formula by which the Department of Youth Services reduces the monthly allocation it disburses to each county for the care and custody of felony delinquents.
  - Changes the Release Authority of the Department of Youth Services from an independent administrative division to a bureau of the Department, eliminates specified powers and duties of the Release Authority, and transfers other specified powers and duties of the Release Authority to the Department.

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## CONTENT AND OPERATION

### *Regulation of privately operated prisons that house out-of-state prisoners*

(R.C. 9.07)

#### *Existing law*

**Generally.** Existing law, enacted in Am. Sub. H.B. 293 of the 122nd General Assembly, effective March 17, 1998, limits the operation of correctional facilities that house out-of-state prisoners in Ohio and sets forth comprehensive criteria for the establishment and operation in Ohio of privately operated correctional facilities that house out-of-state prisoners. Subject to the provisions described below in "**Preexisting contracts**," the only entities other than the state of Ohio that are authorized to operate a correctional facility to house "out-of-state prisoners" in Ohio are a "local public entity" that operates a correctional facility in accordance with specified criteria or a "private contractor" that operates a

correctional facility in accordance with specified criteria under a contract with a local public entity, as described below. Additionally, subject to the provisions described below in "Preexisting contracts," a private entity may operate a correctional facility in Ohio for the housing of out-of-state prisoners only if the private entity is a private contractor that enters into a contract with a local public entity that is for the management and operation of the facility and that comports with the provisions described below in "Contract between local public entity and private contractor."

Contract between local public entity and private contractor. Subject to the provisions described below in "Preexisting contracts," on and after March 17, 1998, if a local public entity enters into a contract with a private contractor for the management and operation of a correctional facility in Ohio to house out-of-state prisoners, the contract, at a minimum, must include all of the following provisions:

(1) A requirement that the private contractor report to the local law enforcement agencies with jurisdiction over the place at which the facility is located, for investigation, all criminal offenses or delinquent acts committed in or on the grounds of, or otherwise in connection with, the facility and report to DRC all escapes from or disturbances at the facility;

(2) A requirement that the private contractor develop a security classification schedule for prisoners, classify each prisoner in accordance with the schedule, and house all prisoners in the facility in accordance with their classification;

(3) A requirement that the private contractor not accept for housing, and not house, in the facility any out-of-state prisoner in relation to whom either of the following applies: (a) the private entity has not obtained from the out-of-state jurisdiction that imposed the sentence or sanction under which the prisoner will be confined in Ohio a copy of the institutional record of the prisoner while previously confined in that out-of-state jurisdiction or a statement that the prisoner previously has not been confined in that out-of-state jurisdiction, and a copy of all medical records pertaining to that prisoner that are in the possession of the out-of-state jurisdiction, or (b) the prisoner, while confined in any out-of-state jurisdiction, has a record of institutional violence involving the use of a "deadly weapon" and a pattern of committing acts of an assaultive nature against employees of, or visitors to, the place of confinement or has a record of escape or attempted escape from secure custody.

(4) A requirement that the private contractor cooperate with the Correctional Institution Inspection Committee (CIIC) in CIIC's performance of its

duties and provide CIIC, its subcommittees and its staff members, in performing those duties, with access to the correctional facility;

(5) Provisions that pertain to: (a) the private contractor's obtaining and maintaining American Correctional Association accreditation for the facility, complying with all applicable laws and regulations, and sending of inspection reports and reports of unusual incidents occurring at the facility to specified state and local officials, (b) required staffing levels at the facility, (c) the private contractor's provision of insurance, indemnification of government entities and officials, and repayment of the cost of defending a government entity or official and its agreement with DRC regarding law enforcement agency coordination in response to any riot, rebellion, escape, insurrection, or other emergency at the facility, (d) the private contractor's granting of access to peace officers from agencies with jurisdiction over the facility's location for the investigation of criminal offenses or delinquent acts at the facility, (e) criminal records checks of prospective employees at the facility, and a prohibition against employing a person with a record of prior malfeasance, (f) the place and manner of confinement of a prisoner who is convicted of committing a crime while in the facility, (g) the private contractor's development of a conversion plan to be followed if the facility is closed or ceases to exist, (h) a schedule of fines that the local public entity must impose upon the private contractor for its failure to perform its contractual duties, in addition to any other rights the entity has under the contract, (i) the private contractor provide internal and perimeter security to protect the public, staff members of the facility, and prisoners in the facility, and (j) the private contractor's adoption and use of DRC's drug testing and treatment program.

#### **Preexisting contracts**

Except as described in the next sentence, all of the above-described provisions and specified other provisions apply in relation to any correctional facility operated by a private contractor in Ohio to house out-of-state prisoners, regardless of whether the facility is operated pursuant to a contract entered into prior to, on, or after March 17, 1998. However, if the private contractor operates the correctional facility under a contract entered into with a local public entity prior to March 17, 1998, no later than 180 days after March 17, 1998, the private contractor must enter into a new contract with the local public entity that comports to the requirements and criteria described above in "**Contract between local public entity and private contractor.**" Additionally, the existing provisions requiring a public hearing before a private contractor and a local public entity enter into such a contract apply to a private contractor that is subject to the provision described in the preceding sentence.

### Operation of the bill

Contract between local public entity and private contractor. The bill modifies the provisions discussed above in paragraphs (1) through (4) under "Contract between local public entity and private contractor" and that must be included in a contract that a local public entity enters into, on or after March 17, 1998, with a private contractor for the management and operation of a correctional facility in Ohio to house out-of-state prisoners, and enacts a new provision that must be so included, as follows:

(1) It modifies the provision described above in paragraph (1) that pertains to the reporting of escapes from, and disturbances at, the facility. Under the bill, the contract must include a requirement that the private contractor report offenses and delinquent acts as under existing law, report to DRC all disturbances at the facility, *and immediately report all escapes from the facility, and the apprehension of all escapees, by telephone and in writing to DRC, to all local law enforcement agencies with jurisdiction over the place at which the facility is located, to the State Highway Patrol, to the prosecuting attorney of the county in which the facility is located, and to a daily newspaper having general circulation in the county in which the facility is located. The written notice may be by either facsimile transmission or mail. A failure to comply with this requirement regarding an escape is declared to be failure to report a crime in violation of existing R.C. 2921.22.*

(2) It modifies the provision described above in paragraph (2) that pertains to the security classification of prisoners at the facility. The bill replaces the requirement that the private contractor develop a security classification schedule for prisoners housed in the facility with a requirement that *the private contractor adopt for the prisoners housed in the facility the security classification system adopted by DRC under R.C. 5145.03.*

(3) It modifies the provision described above in paragraph (3) that pertains to a prohibition against accepting certain categories of prisoners for housing in the facility. The bill changes the language of the provision so that, instead of prohibiting the housing of a prisoner who, while confined in an out-of-state jurisdiction, has a record of institutional violence involving the use of a deadly weapon *and* a pattern of committing assaultive acts against employees of or visitors to the facility, it prohibits the housing of a prisoner who, while so confined, has a record of institutional violence involving the use of a deadly weapon *or* a pattern of committing such assaultive acts. The bill also modifies the provision described above in paragraph (4) to additionally prohibit the housing of a prisoner who, under DRC's security classification system and schedule adopted by the private contractor pursuant to the preceding paragraph, the out-of-state prisoner

would be classified as being at a security level higher than medium security. The bill does not change the requirement that the contract include a requirement that the private contractor not accept for housing, and not house, any out-of-state prisoner: (a) for whom the private entity has not obtained from the appropriate out-of-state jurisdiction a copy of the prisoner's institutional record while previously confined in that out-of-state jurisdiction or a statement that the prisoner previously has not been so confined, and a copy of all medical records pertaining to that prisoner that are in the possession of the out-of-state jurisdiction or (b) while confined in any out-of-state jurisdiction, has a record of escape or attempted escape from secure custody.

(4) It modifies the provision described above in paragraph (4) that pertain to CIIC in CIIC's performance of its duties. The bill additionally requires that the contract provide that the private contractor must provide *any individual performing correctional institution inspection services on behalf of the committee pursuant to a contract* access to the correctional facility.

(5) It enacts a new provision that specifies that the contract must include *a requirement that the private contractor provide clothing for all out-of-state prisoners housed in the facility that is conspicuous in its color, style, or color and style, that conspicuously identifies its wearer as a prisoner, and that is readily distinguishable from clothing of a nature that normally is worn outside the facility by non-prisoners, that the private contractor require all out-of-state prisoners housed in the facility to wear the clothing so provided, and that the private contractor not permit any out-of-state prisoner, while inside or on the premises of the facility, to wear any clothing of a nature that does not conspicuously identify its wearer as a prisoner and that normally is worn outside the facility by non-prisoners.*

(6) It enacts a new provision that specifies that the contract must include *a requirement that, at the time the contract is made, the private contractor provide to all parties to the contract adequate proof that it has complied with the requirement that it has obtained an adequate policy of insurance, and a requirement that, at any time during the term of the contract, the private contractor upon request provide to any party to the contract adequate proof that it continues to be in compliance with the insurance requirement.*

The bill does not change any of the other provisions that are required to be in the contract.

**Preexisting contracts.** All of the above-described provisions of the bill will apply in relation to any correctional facility operated by a private contractor in Ohio to house out-of-state prisoners, regardless of when the contract under which

the facility is operated was entered into. But the bill specifies that if the contract for the operation of the facility was entered into prior to March 17, 1998, *no later than 30 days after the amendment's effective date*, the private contractor must enter into a contract with the local public entity that comports to all of the bill's requirements and criteria and all of the existing requirements and criteria not changed by the bill and, in accordance with the existing provisions requiring a public hearing before a private contractor and a local public entity enter into such a contract, must conduct a public hearing before entering into that contract.

**Regulation of privately operated, government-owned correctional facilities that house Ohio prisoners**

(R.C. 9.06)

**Existing law**

**Generally.** Existing law requires DRC to contract for the private operation and management of the initial intensive program prison it is required to establish pursuant to R.C. 5120.033 for fourth degree felony state OMVI offenders, authorizes DRC to contract for the private operation and management of any other "facility," authorizes counties and municipal corporations to contract for the private operation and management of specified types of local correctional facilities, and establishes criteria and procedures that apply regarding any such operation and management contract. An operation and management contract of this nature must be for an initial term of not more than two years, with an option to renew for additional periods of two years.

Any person or entity that applies to operate and manage a facility for DRC or a political subdivision under this provision must satisfy one or more of the following: (1) it must be accredited by the American Correctional Association (ACA) and, at the time of the application, must operate and manage one or more facilities accredited by the ACA, or (2) it must satisfy all of the minimum criteria and specifications that a person or entity that does not satisfy clause (1) of this sentence must satisfy in order to apply to operate and manage the initial intensive program prison for fourth degree felony state OMVI offender, as adopted by DRC, by rule, not later than December 31, 1998. Generally, before a "public entity" enters into a contract under these provisions, the "contractor" must convincingly demonstrate to the public entity that it can operate the facility with the inmate capacity required by the public entity and provide the required services and realize at least a 5% savings over the projected cost to the public entity of providing these same services to operate the facility that is the subject of the contract. *No out-of-state prisoners may be housed in any facility that is the subject of a contract entered into under these provisions.*

**Contract between public entity and contractor--mandatory terms.** Any contract entered into under the above-described provisions for the private operation of a correctional facility for Ohio prisoners must include all of the following provisions:

(1) A requirement that the contractor retain the contractor's accreditation from the ACA throughout the contract term;

(2) A requirement that the contractor report for investigation all crimes in connection with the facility to the public entity, to all local law enforcement agencies having jurisdiction at the facility, and, for crime committed at a state correctional institution, to the State Highway Patrol;

(3) Provisions pertaining to: (a) the contractor's doing all of the following: obtaining ACA accreditation of the facility; complying with all applicable DRC rules and all laws and regulations and sending inspection reports to specified state and local officials; properly sending reports of unusual incidents at the facility to specified state or local officials; properly controlling inmates' personal funds; preparing and distributing specified fiscal reports; and appointing and cooperating with a contract monitor, (b) if the facility is a state correctional facility, the contractor's provision of access to the facility to DRC employees and imposition of inmate discipline in accordance with DRC rules, (c) the provision of staffing, programs, and operational needs at the facility, (d) if the contract is with a "local public entity," the provision of services and programs in accordance with state law, (e) the non-extension to the contractor of any governmental immunity, (f) the contractor's maintenance of records relative to the facility, (g) authorization for the public entity to impose a fine on the contractor for its failure to perform its contractual duties or to cancel the contract, (h) the provision of services and the production of goods at the facility, (i) DRC's establishment of prison industries at the facility, if it is operated for DRC, (j) the provision of internal and perimeter security as agreed upon in the contract, and (k) if the facility is an intensive program prison for felony state OMVI offenders, the facility's compliance with criteria applicable to facilities of that nature.

### **Operation of the bill**

**Contract between public entity and contractor--mandatory terms.** The bill modifies some of the provisions discussed above under "**Contract between public entity and contractor--mandatory terms**" and that must be included in a contract that a public entity enters into with a contractor for the management and operation of a correctional facility in Ohio to house Ohio prisoners, and enacts a new provision that must be so included, as follows:

(1) It modifies the provision described above in paragraph (1) that pertains to continued ACA accreditation to recognize that such accreditation is not always necessary to apply to operate and manage a facility. Under the bill, the mandatory provision specifies that a contractor must retain the contractor's ACA accreditation throughout the contract term *or, if the contractor applied pursuant to the existing alternative provision (i.e., complying with DRC's criteria and specifications), it must continue applying with the criteria and specifications adopted by DRC as they are applicable.*

(2) It modifies the provision described above in paragraph (2) that pertains to the reporting of crimes at the facility. Under the bill, in addition to including a requirement as under existing law that the contractor report for investigation all crimes to the public entity, all local law enforcement agencies with jurisdiction, and, for a state correctional institution, the State Highway Patrol, *the contract must include a requirement that the contractor immediately report all escapes from the facility, and the apprehension of all escapees, by telephone and in writing to all local law enforcement agencies with jurisdiction over the place at which the facility is located, to the prosecuting attorney of the county in which the facility is located, to a daily newspaper having general circulation in the county in which the facility is located, to the State Highway Patrol, and, if the institution is a state correctional institution, to DRC. The written notice may be by either facsimile transmission or mail. A failure to comply with this requirement regarding an escape is declared to be failure to report a crime in violation of existing R.C. 2921.22.*

(3) It enacts a new provision that specifies that, if the institution is a state correctional institution, the contract must include *a requirement that the contractor provide clothing for all inmates housed in the facility that is conspicuous in its color, style, or color and style, that conspicuously identifies its wearer as an inmate, and that is readily distinguishable from clothing of a nature that normally is worn outside the facility by non-inmates, that the contractor require all inmates housed in the facility to wear the clothing so provided, and that the contractor not permit any inmate, while inside or on the premises of the facility, to wear any clothing of a nature that does not conspicuously identify its wearer as an inmate and that normally is worn outside the facility by non-inmates.*

The bill does not modify any of the other provisions that are required to be in the contract.

## Regulation of publicly operated correctional facilities

### Notification of escape from facility

(R.C. 341.011, 753.19, and 5120.14)

**Existing law.** Under existing law, if a person who was convicted of a felony offense of violence or was indicted or otherwise charged with a felony offense of violence escapes from a county or municipal jail or workhouse, escapes from a DRC correctional institution, or otherwise escapes from the custody of a sheriff, the custody of a municipal corporation, or the custody of DRC, the sheriff, the municipal police chief or other chief law enforcement officer, or DRC (as applicable), immediately after the escape must cause notice of the escape to be published in a newspaper of the appropriate county or municipal corporation and must give notice of the escape by telephone and in writing to the prosecuting attorney. Upon the apprehension of the escaped person, the sheriff, the municipal police chief or other chief law enforcement officer, or DRC must give notice of the apprehension by telephone and in writing to the appropriate prosecuting attorney.

**Operation of the bill.** The bill enacts new escape-notification provisions regarding any prisoner in any state or local correctional institution. It specifies that, if a person who was convicted of *any offense* escapes from a county or municipal jail or workhouse, escapes from a DRC correctional institution, or otherwise escapes from the custody of a sheriff, the custody of a municipal corporation, or the custody of DRC, the sheriff, the municipal police chief or other chief law enforcement officer, or DRC (as applicable), immediately after the escape must report the escape by telephone and in writing to all local law enforcement agencies with jurisdiction over the place where the person escaped from custody or in the county in which the institution from which the escape was made or to which the person was sentenced is located, to the State Highway Patrol, if the person who escapes is a prisoner under the custody of DRC who is temporarily in a jail or workhouse, to DRC to the prosecuting attorney of the county, and to a newspaper of general circulation in the county. The written notice may be by either facsimile transmission or mail. A failure to comply with this requirement is declared to be failure to report a crime in violation of existing R.C. 2921.22. Upon the apprehension of the escaped person, the sheriff, the municipal police chief or other chief law enforcement officer, or DRC must give notice of the apprehension by telephone and in writing to the persons notified of the escape.

### Security classification of prisoners

(R.C. 5145.30)

The bill provides that the security classification schedule that DRC uses in its classification of inmates housed in a state correctional institution must require the consideration of all information relevant to the classification, including, but not limited to, all criminal charges pending against the prisoner being classified, the offense for which the prisoner will be confined in the institution, and all prior convictions of or pleas of guilty by the prisoner.

### **Clothing of prisoners**

(R.C. 5145.30)

The bill enacts provisions governing the clothing of prisoners housed in state correctional facilities. It specifies that, for each DRC correctional institution, DRC must provide clothing for all prisoners housed in the facility or institution that is conspicuous in its color, style, or color and style, that conspicuously identifies its wearer as a prisoner, and that is readily distinguishable from clothing of a nature that normally is worn outside the institution by non-prisoners, must require all prisoners housed in the institution to wear the clothing so provided, and must not permit any prisoner, while inside or on the premises of the institution, to wear any clothing of a nature that does not conspicuously identify its wearer as a prisoner and that normally is worn outside the institution by non-prisoners.

### **Correctional Institution Inspection Committee**

(R.C. 9.07, 103.73, and 103.74)

### **Existing law**

Section 103.74 provides that the chairperson of the Correctional Institution Inspection Committee (CIIC) may appoint subcommittees for the purpose of conducting inspections. CIIC also may employ a director and any other nonlegal staff that are necessary for CIIC to carry out its duties. CIIC may contract for the services of whatever nonlegal technical advisors are necessary for CIIC to carry out its duties.

Section 103.73 describes CIIC's duties and provides that CIIC must do all of the following:

(1) Generally, establish and maintain a continuing program of inspection of each state correctional institution used for the custody, control, training, and rehabilitation of persons convicted of crime and of each private correctional facility. CIIC may inspect any local correctional institution used for the same purposes. CIIC, and each member of the committee, for the purpose of making an inspection, must be given access to any state or local correctional institution, to

any private correctional facility, or to any part of the institution or facility and are not required to give advance notice of, or to make prior arrangements before conducting, an inspection.

(2) Evaluate and assist in the development of programs to improve the condition or operation of correctional institutions;

(3) Prepare a report for submission to the succeeding General Assembly of the findings CIIC makes in its inspections and of any programs that have been proposed or developed to improve the condition or operation of the correctional institutions in Ohio.

An inspection of a state correctional institution, a private correctional facility, or a local correctional institution is subject to and must be conducted in accordance with all of the following:

(1) The inspection must not be conducted unless the CIIC chairperson grants prior approval for the inspection.

(2) If the inspection is to be conducted by a subcommittee, the inspection must not be conducted unless at least two CIIC members are present for the inspection. If the inspection is to be conducted other than by a subcommittee, at least one CIIC member and at least one CIIC staff member are present for the inspection.

(3) Generally, the inspection must be conducted only during normal business hours.

(4) If the inspection is to be conducted by a subcommittee, no staff member of the committee may be present on the inspection unless the CIIC chairperson, in the grant of prior approval for the inspection, specifically authorizes staff members to be present on the inspection. If the inspection is to be conducted other than by a subcommittee, staff members may be present on the inspection regardless of whether the grant of prior approval contains a specific authorization for staff members to be present on the inspection.

### **Operation of the bill**

The bill authorizes CIIC to contract for correctional institution inspection services with a person approved by the American Correctional Association to provide services of that nature. The contract must require that the person submit a report regarding the inspection to CIIC. CIIC must review and accept or reject the report.

The bill also provides that an individual performing correctional institution inspection services on behalf of CIIC pursuant to such a contract must be given access to any state or local correctional institution, to any private correctional facility, or to any part of the institution or facility and are not required to give advance notice of, or to make prior arrangements before conducting, an inspection. With regard to the provision prohibiting inspections unless CIIC members are present, the bill provides that an inspection may be conducted without the presence of a CIIC member by an individual pursuant to such a contract to perform correctional institution inspection services.

**Study of private operation of state correctional facilities**

(R.C. 9.08)

Existing R.C. 9.06, not in the bill, authorizes the Department of Rehabilitation and Correction to contract for the private operation and management of Department of Rehabilitation and Correction facilities.

The bill requires the Department of Administrative Services (DAS) to conduct an ongoing study to monitor the performance of all state correctional facilities that are privately operated and managed pursuant to R.C. 9.06, including the facilities located in the municipal corporations of Conneaut and Grafton. DAS must delineate the scope of the study and may revise the scope of the study when appropriate. DAS must make regular reports containing the findings of the study to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate. DAS must submit a report at least once per year but may submit reports at more frequent intervals. In each report, DAS must describe the current scope of the study.

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

(R.C. 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**

(R.C. 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 (R.C. 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 (R.C. 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 (R.C. 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 (R.C. 120.04(C)(7)).

### **Cost subsidies in criminal cases**

(R.C. 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 a specified date 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.**" The SPD must provide the notification on or before whichever of the following is applicable: (a) if, on July 1 of the fiscal year in question, the main operating appropriations act that covers that fiscal year is in effect, on or before July 31, or (b) if, on July 1 of the fiscal year in question, the main operating appropriations act that covers that fiscal year is not in effect, on or before the day that is 30 days after the effective date of the main operating appropriations act that covers that fiscal year. (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**

(R.C. 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).)

**Use of financial disclosure forms adopted by the State Public Defender**

(R.C. 120.18, 120.28, and 120.33)

**Existing law**

**County and joint county public defenders.** Under existing law, each county public defender commission and each joint county public defender commission must make certain reports to the appropriate board or joint board of county commissioners and to the Ohio Public Defender Commission (the OPDC), including monthly reports relating to reimbursement and associated case data pursuant to the rules of the Commission on the total costs of the office. Each such monthly report must include a certification by the county or joint county public defender that all persons provided representation by the county or joint county public defender's office during the month covered by the report were indigent under the OPDC's standards.

The county or joint county public defender commission's report to the board or joint board of county commissioners, as described above, must be audited by the county auditor or the appointed fiscal officer serving the joint commission. The board or joint board of county commissioners, after review and approval of the audited report, then may certify it to the SPD for reimbursement. Each reimbursement request for an expenditure must be received by the SPD within 60 days after the end of the calendar month in which the expenditure is incurred, unless that period is extended by the SPD, and must include a certification by the county or joint county public defender that the persons provided representation by the particular office during the period covered by the report were indigent. The SPD also reviews the report and, in accordance with specified standards, guidelines, and maximums, prepares a voucher for a portion of the total cost of the particular office and reimbursable expenses for the period covered by the report. The portion covered by the voucher is 50% of the total costs and expenditures or, if the amount of money appropriated by the General Assembly in a fiscal year is insufficient to pay 50% of the approved costs and expenditures of all county and joint county public defender offices and all county appointed counsel systems (see below), a proportionately reduced amount of the total costs and expenditures for

all those offices and systems. (R.C. 120.14(C)(2), 120.15(D), 120.18(A), 120.24(C)(2), 120.25(D), 120.28(A), and 120.34.)

**County appointed counsel systems.** Under existing law, in lieu of using a county or joint county public defender to represent indigent persons, the board of county commissioners of any county may adopt a resolution to pay counsel who are either personally selected by the indigent person or appointed by the court. If a county adopts such an appointed counsel system, counsel selected by the indigent person or appointed by the court generally are paid by the county and receive the compensation and expenses the court approves. Each request for payment must be accompanied by an affidavit of indigency completed by the indigent person on forms prescribed by the SPD. Compensation and expenses cannot exceed the amounts fixed by the board of county commissioners in a schedule it must establish that sets fees by case or on an hourly basis. The fees and expenses approved by the court are not taxed as part of the costs and must be paid by the county, subject to possible reimbursement by the person represented.

The county auditor is required to draw a warrant on the county treasurer for the payment of counsel in the amount fixed by the court, plus the expenses the court fixes and certifies to the auditor. The county auditor must report periodically, but not less than annually, to the board of county commissioners and to the OPDC the amounts paid out pursuant to the court's approval, and the board, after review and approval of the auditor's report, may then certify it to the SPD for reimbursement. If a request for reimbursement is not accompanied by an affidavit of indigency completed by the indigent person on forms prescribed by the SPD, the SPD cannot pay the requested reimbursement. A request for reimbursement in a case must be received by the SPD within 90 days after the end of the calendar month in which the case is finally disposed of by the court, unless the period is extended by the SPD.

The SPD also must review the report and, in accordance with specified standards, guidelines, and maximums, prepare a voucher for 50% of the total cost of each county appointed counsel system in the period of time covered by the certified report and a voucher for a portion of the reimbursable costs and expenses. The portion covered by the voucher is 50% of the total costs and expenditures or, if the amount of money appropriated by the General Assembly in a fiscal year is insufficient to pay 50% of the approved costs and expenditures of all county and joint county public defender offices and all county appointed counsel systems, a proportionately reduced amount of the total costs and expenditures for all those offices and systems. (R.C. 120.33(A)(4) and 120.34.)

**Counsel appointed by a court or selected by a defendant.** The existing law governing county and joint county public defenders specifies that nothing in that

law prevents a court from appointing counsel other than the county or joint county public defender or from allowing an indigent person to select the indigent person's own personal counsel to represent the indigent person. It further specifies that a court also may appoint counsel or allow an indigent person to select the indigent person's own personal counsel to assist the county or joint county public defender as co-counsel when the interests of justice so require. (R.C. 120.16(E) and 120.26(E).)

Counsel appointed to a case or selected by an indigent person as described in the preceding paragraph, or otherwise appointed by the court, except for counsel appointed by the court to provide legal representation for a person charged with a violation of a municipal ordinance, is paid for their services by the county the compensation and expenses that the trial court approves. Each request for payment must be accompanied by an affidavit of indigency completed by the indigent person on forms prescribed by the SPD. Compensation and expenses cannot exceed the amounts fixed by the board of county commissioners in a schedule it must establish that sets fees by case or on an hourly basis. The fees and expenses approved by the court are not taxed as part of the costs and must be paid by the county, subject to possible reimbursement by the person represented.

The county auditor is required to draw a warrant on the county treasurer for the payment of counsel in the amount fixed by the court, plus the expenses that the court fixes and certifies to the auditor. The county auditor must report periodically, but not less than annually, to the board of county commissioners and to the OPDC the amounts paid out pursuant to the court's approval, and the board, after review and approval of the auditor's report, may then certify it to the SPD for reimbursement. The SPD also must review the report and, in accordance with specified standards, guidelines, and maximums, pay 50% of the total cost, other than costs and expenses reimbursable under R.C. 120.35, if any, of paying appointed counsel in each county and pay 50% of costs and expenses reimbursable under R.C., if any, to the board. (R.C. 2941.51.)

### **Operation of the bill**

The bill modifies the existing procedures for reimbursement of a portion of the costs of county and joint county public defender offices, county appointed counsel systems, and court-appointed or defendant-selected counsel situations as follows: (1) it requires that each request for reimbursement that a board or joint board of county commissioners that operates a county or joint county public defender's office certifies to the SPD include, for each person provided representation during the period covered by the request, a financial disclosure form completed by the person on a form prescribed by the SPD, (2) it requires that each request for payment that an appointed counsel under a county appointed counsel

system files with a county, and each request for reimbursement that a board of county commissioners that operates an appointed counsel system certifies to the SPD, be accompanied by a financial disclosure form completed by the indigent person in question on a form prescribed by the SPD, and (3) it requires that each request for payment by an attorney appointed by a court or selected by an indigent person to represent the indigent person, and each request for reimbursement that a board of county commissioners of a county that makes such a payment certifies to the SPD, be accompanied by a financial disclosure form completed by the indigent person on a form prescribed by the SPD. (R.C. 120.18(A), 120.28(A), 120.33(A)(4), and 2941.51(A) and (E).)

**Change in qualifications required to hold office of sheriff**

(R.C. 311.01)

Current law requires a person to fulfill a number of qualifications by the qualification date in order to be eligible to be a candidate for, or to be elected or appointed to, the office of sheriff. One of these requirements is that, unless the person has fulfilled other specified training and law enforcement experience requirements, the person must have obtained or held in the three-year period ending immediately prior to the qualification date a valid basic peace officer training certificate issued by the Ohio Peace Officer Training Commission and must have been employed for at least the last five years prior to the qualification date as a full-time law enforcement officer performing duties related to the enforcement of statutes, ordinances, or codes. The bill reduces the latter law enforcement experience requirement from five to three years prior to the qualification date.

**Legal Rights Service: legal and other remedies**

(R.C. 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. (R.C. 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. (R.C. 5123.60(G).)

### **Financial assistance provided by the Department of Youth Services**

(R.C. 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, DYS (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, DYS 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, DYS 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.

**Department of Youth Services subsidy to a county for the care and custody of felony delinquents**

(R.C. 5139.43)

Under existing law, the Department of Youth Services (DYS) subsidizes counties for the care and custody of felony delinquents. It also specifies that the appropriation made to DYS for care and custody of felony delinquents must be expended in accordance with a formula developed by DYS. DYS annually must allocate to each county a portion of that appropriation, and that allocation is paid in monthly installments.

Under existing law, by August 31 of each year, a juvenile court must file with DYS a report that contains specified statistical and other information for each month of the prior state fiscal year. DYS uses the information contained in these reports to prepare a report of its own to the Joint Legislative Committee on Juvenile Corrections Overcrowding relating to the number of felony delinquents and to prepare an annual report of state juvenile court statistics and information. If a juvenile court fails to file the report by August 31 of any year, DYS is prohibited from disbursing any payment of state subsidy funds to which the county otherwise is entitled. DYS also is prohibited from disbursing the remainder of the applicable monthly allocation of the county until the juvenile court fully complies with the reporting requirements.

If DYS requires a juvenile court to prepare monthly statistical reports and to submit the reports on forms provided by DYS, the juvenile court must file those reports with DYS on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within DYS's timelines, DYS is prohibited from disbursing any payment of state subsidy funds to which the county otherwise is entitled. DYS also is prohibited from disbursing the remainder of the applicable monthly allocation of the county until the juvenile court fully complies with the reporting requirements.

Under the bill, if a juvenile court fails to prepare and submit the monthly statistical reports described in the preceding paragraph to DYS within 180 days of the date DYS establishes for their submission, DYS is prohibited from disbursing any payment of state subsidy funds to which the county otherwise is entitled and the remainder of the applicable monthly allocation of the county for the care and custody of felony delinquents. In such a case, the state subsidy funds and the remainder of the applicable monthly allocation revert to DYS. If a juvenile court states in a monthly statistical report that the juvenile court adjudicated 500 or more children to be delinquent children for committing acts that would be felonies if committed by adults, the juvenile court must have an independent auditor certify the accuracy of the data on a date determined by DYS.

**Exception to formula reducing monthly allocation from the Department of Youth Services to counties for the care and custody of felony delinquents**

(R.C. 5139.43)

Existing law specifies a monthly allocation the Department of Youth Services (DYS) disburses to each county for the care and custody of felony delinquents. Existing law also specifies that this monthly allocation is to be reduced according to a specified formula.

The bill creates an exception to the existing reduction formula. Under the bill, the determination of which county a reduction of the monthly care and custody allocation will be charged against for a particular youth must be made as outlined below for all youths who do not qualify as "public safety beds." The determination of which county a reduction of the monthly care and custody allocation will be charged against must be made as follows until each youth is released:

(1) In the event of a commitment, the reduction must be charged against the committing county.

(2) In the event of a recommitment, the reduction must be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to DYS pursuant to the order of recommitment, whichever is later. Reductions of the monthly allocation must be charged against the county that recommitted the youth after the minimum expiration date of the original commitment.

(3) In the event of a revocation of a release on parole, the reduction must be charged against the original committing county.

As used in the above-described provisions, "public safety beds" means all of the following:

(1) Felony delinquents who have been committed to DYS for the commission of an act, other than aggravated robbery or aggravated burglary, that is a category one offense or a category two offense (specified serious offenses used in the Juvenile Bindover Laws) and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility;

(2) Felony delinquents who, while committed to DYS and in the care and custody of an institution or a community corrections facility, are adjudicated delinquent children for having committed in that institution or community corrections facility an act that if committed by an adult would be a felony;

(3) Children who satisfy all of the following: (a) they are at least 12 years of age but less than 18 years of age, (b) they are adjudicated delinquent children for having committed acts that if committed by an adult would be a felony, (c) they are committed to DYS by the juvenile court of a county that has had 0.1% or less of the statewide adjudications for felony delinquents as averaged for the past four

fiscal years, and (d) they are in the care and custody of an institution or a community corrections facility.

(4) Felony delinquents who, while committed to DYS and in the care and custody of an institution, commit in that institution an act that if committed by an adult would be a felony, who are serving disciplinary time for having committed that act, and who have been institutionalized or institutionalized in a secure facility for the minimum period of time imposed as part of a dispositional order imposed under R.C. 2151.355(A)(4) or (5).

(5) Felony delinquents who are subject to and serving a three-year period of commitment order imposed by a juvenile court pursuant to R.C. 2151.355(A)(7) for an act, other than aggravated burglary, that would be a category one offense or category two offense if committed by an adult.

(6) Felony delinquents who are described in paragraphs (1) to (5), above, who have been granted a judicial release or an early release from the commitment to DYS for the act described in paragraphs (1) to (5), who have violated the terms and conditions of that judicial release or early release, and who, pursuant to an order of the court of the county in which the particular felony delinquent was placed on release, have been returned to DYS for institutionalization or institutionalization in a secure facility.

(7) Felony delinquents who have been committed to the custody of DYS, who have been granted supervised release from the commitment, who have violated the terms and conditions of that supervised release, and who, pursuant to an order of the court of the county in which the particular child was placed on supervised release, have had the supervised release revoked and have been returned to the DYS for institutionalization. A felony delinquent described in this paragraph is a public safety bed only for the time during which the felony delinquent is institutionalized as a result of the revocation subsequent to the initial 30-day period of institutionalization.

"Felony delinquent" means any child who is at least 12 years of age but less than 18 years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of 18 and 21 and who is in the legal custody of DYS for having committed an act that if committed by an adult would be a felony.

**Department of Youth Services Release Authority**

(R.C. 5139.50, 5139.51, and 5139.55)

### **Organization of the Release Authority**

**Existing law.** R.C. 5139.50 creates the Release Authority of the Department of Youth Services (DYS) as an independent administrative division in DHS. The Release Authority consists of five members who are appointed by the Director of DHS and who have specified qualifications. The members must devote their full time to the duties of the Release Authority and must neither seek nor hold other public office. The members are in the unclassified civil service.

Members of the Release Authority are appointed for six-year terms. At the conclusion of a term, a member holds office until the appointment and qualification of the member's successor. The Director of DHS must fill a vacancy occurring before the expiration of a term for the remainder of that term. A member may be reappointed, but a member may serve no more than two consecutive terms regardless of the length of the member's initial term. A member may be removed for good cause shown after a full and open hearing by the Release Authority, if requested by the member, at which the member has an opportunity to respond to the allegations that provide the basis for a call for removal.

The Director of DHS must designate as chairperson of the Release Authority one of the members who has experience in criminal justice, juvenile justice, or an equivalent relevant profession. The chairperson has full authority over the administration and management of the Release Authority and must perform all duties and functions necessary to ensure that the Release Authority discharges its responsibilities and must act as the appointing authority for all staff of the Release Authority. The chairperson must employ staff as necessary to carry out the duties of the Release Authority, including hearing representatives to participate in the hearing of cases on review and persons to provide administrative support. The chairperson serves as the official spokesperson for the Release Authority.

A majority of the members of the Release Authority constitute a quorum for transacting the official business of the authority. The actions of the Release Authority are determined by a majority vote of the quorum. (R.C. 5139.50(A) through (E).)

**Operation of the bill.** The bill changes the Release Authority of the Department of Youth Services (DYS) from an independent administrative division in DHS to a bureau in the Department. The bill does not change the number of members or the duration of their terms. The Director of DHS, in addition to the authorization to fill a vacancy occurring before the expiration of a term, also is authorized to appoint an interim member to fulfill the duties of a member who is on extended leave or disability status. The bill also gives the Director the authority

to remove a member for good cause, without the need of a "full and open hearing." Under the bill, the chairperson of the Release Authority must be a managing officer of DYS, must supervise the members of the board and the other staff in the bureau, and must perform all duties and functions necessary to ensure that the Release Authority discharges its responsibilities.

The bill repeals the provision authorizing the chairperson to act as the appointing authority for all staff of the Release Authority and as the appointing authority for all Release Authority staff. Similarly, the bill repeals the provision authorizing the chairperson to employ staff as necessary to carry out the duties of the Release Authority. The bill also repeals the provisions describing the parliamentary quorum procedures by which the Release Authority conducted official business. (R.C. 5139.50(A) through (E).)

### **Mandatory duties of the Release Authority**

**Existing law.** Under existing law, the Release Authority is required to do all of the following (R.C. 5139.50(F), (H), (I), and (J)):

(1) Serve as the final and sole authority for making decisions, in the interests of public safety and the children involved, regarding the release and discharge of all children committed to the legal custody of DYS, except children placed on judicial release or early release by a juvenile court with specified exceptions;

(2) Establish written policies and procedures for conducting a periodic review of the status of each child in the custody of DYS, setting or modifying dates of release and discharge for each child, specifying the duration, terms, and conditions of release to be carried out in supervised release subject to the addition of additional consistent terms and conditions by a court, and giving a child notice of all reviews;

(3) Maintain records of its official actions, decisions, orders, and hearing summaries and make the records accessible;

(4) Cooperate with public and private agencies, communities, private groups, and individuals for the development and improvement of its services;

(5) Collect, develop, and maintain statistical information regarding its services and decisions;

(6) Submit to the Director an annual report that includes a description of the operations of the Release Authority, an evaluation of its effectiveness,

recommendations for statutory, budgetary, or other changes necessary to improve its effectiveness, and any other information required by the Director;

(7) Adopt rules and written policies and procedures to govern its operations.

(8) Adopt specific written policies governing the discharge of its responsibilities either by the full membership of the authority or by the delegation of authority to one or more members of the Release Authority or to hearing representatives.

(9) Not delegate its authority to make final decisions regarding policy or the release of a child.

(10) Adopt a written policy and procedures governing appeals of its release and discharge decisions. The policy must provide that a child may appeal to the full Release Authority a decision denying release or discharge made at a hearing conducted by a panel that does not include all of the members of the Release Authority. The policy also must provide that if a decision denying release or discharge is made by the full Release Authority, the child may request one appeal hearing at which the child will be afforded a final opportunity to present new or additional information related to any of the reasons enumerated by the Release Authority in the decision under appeal. The Release Authority must consider an appeal in accordance with this policy and procedure.

**Operation of the bill.** The bill repeals paragraphs (7), (8), and (9), above, and revises paragraphs (1), (2), and (10), above. Under paragraph (1), rather than *serve as the final and sole authority for making decisions*, the Release Authority now simply *makes decisions*. The remainder of paragraph (1) remains unchanged. Under paragraph (2), rather than *specifying the duration, terms, and conditions of release to be carried out in supervised release subject to the addition of additional consistent terms and conditions by a court*, the Release Authority *communicates to the court* that information. Under paragraph (10), the Release Authority still must adopt a written policy and procedures governing appeals of its release and discharge decisions, but the remainder of the paragraph, which deals with appeals, is repealed. (R.C. 5139.50(E)(1) and (2) and (G) amended and R.C. 5139.50(F)(7) and (H) and (I) repealed.)

#### **Optional powers and duties of the Release Authority**

**Existing law.** Under existing law, the Release Authority may do any of the following (R.C. 5139.50(G)):

(1) Conduct inquiries, investigations, and reviews and hold hearings and other proceedings necessary to properly discharge its responsibilities;

(2) Issue subpoenas, enforceable in a court of law, to compel a person to appear, give testimony, or produce documentary information or other tangible items relating to a matter under inquiry, investigation, review, or hearing;

(3) Administer oaths and receive testimony of persons under oath;

(4) Request assistance, services, and information from a public agency to enable the authority to discharge its responsibilities and receive the assistance, services, and information from the public agency in a reasonable period of time;

(5) Request from a public agency or any other entity that provides or has provided services to a child committed to the DYS's legal custody information to enable the Release Authority to properly discharge its responsibilities with respect to that child and receive the information from the public agency or other entity in a reasonable period of time;

(6) Require that the terms and conditions of a child's supervised release be enforced during the period of supervised release until discharge;

(7) Exercise any other powers necessary to discharge its responsibilities.

**Operation of the bill.** The bill repeals the optional powers described in paragraphs (6) and (7), above (R.C. 5139.50(F)(6) and (7)).

### **Legal services**

**Existing law.** Under existing law, DYS's legal staff must provide assistance, *upon request*, to the Release Authority in the formulation of policy and in its handling of individual cases. The Attorney General must provide legal representation for the Release Authority. DYS must provide the Release Authority with a budget sufficient to properly perform its obligations and responsibilities, subject to administrative controls.

**Operation of the bill.** Under the bill, DYS's legal staff always must provide assistance to the Release Authority in the formulation of policy and in its handling of individual cases. Because the Release Authority is a bureau of DYS, the language requiring the Attorney General to provide legal representation for the Release Authority and the requirement that DYS provide the Release Authority with a budget is redundant and so is repealed. (R.C. 5139.50(H).)

## *Supervised release or discharge of a child from DYS*

*Existing law.* The Release Authority is prohibited from releasing a child who is in the custody of DYS from institutional care or institutional care in a secure facility. The Release Authority also is generally prohibited from discharging the child or order the child's release on supervised release prior to the expiration of the prescribed minimum period of institutionalization or institutionalization in a secure facility or prior to the child's attainment of 21 years of age, whichever is applicable under the order of commitment. The Release Authority may conduct periodic reviews of the case of each child who is in the custody of DYS and who is eligible for supervised release or discharge after completing the minimum period of time prescribed by the committing court. Existing law prescribes the procedure to be followed in determining whether to release a child on supervised release or discharging the child. If the Release Authority believes that a child should be placed on supervised release, it must comply with the requirements described in "*Supervised release,*" below. If the Release Authority believes that a child should be discharged, it must comply with the requirements described in "*Discharge,*" below. If the Release Authority denies the supervised release or discharge of a child, it must provide the child with a written record of the reasons for the decision. (R.C. 5139.51(A).)

*Supervised release.* Under existing law, when the Release Authority decides to place a child on supervised release, it must prepare a written supervised release plan that specifies the terms and conditions upon which the child is to be released from an institution on supervised release. At least 30 days prior to the release of the child on the supervised release, it must send to the committing court and the juvenile court of the county in which the child will be placed a copy of the supervised release plan and the terms and conditions that it fixes.

The juvenile court of the county in which the child will be placed, within 15 days after its receipt of the copy of the supervised release plan, may add to the supervised release plan any additional consistent terms and conditions it considers appropriate, provided that the court is prohibited from adding any term or condition (1) that decreases the level or degree of supervision specified by the Release Authority in the plan, (2) that substantially increases the financial burden of supervision that will be experienced by DYS, or (3) that alters the placement specified by the Release Authority in the plan.

If, within the 15-day period, the juvenile court does not add to the supervised release plan any additional terms and conditions, the court must enter the Release Authority's supervised release plan in its journal within that 15-day period and, within that 15-day period, must send to the Release Authority a copy of

the journal entry of the supervised release plan. The journalized plan applies regarding the child's supervised release.

If, within the 15-day period, the juvenile court adds to the supervised release plan any additional terms and conditions, the court must enter the Release Authority's supervised release plan and the additional terms and conditions in its journal. Within that 15-day period, the court must send to the Release Authority a copy of the journal entry of the supervised release plan and additional terms and conditions. The journalized supervised release plan and additional terms and conditions added by the court that satisfy the criteria described in the second preceding paragraph apply regarding the child's supervised release.

If, within the 15-day period, the juvenile court neither enters in its journal the Release Authority's supervised release plan nor enters in its journal the Release Authority's supervised release plan plus additional terms and conditions added by the court, the court and DYS may attempt to resolve any differences regarding the plan within three days. If a resolution is not reached within that three-day period, thereafter, the Release Authority's supervised release plan is enforceable to the same extent as if the court actually had entered the Release Authority's supervised release plan in its journal. (R.C. 5139.51(B)(1).)

The period of a child's supervised release may extend from the date of release from an institution until the child attains 21 years of age. If the child requests in writing that the Release Authority conduct a discharge review after the expiration of one year or the minimum period or period, the Release Authority must conduct a discharge review and give the child its decision in writing. The Release Authority must not grant a discharge prior to the discharge date if it finds good cause for retaining the child in the custody of DYS until the discharge date. A child may request an additional discharge review six months after the date of a previous discharge review decision, but not more than once during any six-month period after the date of a previous discharge review decision. (R.C. 5139.51(E).)

**Discharge.** Under existing law, the Release Authority, without approval of the court that committed a child, may discharge the child from its custody and control without placing the child on supervised release if (1) the child in the custody of DYS was committed for committing an act that if committed by an adult would be a felony (other than aggravated murder or murder) and has been institutionalized or institutionalized in a secure facility for the prescribed minimum periods of time and (2) the Release Authority is satisfied that the discharge of the child without the child being placed on supervised release would be consistent with the welfare of the child and protection of the public. At least 15 days before the scheduled date of discharge of the child without the child being placed on supervised release, DYS must notify the committing court, in writing, that it is

going to discharge the child and of the reason for the discharge. Upon discharge of the child without the child being placed on supervised release, DYS immediately must certify the discharge in writing and shall transmit the certificate of discharge to the committing court. (R.C. 5139.51(C).)

**Other requirements.** In addition to requirements that are reasonably related to the child's prior pattern of criminal or delinquent behavior and the prevention of further criminal or delinquent behavior, the Release Authority must specify the following requirements for each child whom it releases (R.C. 5139.51(D)):

(1) The child must observe the law.

(2) The child must maintain appropriate contact, as specified in the written supervised release document for that child, with the DYS employee assigned to supervise and assist the child.

(3) The child must not change residence unless the child seeks prior approval for the change from that DYS employee, provides that employee, at the time the child seeks the prior approval for the change, with appropriate information regarding the new residence address at which the child wishes to reside, and obtains the prior approval of that employee for the change.

**Operation of the bill.** Under the bill, the authority and duties granted to the Release Authority and described above under "**Supervised release,**" "**Discharge,**" and "**Other requirements**" generally are transferred to DYS (R.C. 5139.51).

### **Office of Victims' Services**

**Existing law.** The Office of Victims' Services is within the Release Authority of DYS. The Office of Victims' Services must provide assistance to victims, victims' representatives, and members of a victim's family. R.C. 5139.55 specifies a nonexclusive list of the types of assistance the Office must provide. The Office must make available publications to assist victims in contacting DYS staff about problems with children on supervised release or in a secure facility.

The Office of Victims' Services must employ a victims coordinator to administer the duties of the Office. The victims coordinator is in the unclassified civil service and, as a managing officer of the department, reports directly to the chairperson of the Release Authority. The Office must employ other staff to fulfill specified duties. The chairperson of the Release Authority must approve the hiring of the employees of the Office.

The Office of Victims' Services must coordinate its activities with the chairperson of the Release Authority. The victims coordinator and other

employees of the Office have full access to the records of children in the legal custody of DYS. (R.C. 5139.55.)

**Operation of the bill.** The bill transfers the Office of Victims' Services from being within the Release Authority to being within DYS. The bill repeals the requirement that the victims coordinator report to the chairperson of the Release Authority and the authority of the chairperson of the Release Authority to approve the hiring of the employees of the Office.

The bill also replaces the duty of the Office to make available publications to assist victims in contacting DYS staff about problems with children on supervised release or in a secure facility with a requirement that the Office make available information to assist victims of delinquent children on supervised release or in a secure facility. (R.C. 5139.55.)

## **HEALTH AND HUMAN SERVICES**

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- 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.
- Provides that rules the Department of Human Services adopts regarding eligibility standards under the Residential State Supplement (RSS) Program for aged, blind, or disabled individuals who reside in a particular type of facility but, because of income, do not receive Supplemental Security Income (SSI) payments may provide that these individuals may include individuals who receive other types of benefits, including Social Security Disability Insurance benefits.
- Provides that, effective July 1, 2000, an individual is not eligible for RSS payments unless a PASSPORT administrative agency has determined that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs.
- Provides that individuals on the waiting list for RSS payments who reside in a community setting not required to be licensed or certified are to have their eligibility for RSS payments assessed before other individuals on the waiting list.
- Requires that the Directors of Mental Health, Health, and Aging convene a group of key relevant constituencies to evaluate the implementation of

the bill's provisions regarding the RSS Program and requires that the group report its findings and recommendations to the directors and General Assembly not later than July 1, 2002.

- Requires the Department of Aging, effective July 1, 2002, and the first day of each July thereafter, to adjust the rate it reimburses providers of certain services under the PASSPORT Program based on the gross domestic product deflator for the preceding calendar year.
- Exempts from county competitive bidding requirements (1) purchases by a public children services agency of social services, programs, or ancillary services that provide case management, prevention, or treatment services for children at risk of being or alleged to be abused, neglected, or dependent children and (2) purchases by boards of county commissioners of human or social service programs from nonprofit corporations or associations funded by the federal government or by state grants.
- Under certain circumstances, permits employees of a public children services agency (PCSA) or county department of human services (CDHS) to also be employed by a private agency for purposes of training other PCSA or CDHS employees.
- Requires a county human services planning committee to review and analyze at least once a year a county department of human services' implementation of the Ohio Works First and Prevention, Retention, and Contingency Programs and provide recommendations to the board of county commissioners and county department regarding the committee's findings.
- Requires the chair of the county human services planning committee to sign a letter indicating that the board of county commissioners consulted with the committee prior to entering into or substantially amending its partnership agreement with ODHS.
- Requires a workforce development board that replaces a county human services planning committee to perform the committee's duties.
- Requires each county department of human services to have hours of operation outside normal hours to accept from employed individuals

applications for programs administered by the county department and assist employed program recipients and participants with the programs.

- Provides that representatives of the transit board, system, or regional authority in a county must meet with the county department of human services at least once each calendar quarter to discuss the transportation needs of the county's Ohio Works First participants.
- Changes from twice annually to once a year the requirement that county human services planning committees review and analyze the county departments of human services' implementation of the Ohio Works First and Prevention, Retention, and Contingency Programs.
- Requires each county department of human services to have at least one Ohio Works First ombudsperson to help assistance groups resolve complaints about the administration of Ohio Works First and help them contact their caseworkers for the purpose of scheduling a meeting regarding a sanction.
- Clarifies that government funds, particularly county human services funds, may be used to match contributions made by Individual Development Account program participants.
- Extends and modifies the requirement that, if certain conditions exist, a health insuring corporation covering skilled nursing care reimburse medically necessary covered nursing care services an enrollee receives in a skilled nursing facility even if the facility does not participate in the corporation's plan.
- Revises the law that provides for each hospital to develop and implement a written protocol for facilitating procurement of anatomical gifts.
- Removes the provision that, for each patient who dies in a hospital, a hospital administrator complete a certificate of request for an anatomical gift.
- Repeals the law addressing placement of children in out-of-county foster homes that requires notification of certain persons in the new county and establishes a court action to remove the child from the county.

- Creates a new scheme addressing placement of a child in an out-of-county foster home that requires the placing entity to discuss issues related to the child's placement with, and provide information about the child to, the new foster caregiver and a representative of the school district in which the child will attend school.
- Creates a new scheme addressing placement of a child who has been adjudicated to be unruly or delinquent in an out-of-county foster home that requires the placing entity to provide information about the child to the juvenile court of the county in which the foster home is located.
- 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.
- Adds the Director of Alcohol and Drug Addiction Services and another public member to the Children's Trust Fund Board and permits a member to be removed by the member's appointing authority for neglect of duty after an opportunity to be heard.
- Changes the composition of county or district child abuse and child neglect prevention advisory boards and permits a county family and children first council to be designated as the advisory board.
- Designates the county auditor as the fiscal agent for the advisory board.
- Establishes a penalty for failure to timely forward fees collected for the Children's Trust Fund.
- Specifies how the Children's Trust Fund Board and the Family and Children First Cabinet Council are to resolve differences regarding the Wellness Block Grant.
- Authorizes the Director of Administrative Services to approve supplementary compensation for the Director of Health, if the Director of Health is a licensed physician.
- Transfers responsibility for the cancer incidence surveillance system from the Department of Health to the Arthur G. James Cancer Hospital and Research Institute of The Ohio State University.

- 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.
- Expressly authorizes the Ohio Medical Quality Foundation to be organized as a nonprofit corporation.
- 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.
- Requires a nursing home that claims to provide special services to submit a description of the services to the Department of Health and the Department to provide copies of the description whenever requested.
- Revises the law regarding affiliation agreements between adult care facilities and mental health agencies and boards of alcohol, drug addiction, and mental health services (ADAMHS boards) and provides for the eventual replacement of the affiliation agreement requirement with a requirement that the owner or manager of an adult care facility follow procedures established by rules adopted by the Public Health Council regarding referrals to the facility of individuals with mental illness or severe mental disability and effective arrangements for their ongoing mental health services.
- Requires that the Director of Mental Health adopt rules governing the duties of mental health agencies and ADAMHS boards regarding the referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for their ongoing mental health services.

- Requires the owner or manager of an adult care facility, before admitting a prospective resident with mental illness or severe mental disability not referred by a mental health agency or ADAMHS board, to document that the owner or manager has offered to assist the prospective resident in obtaining appropriate mental health services.
- Provides that an ADAMHS board or mental health agency under contract with an ADAMHS board may administer an adult care facility resident's medication if the resident is suffering from a short-term illness and the medication will be administered on a part-time, intermittent basis for not more than a total of 120 days in any 12-month period.
- Prohibits an employee of a PASSPORT administrative agency from placing or recommending placement of any person in an adult care facility if the employee knows that the facility cannot meet the person's needs.
- Provides that employees of the Department of Mental Health designated by the Director of Mental Health, employees of a mental health agency under contract with an ADAMHS board, and employees of an ADAMHS board may enter an adult care facility at any time under certain circumstances.
- Requires that the Director of Mental Health adopt rules governing an ADAMHS board's report to the Director of Health regarding the quality of care and services provided by an adult care facility to a person with mental illness or severe mental disability.
- Requires that the Directors of Mental Health, Health, and Aging convene a group of key relevant constituencies to evaluate the implementation of the bill's provisions regarding residents of adult care facilities who have mental illness or severe mental disabilities and requires that the group report its findings and recommendations to the directors and General Assembly not later than July 1, 2002.
- Raises certain, and eliminates certain other obsolete or inapplicable, fees charged medical practitioners under the Department of Health's radiation control program.

- Requires the Department of Alcohol and Drug Addiction Services (ODADAS) to develop a project to assess the outcomes of persons served by publicly funded alcohol and drug treatment programs and to report to the Governor information regarding the types of drugs to which persons are addicted and the rate of relapse after treatment.
- Requires ODADAS to convene a study council for the purpose of studying client engagement and treatment outcomes.
- 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 (from \$200) the maximum fee the Board of Psychology may charge for biennial registration of a psychologist or school psychologist, to \$275 in FY 2000 and \$350 thereafter.
- 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.
- Permits the Department of Human Services to have up to two assistant directors, each of whom is to be designated by the Director of Human Services.
- Requires the Department of Human Service to collaborate with county departments of human services to develop and provide training for appropriate county department employees regarding provisions of legislation passed by the 121st General Assembly and the 122nd General Assembly that impose duties on the county departments.
- 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 or service the department provides or renders, and any program, service, or assistance administered by a private entity or other government agency that the department determines may be delivered through the EBT system.
- Provides that a written agreement between the Department of Human Services and a private or government entity for the provision of benefits through the department's EBT system may require that the entity pay to the department a reimbursement charge, fee, or both.
- 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, if the Controlling Board transfers federal funds for the Temporary Assistance for Needy Families (TANF) Program to the Title XX social services block grant, the Department of Human Services may use the transferred funds for services that benefit individuals eligible for social services consistent with the principles of TANF.

- 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 a completed application for Medicaid is to be considered an application for the Children's Health Insurance Program (CHIP) when the application includes an individual under age 19 and is denied.
- 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 make the determination of whether to approve the payment.
- 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.
- Provides for the Non-TANF Emergency Assistance Program to have its original name (the Adult Emergency Assistance Program) and codifies the section creating the program so that it will continue, subject to appropriations, indefinitely.
- Creates the Kinship Care Services Planning Council to make recommendations to the Director of Human Services, based on the report

of the Grandparents Raising Grandchildren Task Force created by the 122nd General Assembly, specifying the types of services that should be included as part of a program providing support services to kinship caregivers.

- Requires the Department of Human Services to establish, based on the recommendations of the Kinship Care Services Planning Council and using qualified state expenditures, a program providing support services to kinship caregivers.
- Requires the Department of Human Services to establish the support services program for kinship caregivers by March 31, 2000.
- Changes eligibility requirements for the Adult Emergency Assistance Program.
- Requires that type B day-care homes with limited certification be reimbursed for publicly funded day-care at the greater of the rate that was in effect for the home on October 1, 1997 or 75% of the rate paid to fully certified type B homes.
- Provides that, during each six-month period, a publicly funded child day-care provider is to be paid for up to ten days, or, at the option of a county department of human services, a greater number of days, that the provider would have provided publicly funded child day-care to a child had the child been present.
- Permits a change in the fee charged for publicly funded child day-care if the county department of human services lowers the fee after a caretaker parent requests the decrease based on a change in income, family size, or both.
- Increases, effective July 1, 2000, the maximum amount of income the Ohio Department of Human Services or a county department of human services may set as the income limit for publicly funded child day-care from 185% to 200% of the federal poverty guidelines.
- Provides that the schedule of fees charged to recipients of publicly funded child day-care may not require a caretaker parent to pay a fee that exceeds 10% of the parent's family income.

- Requires that the Department of Human Services adopt rules establishing procedures for a county department of human services to follow in making eligibility determinations and redeterminations for publicly funded child day-care available through the telephone, computer, and other means at locations other than the county department.
- Provides that an eligibility determination for publicly funded child day-care is valid for one year and the fee for the day-care may not be changed during that one-year period, unless the recipient ceases to be eligible or the day-care is 30-day maximum day-care related to preparation for training or employment.
- Provides that, if there are at least two telephone numbers available that a county department of human services can call to contact members of an assistance group, the assistance group must include at least those two telephone numbers on the Ohio Works First application.
- Provides that an Ohio Works First assistance group may consist of a child who resides with a parent, rather than a custodial parent, and may consist of a child who resides with a guardian only to the extent permitted by federal statutes and regulations.
- Provides that an Ohio Works First assistance group may include a parent residing with and caring for a child receiving Supplemental Security Income or, to the extent permitted by federal law and regulations, a child residing with a custodian caring for the child.
- Provides that a specified relative of a child is not required to be included in the child's Ohio Works First assistance group but, to the extent permitted by rules governing assistance group composition requirements, may choose to be included in the assistance group, unless the specified relative resides with his or her own child as well as the other child, in which case the specified relative must be, to the extent provided by rules, a member of the assistance group of his or her own child and not a member of the other child's assistance group.
- Provides that a guardian or custodian is not permitted to be a member of the assistance group of the child for whom the guardian or custodian is guardian or custodian, unless the guardian or custodian is the child's specified relative.

- Provides that the requirement that to be eligible for Ohio Works First a pregnant minor, minor parent, or minor parent's child must live in the home of a parent, guardian, custodian, or specified relative, and the exceptions to this requirement, apply only to the extent permitted by federal statutes and regulations.
- Provides that the requirement that the Department of Human Services, whenever possible, provide cash assistance under Ohio Works First to the parent, guardian, custodian, or specified relative of a pregnant minor or minor parent on behalf of the pregnant minor, minor parent, or minor parent's child applies only to the extent permitted by federal statutes and regulations.
- Eliminates the gross income standard for the Ohio Works First program as established by law and provides instead for the Department of Human Services to adopt a rule establishing the standard.
- Extends to six months (from three) the time an assistance group may continue, under certain circumstances, to participate in Ohio Works First even though a public children services agency has removed the child from the assistance group's home due to abuse, neglect, or dependency.
- Eliminates the limitation on the number of months the earned income disregard is applied for assistance groups participating in Ohio Works First.
- Requires that a county department of human services, before sanctioning an Ohio Works First assistance group, provide the assistance group written notice of the sanction that informs the assistance group that it may request a face-to-face meeting with the county department and includes certain telephone numbers.
- Provides that, despite a sanction, an Ohio Works First assistance group retains eligibility (1) to participate in, to the extent permitted by federal law, Ohio Works First's work requirements, (2) for support services provided for participating in the work requirements, and (3) for publicly funded child day-care provided for participating in the work requirements.

- Provides that an assistance group that resumes participation in Ohio Works First following a sanction is not required to (1) reapply for the program, unless it is the regularly scheduled time for an eligibility redetermination or (2) enter into a new self-sufficiency contract, unless the county department determines it is time for a new appraisal regarding work requirements or the assistance group's circumstances have changed in a manner necessitating an amendment to the contract.
- Provides that an assistance group does not lose eligibility for Ohio Works First if a member of the group or a recipient of transitional child day-care or Medicaid terminates employment because the member or recipient secures comparable or better employment.
- 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.
- Expands eligibility for the Prevention, Retention, and Contingency Program to include assistance groups that include a pregnant woman.
- Requires the Director of Human Services to amend the state Medicaid plan to expand Medicaid eligibility, not sooner than January 1, 2000, to pregnant women with a family income that does not exceed 150% of the federal poverty guidelines and to working parents of children under 19 years of age with a family income that does not exceed 100% of the poverty level.
- Provides that a contract between the Departments of Human Services and Mental Health regarding Medicaid-covered community mental health services must specify how facilities will be paid for providing the services.
- Requires that a contract between a board of alcohol, drug addiction, and mental health services and a facility providing Medicaid-covered community mental health services provide for the facility to be paid in accordance with the contract between the Departments of Human Services and Mental Health and rules adopted by the Director of Mental Health.

- Requires the Ohio Department of Human Services, effective July 1, 2001, and the first day of each July thereafter, to adjust the rate it reimburses physicians, dentists, the PASSPORT Program, ambulance service providers and other providers specified in rules under Medicaid. The adjustment is to be based on the gross domestic product deflator for the preceding calendar year.
- Requires the Department of Human Services to prepare and complete a survey every two years examining Medicaid recipients' access to and reimbursement rates for services provided by physicians and dentists.
- Replaces the Medicaid Managed Care Reimbursement Study Committee created by Am. Sub. H.B. 215 of the 122nd General Assembly with the Medicaid Managed Care Study Committee.
- Requires that the Department of Human Services develop and promote initiatives to reduce the complexity of the processes used in applying for Medicaid and in determining eligibility.
- Provides, for the purpose of determining the amount the Department of Human Services reimburses nursing facilities under Medicaid, for the department to use, with certain modifications, the grouper methodology used on the bill's effective date by the United States Department of Health and Human Services for prospective payment of skilled nursing facilities under Medicare and Medicaid.
- Provides that the deadline for nursing facilities to submit corrected resident assessment information necessary for the Department of Human Services to determine Medicaid reimbursement rates is the earlier of the time specified by current law or the deadline for submission of such corrections established by federal Medicare and Medicaid regulations.
- Permits the Department of Human Services to adopt rules that limit the content of nursing facilities' corrections of resident assessment information in the manner required for federal Medicare and Medicaid regulations.
- Provides that the Department of Human Services, for the purpose of determining nursing facilities' rate of direct care costs for fiscal year 2000, is to calculate annual average case-mix scores for calendar year

1998 using resident assessment information for calendar quarters ending September 30, 1998, and December 31, 1998.

- Eliminates the Department of Human Services' authority to adopt rules permitting some or all intermediate care facilities for the mentally retarded to submit resident assessment information annually rather than quarterly.
- Permits the Department of Human Services to establish more than one assessment rate for purposes of the Hospital Care Assurance Program, but requires that the assessment rate or rates be applied uniformly to all hospitals.
- Delays termination of the Hospital Care Assurance Program until July 1, 2001.
- Permits, rather than requires, that hospitals be classified into groups for purposes of distributing funds under the Hospital Care Assurance Program.
- Permits a hospital to take actions to ensure that there is no other third-party payer available before using funds received under the Hospital Care Assurance Program as reimbursement for providing services to an individual.
- 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.
- Changes the expiration date of a full license for a mental health residential facility issued by the Department of Mental Health from one year to two years.
- Under the Department of Mental Health's Community Capital Grant Program, establishes a process by which funds obtained from selling an existing community facility can be used to acquire, construct, or renovate a replacement facility.

- Provides that if a replacement community facility project is canceled, the Director of Mental Health can use the state's share of the proceeds of the sale of the original facility to make new community capital grants.
- Provides that a mentally ill individual receiving community mental health services operated by the Department of Mental Health and the individual's liable relatives may be required to pay for all or part of the cost of the services in an amount determined using guidelines, to be based on cost-findings and rate-settings applicable to the services, the department is to issue.
- Permits the Department of Mental Retardation and Developmental Disabilities to take action against a county board of mental retardation and developmental disabilities to ensure that the board upholds its agreement to pay the state's share of the costs of providing certain home and community-based services that are reimbursed through Medicaid waivers.
- Permits the parent or guardian of an individual with mental retardation or a developmental disability to train and supervise unlicensed workers in the performance of health care tasks while the child receives in-home care.
- Requires the Departments of Development and Human Services to establish a collaborative project to create 1,000 new jobs in federal empowerment zones and rural economically depressed counties and to report on the activities of the project to the Welfare Oversight Committee.

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## **CONTENT AND OPERATION**

### ***Planning and service areas for administering the federal Older Americans Act***

(R.C. 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.

### **Residential State Supplement Program**

(R.C. 173.35, 340.091, and 5119.61; Section 68.04)

Under the Residential State Supplement (RSS) Program, payments are provided to aged, blind, and disabled adults at risk of needing institutional care. The payments are to be used for the provision of accommodations, supervision, and personal care services. The program is administered by the Departments of Aging and Human Services.

### **Rules regarding Social Security Disability Insurance benefits**

Current law provides that the RSS Program is for individuals receiving payments under the Supplemental Security Income (SSI) Program and permits the Department of Human Services to adopt rules establishing eligibility standards for aged, blind, or disabled individuals who reside in a particular type of facility but, because of income, do not receive SSI payments. The bill provides that these rules may provide that these individuals may include individuals who receive other types of benefits, including Social Security Disability Insurance benefits.

### **Appropriate living environment determination**

The bill establishes a new eligibility requirement for the RSS Program. Effective July 1, 2000, a PASSPORT administrative agency must have determined that the environment in which the individual will be living while receiving RSS payments is appropriate for the individual's needs. If the individual is eligible for SSI or Social Security Disability Insurance benefits because of a mental disability, the PASSPORT administrative agency must refer the individual to a community mental health agency for the community mental health agency to issue a recommendation on whether the PASSPORT administrative agency should determine that the individual's living environment will be appropriate. This requirement does not apply to an individual receiving RSS payments on June 30, 2000, until the individual's first eligibility redetermination after that date.

Each board of alcohol, drug addiction, and mental health services (ADAMHS board) is required to contract with a community mental health agency for the agency to assess an RSS applicant with a mental disability to determine whether to recommend that a PASSPORT administrative agency determine that the environment in which the individual will be living while receiving RSS payments is appropriate for the individual's needs. If the community mental health agency determines the environment will be appropriate, the agency must make the recommendation. The agency also must provide ongoing monitoring to ensure that publicly funded mental health services are available to the individual and provide discharge planning to ensure the individual's earliest possible transition to a less restrictive environment. The agency is to perform these duties in accordance with rules the Director of Mental Health is to adopt.

### **Waiting list**

The Department of Aging is required by current law to maintain a waiting list of individuals eligible for RSS payments but not receiving them because money appropriated for the program is insufficient. The bill provides that an individual may apply to be placed on the waiting list even though the individual, at the time of application, does not reside in one of the types of facilities an individual must reside to be eligible for RSS. Individuals on the waiting list who reside in a community setting not required to be licensed or certified are to have their eligibility for RSS payments assessed before other individuals on the waiting list.

### **Group to evaluate implementation**

The bill requires that the Directors of Mental Health, Health, and Aging convene a group of key relevant constituencies to evaluate the implementation of the bill's provisions regarding the RSS Program. The directors must convene the group not later than July 1, 2001. The group must report its findings and recommendations to the directors and General Assembly not later than July 1, 2002.

### **Adjustment to PASSPORT Program reimbursement**

(R.C. 173.401)

The bill requires that the Department of Aging adjust the rate it reimburses providers of homemaker services, personal care services, and adult day care services under the PASSPORT Program by the percentage increase in the gross

domestic product deflator for the preceding calendar year.<sup>6</sup> The Department must make the adjustment annually, beginning July 1, 2002. The Department is to adopt rules under the Administrative Procedure Act (R.C. Chapter 119.) for the efficient administration of the reimbursement adjustment.

**County competitive bidding requirements--exceptions**

(R.C. 307.86)

Current law requires, with certain exceptions, that county purchases, leases, and construction in excess of \$15,000 be obtained through competitive bidding. The bill exempts from the competitive bidding requirement purchases by a *public children services agency* of social services, programs, or ancillary services that provide case management, prevention, or treatment services for children at risk of being or alleged to be abused, neglected, or dependent children. The bill also exempts from the competitive bidding requirement the purchase of human *or social service programs* by boards of county commissioners from nonprofit corporations or associations funded by the federal government or *by state grants*; in this regard, the bill modifies an existing exception to the competitive bidding requirement that applies to purchases that consist of human *and social services* from nonprofit corporations or associations under programs funded *entirely* (deleted by the bill) by the federal government (no mention of "state grants" in existing law).

**Private employment of public children services agency and county department of human services employees**

(R.C. 5153.123)

Current criminal and ethical laws generally prohibit any public employee from having an interest in certain public contracts and from rendering services for compensation regarding the employee's public employment other than as part of that employment (R.C. 102.03, 102.04, 2921.42, and 2921.43--referred to in the bill). The bill permits employees of public children services agencies (PCSAs) or county departments of human services to (by contract) *also be employed by a private agency* that provides "training services" to employees of those agencies or departments, *without violating* those criminal or ethical laws, if all of the following conditions are met: (1) the employee receives prior written permission from the executive director of the employer PCSA or county department of human services,

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<sup>6</sup> *The PASSPORT Program provides home and community-based services to Medicaid recipients at least age 60 who need the level of care provided by a nursing facility.*

(2) during any contract negotiations and at all times associated with the performance of duties under the contract, the employee is on vacation, personal, or unpaid leave from the employer PCSA or county department, (3) the Ohio Department of Human Services (ODHS) selects the private agency that provides the training services pursuant to a contract, (4) the employee is not involved in the development of the request for proposals to hire a private agency for the training or in the selection of the private agency that receives the training contract, and (5) the private agency uses an objective training evaluation process approved by ODHS to evaluate and rank trainers by performance to select the highest scoring trainers for contracting purposes.

### **County human services planning committees**

(R.C. 307.98 and 329.06; Section 107)

Each county is required to establish a county human services planning committee, which must perform a number of duties, including serving as an advisory body to the board of county commissioners regarding social services provided in the county, providing comments and recommendations to the commissioners regarding the partnership agreement with ODHS, and conducting public hearings on proposed county profiles for the provision of Title XX social services.

### **Review of OWF and PRC Programs**

The bill requires that the committee review and analyze ODHS's implementation of the Ohio Works First and Prevention, Retention, and Contingency Programs at least once a year. Specifically, the committee must examine all of the following:

- (1) Return of assistance groups to participation in either program after ceasing to participate;
- (2) Teen pregnancy rates among participants;
- (3) Other types of assistance received by participants, including Medicaid, child care, food stamps, and energy assistance;
- (4) Other issues the committee considers appropriate.

Based on its findings, the committee must make recommendations to the commissioners and the county department of human services.

**Letter to confirm consultation**

Each board of county commissioners is required to enter into a written partnership agreement with the Director of ODHS regarding county social service duties. Prior to entering into or substantially amending an agreement, a board of county commissioners is required to conduct a public hearing and consult with the county human services planning committee. Through the hearing and consultation, a board is to obtain comments and recommendations concerning what would be the county's obligations and responsibilities under the agreement or amendment. The bill requires the chair of the county human services planning committee to sign a letter, which must be attached to the agreement or amendment, confirming that the consultation occurred.

**Workforce development board replacing planning committee**

The bill permits ODHS and the Bureau of Employment Services to establish local integration initiatives in anticipation of their merger into the Department of Job and Family Services. In one or more of the initiatives, local elected officials may create and appoint a local workforce development board to replace certain existing entities, including the county human services planning committee. If a workforce development board replaces a county human services planning committee, the board must perform the committee's statutory duties.

**Extended hours of operation for county departments of human services**

(R.C. 329.023 and 5104.34)

The bill requires each county department of human services to have hours of operation outside the county department's normal hours of operation during which the county department will accept from employed individuals applications for the programs the county department administers and assist employed program recipients and participants with matters related to the programs.

**Transportation needs of Ohio Works First participants**

(R.C. 329.041)

The bill requires that, in each county served by a transit board, system, or regional authority, the county department of human services must meet with the transit representatives not less than once each calendar quarter. The department and transit representatives must discuss the transportation needs of the county's Ohio Works First participants, review existing efforts and develop options to meet those transportation needs, and measure the accomplishments of those efforts.

### **County human services planning committee**

(R.C. 329.06)

Under continuing law, each board of county commissioners is required to establish, or appoint an existing committee as, a county human services planning committee to serve as an advisory council to the board of county commissioners regarding social services provided in the county. The bill requires the planning committee to review and analyze the county department of human services implementation of Ohio Works First and Prevention, Retention, and Contingency Programs. The examination by the committee is to occur on an annual basis and must include all of the following:

- Return of assistance groups to participation in either program;
- Teen pregnancy rates among participants of the programs;
- The other types of assistance participants receive, including medical, publicly funded child care, food stamp benefits, and energy assistance;
- Other issues the committee considers appropriate.

The committee must make recommendations to the board of county commissioners and the county department of human services regarding the committee's findings.

### **Ohio Works First ombudsperson**

(R.C. 329.07 and 5107.61)

The bill requires that each county department of human services have at least one Ohio Works First ombudsperson to help assistance groups resolve complaints they have about the administration of Ohio Works First and help them contact their caseworker for the purpose of scheduling a meeting regarding a sanction. A county department may provide for an Ohio Works First participant who resides in the county the county department serves and is qualified to perform the duties of an ombudsperson to be an ombudsperson. Service as an ombudsperson may be a work activity to which a participant is assigned to satisfy work requirements. If no Ohio Works First participant residing in the county the county department serves is qualified to perform the duties of an ombudsperson, the county department must provide for one or more employees of the county department to be ombudspersons or contract with a private or government entity to perform the ombudsperson's duties. To the extent permitted by federal law, the county department is allowed to use funds available under federal law governing

Ohio Works First to provide for county department employees or a private or government entity under contract with the county department to perform the duties of an ombudsperson.

**Individual Development Accounts**

(R.C. 329.12)

Under existing law, a county department of human services is permitted to establish an individual development account (IDA) program for residents of the county whose household income does not exceed 150% of the federal poverty guidelines. Program participants deposit funds into the IDA, and the fiduciary organization selected by the county department to administer the program may deposit matching funds into the participant's account. Program participants may use IDA funds for post-secondary education, home purchase, and business capitalization. The bill clarifies that government funds, and particularly county human services funds, may be used to match contributions of IDA participants.

**Health insuring corporation policy to cover return to long-term care facility**

(R.C. 1751.68)

Under current law that expires July 1, 1999, if certain conditions exist, a health insuring corporation covering skilled nursing care through a closed panel plan must reimburse medically necessary skilled nursing care services an enrollee receives in a facility even though the facility does not participate in the corporation's closed panel plan. The bill provides for this law to continue indefinitely beyond July 1, 1999 and revises it as follows:

(1) Eliminates the condition that the enrollee or the enrollee's spouse, on or before September 1, 1997, resided in the facility or had a contract to reside in the facility;

(2) Provides that this law does not require a health insuring corporation to include a facility in its closed panel plan or require a health insuring corporation to provide a facility terms and conditions that are different from the terms and conditions applicable to other facilities included in its closed panel plan.

## **Organ procurement**

(R.C. 2108.021, 2108.022, and 2108.023; technical changes: R.C. 2108.15)

### **Protocol for facilitating anatomical gifts**

Current law provides for every hospital to develop a protocol for facilitating organ, tissue, and eye donations that identifies circumstances under which a request for an anatomical gift is appropriate, informs the family of potential donors of the option to make an anatomical gift, and encourages reasonable discretion and sensitivity to the circumstances of the family of the potential donor.

The bill provides that every hospital must develop and implement a written protocol that requires the hospital to do all of the following:

(1) Enter into an agreement with an organ procurement organization (OPO), which the hospital must notify of a death or imminent death of an individual at the hospital;

(2) Establish a procedure for requesting organ, eye, and tissue donations in collaboration with the OPO;

(3) Encourage sensitivity regarding the circumstances, opinions, and beliefs of the family of each potential donor;

(4) In cooperation with the OPO and eye and tissue banks, educate staff on donation issues, review death records to improve identification of potential donors, and maintain the body of potential organ, eye, and tissue donors until a match of potential donated organs occurs.

In addition, each hospital must enter into an agreement with at least one eye bank and at least one tissue bank, which the OPO must notify of the death of a potential eye or tissue donor.

The bill specifies that requests for organ donation must be made by either a representative of an OPO or an individual designated by the hospital who has completed a course on requesting organ donations. The Director of Health must collaborate with OPOs and hospitals in the development of guidelines regarding organ procurement.

### **Certificate of request**

(R.C. 2108.021, repealed and reenacted)

Under current law, for each patient who dies in a hospital, the hospital administrator is required to complete a certificate of request for an anatomical gift, on a form prescribed by the Director of Health. If no request was made, the hospital administrator must state the reason on the certificate. If a request was made, the hospital administrator must specify if the request was made for an organ, eye, or tissue, and whether the part was recovered. The certificate of request must be retained for at least three years after the date of the patient's death.

The bill eliminates the requirement that a certificate of request be completed and retained by the hospital administrator.

### **Placement of children in out-of-county foster homes**

(R.C. 2151.55, 2151.551, 2151.552, 2151.553, and 2151.554)

Under current law, when a private or governmental entity places a child in a foster home in a county other than the county in which the child resided at the time of being removed from home, it must notify the following persons of the intended placement and give them any other information in its possession as permitted by law: the foster caregiver in that new county, the juvenile court of that county, and, if the child will attend school in the district in which the foster home is located, the school district's board of education. Current law permits the superintendent of the school district in which the child attends school to bring a court action to have the child removed from the county if the child is causing a significant and unreasonable disruption to the educational process in school.

The bill repeals the law described above addressing placement of children in out-of-county foster homes. In its place, the bill creates a new scheme governing the out-of-county placement of children in foster homes that requires the placing entity to discuss issues related to a child's placement with, and provide information to, certain persons in the county of placement.

### **Notice to foster caregiver and school**

Under the bill, when a private or governmental entity intends to place a child in a foster home in a county other than the county in which the child resided at the time of being removed from home, a representative of the placing entity must orally communicate the intended placement to the foster caregiver with whom the child is to be placed and, if the child will attend school in the district in

which the foster home is located, a representative of the school district's board of education.

During the oral communication, the placing entity's representative must discuss safety and well-being concerns regarding the child and, if the child attends school, the students, teachers, and personnel of the school. In addition, the placing entity's representative must provide the following information:

- (1) A brief description of the reasons the child was removed from home;
- (2) Services the child is receiving;
- (3) The name of the contact person for the placing entity that is directly responsible for monitoring the child's placement;
- (4) The telephone number of the placing entity and, if the child is in the temporary, permanent, or legal custody of a private or government entity other than the placing entity, the telephone number of the entity with custody;
- (5) The previous school district attended by the child;
- (6) The last known address of the child's parents.

The bill also provides that, no later than five days after the child placed in the out-of-county foster home is enrolled in the new school, the placing entity must provide in writing the information described in (1) to (6) above to the school district and the child's foster caregiver. The school district board of education must implement a procedure for receiving the information.

#### **Notification to juvenile court**

The bill provides that when a private or governmental entity places a child who has been adjudicated to be an unruly or delinquent child in a foster home in a county other than the county the child resided in at the time of being removed from home, the placing entity must provide the following information to the juvenile court of the county in which the foster home is located: the information described in (2) to (4) above; a brief description of the facts supporting the adjudication that the child is unruly or delinquent; the name and address of the foster caregiver; and the safety and well-being concerns with respect to the child and community.<sup>7</sup>

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<sup>7</sup> An "unruly child" includes any of the following: (1) any child who does not subject himself or herself to the reasonable control of his or her parents, teachers, guardian, or custodian, by reason of being wayward or habitually disobedient, (2) any child who is

### **Children's Trust Fund**

(R.C. 3109.13, 3109.14, 3109.15, 3109.16, 3109.17, and 3109.18; Sections 135 and 162)

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.

#### **Child abuse and child neglect prevention programs**

(R.C. 3109.13)

Current law provides that a child abuse and child neglect prevention program (that money from the Children's Trust Fund may be used to support) includes the following: (1) community-based public awareness programs that pertain to child abuse or child neglect, (2) community-based educational programs that pertain to prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, or coping with family stress, (3)

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*habitually truant from home or school, (3) any child who so deports himself or herself as to injure or endanger his or her health or morals or the health or morals of others, (4) any child who attempts to marry in any state without consent of the child's parents, guardian, legal custodian, or other legal authority, (5) any child who is found in a disreputable place, visits or patronizes a place prohibited by law, or associates with vagrant, vicious, criminal, notorious, or immoral persons, (6) any child who engages in an occupation prohibited by law or is in a situation dangerous to life or limb or injurious to the child's health or morals or the health or morals of others, or (7) any child that violates a law, other than the prohibition against the purchase of firearms by a child under age 18, that is applicable only to a child.*

*A "delinquent child" includes any of the following: (1) any child who violates any law of this state or the U.S., or any ordinance or regulation of a political subdivision of the state, that would be a crime if committed by an adult, (2) any child who violates any lawful order of the court made under the Ohio Juvenile Code, or (3) any child who violates the prohibition against the purchase of firearms by a child under age 18.*

community-based programs that relate to care and treatment in child abuse or child neglect crisis situations, aid to parents who may potentially abuse or neglect their children, child abuse or child neglect counseling, support groups for parents who potentially may abuse or neglect their children, and support groups for their children, or early identification of families in which there is potential for child abuse or child neglect, (4) programs that train and place volunteers in programs pertaining to child abuse or child neglect, and (5) programs that develop and make available to boards of education curricula and educational materials on basic child care and parenting skills, or programs that would provide both teacher and volunteer training programs. The bill maintains from the existing definition only public awareness programs and programs that train and place volunteers and adds community-based, family-focused support services and activities that (1) build parenting skills, (2) promote parental behaviors that lead to healthy and positive personal development of parents and children, (3) promote individual, family, and community strengths, or (4) provide information, education, or health activities that promote the well-being of families and children.

### **Children's Trust Fund Board**

(R.C. 3109.15, 3109.16, and 3109.17)

**Composition of the Children's Trust Fund Board.** The Children's Trust Fund Board is comprised of 13 members: the Directors of the Departments of Human Services and Health, seven public members, two members of the House of Representatives, and two members of the Senate. The bill adds the Director of Alcohol and Drug Addiction Services and an eighth public member to the Board. Rather than requiring that seven members of the Board approve the state allocation plan, the bill provides that eight members of the Board constitute a quorum, and a majority of the quorum is required to approve the state plan. It reiterates that a member of the Board, except a member of the General Assembly or a judge, forfeits the member's position on the Board by failing to attend at least three-fifths of the Board's meetings and permits a member's appointing authority to remove the member from the Board for misconduct, incompetency, or neglect of duty, after providing the member an opportunity to be heard.

**Administrative expenditures.** The Children's Trust Fund Board is authorized to use up to 3% of the Children's Trust Fund for administrative purposes, and may approve the use of up to 4%. The bill permits the Board to use not more than 5% of the Fund for administrative purposes and requires that the Board approve a budget for administrative expenditures each fiscal year.

**Duties of the Children's Trust Fund Board.** Under the bill, 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 child abuse and child neglect prevention advisory board. Before October 30 of each year, the Board must notify each advisory board of the amount estimated to be granted to that advisory board for the following fiscal year. Each January, the board of county commissioners is required to appropriate that amount for use by the advisory board.

Block grants are to be disbursed to the advisory boards twice annually. At least 50% of the amount allocated for a fiscal year must be disbursed no later than September 30; the remainder before March 31. The Board is no longer permitted to consider need, geographic location, diversity, existing services, local funding efforts, or use of volunteers in determining how the Fund is to be allocated among the advisory boards, although these factors are to be considered by the advisory boards in determining how to distribute the block grants. The amount of the block grant received by each advisory board is based solely on a formula based on the ratio of the number of children under age 18 in the county or multicounty district to the number of children under age 18 in the state.

The Board is required to provide for the monitoring of expenditures from the Children's Trust Fund and of programs that receive money from the Fund. It can revise the allocation of funds received by an advisory board if it determines that the advisory board is not operating in accordance with criteria it establishes for county or district allocation plans.

The bill eliminates the requirement that the Board establish a procedure for a written annual internal evaluation of itself, which is to be sent to the Governor and General Assembly and made available to the public. Instead, the Board must prepare a report for each fiscal biennium that evaluates the expenditures of money from the Fund. On or before January 1, 2002, and each fiscal biennium thereafter, the Board must file a copy of the report with the Governor and the General Assembly.

**Child abuse and child neglect prevention advisory boards**

(R.C. 3109.18; Section 162)

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 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. Counties that do not have an advisory board cannot receive money from the Fund. The county auditor serves as the auditor and fiscal officer for the advisory board. In the case of a multicounty district, the boards of county commissioners that formed the district must designate the auditor of one of the counties as the auditor and fiscal officer of the advisory board. Each county or district that establishes an advisory board is required to establish a county or district children's trust fund in the county treasury, and all funds received from the Children's Trust Fund must be deposited into that fund. Money from the county or district fund is to be distributed by the auditor at the request of the advisory board.

**Composition of advisory boards.** Under current law, an advisory board must consist of members who represent both public and private child serving agencies and persons with demonstrated knowledge in programs for children, such as persons from the educational community, parent groups, juvenile justice, and the medical community. Under the bill, an advisory board must include the following members: (1) a representative of an agency responsible for administering children's services, (2) a provider of alcohol or drug addiction services or a member of a board of alcohol, drug addiction, and mental health services (ADAMHS board), (3) a provider of mental health services or an ADAMHS board member, (4) a representative of a board of mental retardation and developmental disabilities, and (5) a representative of the educational community appointed by the superintendent of the largest school district in the county or district. Parent groups, juvenile justice officials, pediatricians, health department nurses, other representatives of the medical community, school personnel, counselors, Head Start agencies, child day-care providers, and other persons with knowledge about programs for children may be included on the advisory board. These composition requirements do not apply to a family and children first council that is appointed to serve as an advisory board.

**Duties of advisory boards.** The bill requires each advisory board to develop a comprehensive allocation plan for the purpose of preventing child abuse and child neglect and submit the plan to the Children's Trust Fund Board. Although the Board does not approve the plan, it may review it. 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 no longer to be forwarded to the Children's Trust Fund Board for review. Advisory boards must assist the Children's Trust Fund Board in monitoring programs that receive money from the Fund.

Application for funds must be made to an advisory board on forms prescribed by the Department of Human Services. The bill deletes from current law requirements for specific information that must be included on the application. Grant funds that are not spent by the recipient must be returned to the county treasurer. 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 comprehensive allocation plan that includes any information required by the Board.

**Failure to timely forward fees to the Treasurer of State**

(R.C. 3109.14)

The Director of Health, a person authorized by the Director, a local commissioner of health, a local registrar of vital statistics, and the court of common pleas are required to collect additional fees for copies of birth records, certifications of birth, death records, and on the filing for a divorce decree or decree of dissolution. These additional fees must be forwarded to the Treasurer of State for deposit in the Children's Trust Fund within 20 days. The bill provides that, if the fees are not sent to the Treasurer within *ten* days, the person or entity that failed to send them must send an additional 10% of the fees as a penalty.

**Delayed effective date**

(Section 162)

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.

### **Wellness Block Grant**

(R.C. 121.371)

Under current law, the Wellness Block Grant is to be used to make grants to county family and children first councils to fund community-based programs of prevention services that address issues of broad social concern. The Wellness Block Grant Program is administered by the Children's Trust Fund Board and overseen by the Family and Children First Cabinet Council. The bill provides that disagreements regarding the duties of the Council and Board are to be resolved by a representative of the Council and the chairperson of the Board. It also requires each county council to designate, after consultation with the board of county commissioners, a fiscal agent to receive funds from the block grant.

### **Supplementary compensation for the Director of Health**

(R.C. 124.181)

Current law authorizes a state agency, board, or commission to establish a supplementary compensation schedule for the licensed physicians that the agency, board, or commission employs in positions that require a licensed physician. The Director of Administrative Services must approve individual salary levels recommended for each such physician employed. (R.C. 124.181(M).)

The bill authorizes the Director of Administrative Services to approve supplementary compensation for the Director of Health, if the Director of Health is a licensed physician, in accordance with a supplementary compensation schedule the Director of Administrative Services has approved under current law or in accordance with another supplemental compensation schedule the Director of Administrative Services considers appropriate. The supplementary compensation must not exceed 20% of the Director of Health's base rate of pay. (R.C. 124.181(M)(2).)

### **Cancer incidence surveillance system**

(R.C. 3335.60, 3335.61, 3335.62, 3335.99, and 3701.99; Section 51)

Current law requires the Director of Health to establish a cancer incidence surveillance system. The system is a population-based cancer registry with the purpose of monitoring the incidence of various types of malignant diseases in Ohio; making appropriate epidemiological studies to determine any causal relations of these diseases with occupational, nutritional, environmental, or infectious conditions and alleviating or eliminating any such conditions.

The bill transfers responsibility for the cancer incidence surveillance system from the Department of Health to the Arthur G. James Cancer Hospital and Research Institute of The Ohio State University. The duties regarding the system that are imposed on the Department under current law are imposed on the hospital.

The bill provides that information concerning individual cancer patients obtained by the hospital for the surveillance system is to be for the confidential use of the surveillance system only.

The Department is required to provide the hospital all of its records pertaining to those duties.

**Administration of examinations and evaluations by the Department of Health**

(R.C. 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**

(R.C. 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**

(R.C. 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.

### **Organization of the Ohio Medical Quality Foundation**

(R.C. 3701.89)

Existing law directs the Ohio Medical Quality Foundation to fund activities to improve the quality of medical care rendered to the public. Funding of such activities must be "[i]n a manner consistent with federal income tax exemption status under subsection 501(c)(3) of the Internal Revenue Code." Additionally, the trustees of the Foundation are permitted to adopt rules and bylaws for the regulation of its affairs and the conduct of its business, but such rules and bylaws must be "consistent with subsection 501(c)(3) of the Internal Revenue Code." (In general, section 501(c)(3) of the Internal Revenue Code grants tax-exempt status to certain corporations and community foundations that are organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes.)

The bill expressly authorizes the Foundation to be organized as an Ohio nonprofit corporation.

### **Payments to health service agencies**

(R.C. 3702.52 and 3702.58; technical change: R.C. 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**

(R.C. 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**

(R.C. 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.<sup>8</sup> To the fee established by 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.

### **Nursing home claim of providing special services**

(R.C. 3721.025)

The bill requires the operator of a nursing home that claims to provide special services that are above the minimum services required for licensure as a nursing home to submit to the Department of Health a written description of the special services provided. The Department is to maintain a registry of each description submitted and on request, provide a copy of the description.

### **Adult care facilities**

(R.C. 340.03, 3722.01, 3722.011, 3722.10, 3722.15, 3722.16, 3722.18 (3722.99, not in the bill), and 5119.61; Section 68.04)

### **Referrals and ongoing mental health services**

The Public Health Council is required by current law to adopt rules specifying the personal, social, dietary, and recreational services to be provided to each resident of an adult care facility. In the case of an adult care facility providing personal care services to an individual with mental illness or severe mental disability who is referred by or receiving mental health services from a

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<sup>8</sup> 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.

mental health agency, the rules must require an affiliation agreement between the facility and a board of alcohol, drug addiction, and mental health services (ADAMHS board) or an affiliation agreement between the facility and mental health agency that is approved by the ADAMHS board. The affiliation agreement must be consistent with the residential portion of the community mental health plan submitted by the ADAMHS board to the Department of Mental Health.

The bill provides that the requirement for an affiliation agreement only applies when the owner or manager of an adult care facility knows that a prospective resident has been assessed as having a mental illness or severe mental disability. The affiliation agreement requirement applies if the prospective resident is referred to the facility by an ADAMHS board or mental health agency under contract with the board. The affiliation agreement does not apply in an emergency.

The bill also provides for the eventual replacement of the affiliation agreement requirement with a requirement that the owner or manager follow procedures established in rules regarding referrals to the facility of individuals with mental illness or severe mental disability and effective arrangements for ongoing mental health services. The Director of Mental Health, after consulting with relevant constituencies, is to prepare and submit to the Public Health Council recommendations for the content of the rules. After reviewing the recommendations, the Public Health Council is to adopt the rules not later than July 1, 2000. The procedures established in the rules may provide for any of the following:

(1) That the owner or manager sign written agreements with the mental health agencies and ADAMHS boards that refer such prospective residents to the facility. Each agreement must cover all such prospective residents referred by the agency or ADAMHS board with which the owner or manager enters into the agreement.

(2) That the owner or manager sign an individual service plan for each such prospective resident referred to the facility;

(3) Any other process regarding referrals and effective arrangements for ongoing mental health services.

The Public Health Council's rules must specify the date the owner or manager must, instead of entering into affiliation agreements, begin to follow the procedures for referrals and effective arrangements for ongoing mental health services established by the rules. The rules also must provide for monitoring to ensure that the procedures are followed correctly.

The Director of Mental Health is required to adopt rules governing the duties of mental health agencies and ADAMHS boards regarding the referrals and effective arrangements for ongoing mental health services. The rules must at least (1) provide for the agencies and ADAMHS boards to participate fully in the procedures established in the Public Health Council's rules and (2) specify the manner in which the ADAMHS boards are accountable for ensuring that ongoing mental health services are effectively arranged for the referred individuals.

The bill also establishes a requirement regarding an adult care facility admitting a prospective resident not referred by a mental health agency or ADAMHS board if the owner or manager of the facility knows the prospective resident has been assessed as having a mental illness or severe mental disability. The owner or manager must, in accordance with rules adopted by the Public Health Council, document that the owner or manager has offered to assist the prospective resident in obtaining appropriate mental health services.

#### **Administration of medication**

Current law provides that no person may be admitted to or retained by an adult care facility unless the person is capable of taking the person's own medication or is suffering from a short-term illness and a home health agency, hospice care program, or nursing home staff will administer the medication on a part-time, intermittent basis for not more than a total of 120 days in any 12-month period. The staff of the home health agency, hospice care program, or nursing home may not train the facility's staff to provide the care. The bill provides that an ADAMHS board or mental health agency under contract with an ADAMHS board may administer an adult care facility resident's medication under the same conditions.

#### **Restriction on placement into adult care facility**

Current law prohibits an employee of a unit of local or state government, an ADAMHS board, or mental health agency from placing or recommending placement of any person in an adult care facility if the employee knows that the facility cannot meet the person's needs. The bill imposes this prohibition on PASSPORT administrative agencies as well. In the case of a mental health agency, the bill provides that the prohibition applies only if the agency is under contract with an ADAMHS board. Whoever violates the prohibition is to be fined \$100 for a first offense and \$500 for each subsequent offense.

### **Right to enter adult care facility**

The bill provides that employees of the Department of Mental Health designated by the Director of Mental Health may enter an adult care facility at any time. Employees of a mental health agency under contract with an ADAMHS board may enter an adult care facility at any time if the agency has a client residing in the facility. Employees of an ADAMHS board are also allowed entrance into an adult care facility at any time if an individual receiving mental health services provided by the board or a mental health agency under contract with the board resides in the facility. The employees are to be afforded access to all of the facility's records, including records pertaining to residents, and may copy the records. The employees are prohibited from releasing, without consent or court order, any information obtained from the records that reasonably would tend to identify a specific resident of the facility.

### **Rules governing reports about quality of care**

Under current law, any person who believes an adult care facility is violating the law or rules governing facility licensure is permitted to report the information to the Director of Health. The bill requires that the Director of Mental Health adopt rules governing an ADAMHS board's report regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

### **Group to evaluate implementation**

The bill requires that the Directors of Mental Health, Health, and Aging convene a group of key relevant constituencies to evaluate the implementation of the bill's provisions regarding residents of adult care facilities who have mental illness or severe mental disabilities. The directors must convene the group not later than July 1, 2001. The group must report its findings and recommendations to the directors and General Assembly not later than July 1, 2002.

### **Radiation control program fees for medical practitioners**

(R.C. 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 <sup>9</sup>	\$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 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

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<sup>9</sup> 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.

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).

**Collection of information and outcomes assessment of publicly funded alcohol and drug addiction programs**

(R.C. 3793.08 and 3793.12)

Under current law, the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) is required to collect and compile certain statistical information on the care, treatment, and rehabilitation of alcoholics, drug dependent persons, and persons in danger of drug dependence, including information on the number of such persons, the type of drug involved, the type of care, treatment, or rehabilitation prescribed or undertaken, and the success or failure of the care, treatment, or rehabilitation. The bill requires that ODADAS, based on that information, develop a project to assess the outcomes of persons served by publicly funded alcohol and drug addiction services.

Current law also requires ODADAS to submit an annual report regarding services it provides, including the number of people served, with a breakdown by age, gender, race, and other categories the Director considers significant. The report must measure the success of alcohol and drug addiction programs. The bill requires that the report include information on the types of drugs to which persons described in the report are addicted and clarifies that the report measuring the success of alcohol and drug addiction programs must include the percentage of persons served by programs funded by ODADAS that have not relapsed.

**Client Engagement and Treatment Outcomes Study**

(Section 15)

The bill requires ODADAS to (1) convene a study council within 30 days after the bill's effective date to study client engagement and treatment outcomes and (2) recruit as volunteers for the study individuals who have successfully completed the treatment goals of an individualized treatment plan developed by a certified alcohol and drug addiction program. Volunteers must consent to the receipt and use of their records by the study council.

The council must include representatives of four boards of alcohol, drug addiction and mental health services (ADAMHS boards) serving urban and rural service districts, representatives of certified alcohol and drug addiction programs under contract with ADAMHS boards to provide comprehensive addiction

services, and other professionals with interest or expertise in client engagement and treatment outcomes. The study council is to conduct the study for two years, design the study, issue progress reports to ODADAS if required, and issue a final report to ODADAS and the General Assembly, after which it ceases to exist. During the study, the council must have subjects contacted on the 15th, 30th, 60th, 180th, and 360th days after the subject's discharge from treatment, review court records of subjects involved in the criminal justice system, and, if permitted, contact the subjects' family, neighbors, or employers. The council must determine the most successful means of intervention after discharge from alcohol and drug addiction treatment and recommend changes to clinical protocols and quality standards for publicly funded alcohol and drug addiction treatment services.

The council's final report is to contain the council's recommendations for changes to state law and rules with the goal of improving clinical quality and reducing rates of relapse following treatment discharge. ODADAS must seek funding available to support the work of the study council, including funding available from the United States Substance Abuse and Mental Health Services Administration and private charitable foundations.

**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**

(R.C. 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**

(R.C. 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 change**

(R.C. 4723.08)

The bill changes 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**

(R.C. 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**

(R.C. 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**

(R.C. 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**

(R.C. 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**

(R.C. 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**

(R.C. 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 increases the maximum amount that may be charged by the Board for biennial registration to \$275 in FY 2000 and \$350 thereafter.

**State Board of Sanitarian Registration fee increases**

(R.C. 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**

(R.C. 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**

(R.C. 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 license	\$200	\$250
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	\$75	\$100



<i>Type of fee</i>	<i>Fee in current law</i>	<i>Fee under the bill</i>
fitter's trainee permit		
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**

(R.C. 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**

(R.C. 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.

**Department of Human Services assistant directors**

(R.C. 121.05 and 5101.03)

Under current law, the Director of Human Services designates an assistant director who is authorized to exercise powers and perform the duties that the director may order and to act as director in the absence or disability of the director or in case of a vacancy in the position of the director. The bill permits the Department of Human Services (DHS) to have up to two assistant directors, each of whom is to be designated by the director. The director may designate which assistant director will act as DHS director in case of the director's absence or disability or of a vacancy in the position of DHS director.

**Training for county departments of human services employees**

(R.C. 5101.072)

The bill requires that the Department of Human Services do both of the following:

(1) Collaborate with county departments of human services to develop training for appropriate employees of the county departments regarding the provisions of Sub. H.B. 408 of the 122nd General Assembly, and of Sub. H.B. 167 of the 121st General Assembly that have not been superseded by H.B. 408, that impose duties on county departments of human services;<sup>10</sup>

(2) Collaborate with the county departments on providing the training after the training is developed.

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

(R.C. 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**

(R.C. 117.45, 131.01, 5101.33, 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

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<sup>10</sup> Sub. H.B. 167 and Sub. H.B. 408 were the welfare reform bills of the 121st General Assembly and the 122nd General Assembly, respectively.

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 or service rendered under any other program administered by the department, and any program, service, or assistance administered by a private entity or another government agency that the department determines may be delivered through the EBT system.<sup>11</sup>

The department is permitted by the bill to enter into a written agreement with any private or government entity to provide benefits administered by that entity through the EBT system. A written agreement may require the entity to pay to the department either or both of the following: (1) a charge that reimburses the department for all costs the department incurs in having the benefits provided through the EBT system or (2) a fee for having the benefits provided through the EBT system.

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 individuals to have their cards credited electronically at the facilities of any private or government entity.

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<sup>11</sup> *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.*

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.

### **Use of TANF funds for Title XX purposes**

(R.C. 5101.46)

Under Title XX of the Social Security Act, block grants are made by the federal government to the states for the purpose of funding the provision of social services directed at certain goals.

Current state law provides that, if federal funds received by the Department of Human Services for use under the Ohio Works First and Prevention, Retention, and Contingency Programs (known as Temporary Assistance for Needy Families (TANF) in federal law) are transferred by the Controlling Board for use in providing Title XX social services, the department is required to distribute the funds solely to the county departments of human services. The bill provides that the department also may use the funds for services that benefit individuals eligible for social services consistent with the principles of TANF.

### **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**

(R.C. 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**

(R.C. 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.

**Application for Medicaid deemed for Children's Health Insurance Program (CHIP)**

(R.C. 5101.503 and 5101.519)

The bill provides that a completed application for Medicaid is to be treated as an application for CHIP Part I and II when the application includes an individual under age 19 and is denied.

**Rules**

(R.C. 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**

(R.C. 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**

(R.C. 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 make the determination of whether to approve payment of the expenses. 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**

(R.C. 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.<sup>12</sup>

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<sup>12</sup> *Ohio Administrative Code §§ 5101:4-4-39 and 5101:4-5-01.*

### **Kinship caregiver support services**

The bill provides for support services to be given to certain caregivers of a child known under the bill as "kinship caregivers." As further explained below, these caregivers are usually relatives of the child or individuals who had a special relationship with the child prior to the child coming under their care. To provide for these services, the bill establishes the Kinship Care Services Planning Council and requires the Ohio Department of Human Services (ODHS) to establish a program providing support services to kinship caregivers.

#### **Kinship Care Services Planning Council**

(R.C. 5101.851 and 5101.852)

The bill creates the Kinship Care Services Planning Council in ODHS composed of the Superintendent of Public Instruction and the Directors of ODHS, Youth Services, Health, Mental Health, Alcohol and Drug Addiction Services, Mental Retardation and Developmental Disabilities, and Aging, or the Superintendent's or Director's designees. Representatives of the following as appointed by the Director of Human Services are also to serve on the Council: public children services agencies; county departments of human services; child support enforcement agencies; area agencies on aging; legal aid societies; and organizations the Director determines should be represented on the Council. The Director is to make the appointments no later than August 30, 1999.

The Council's purpose is to make recommendations to the Director, based on the report of the Grandparents Raising Grandchildren Task Force created by Am. Sub. H.B. 215 of the 122nd General Assembly, specifying the types of services that should be included as part of a program providing support services to kinship caregivers. The Council must make the recommendations no later than December 31, 1999, and ceases to exist on the date the recommendations are made.

#### **Kinship caregiver support services program**

(R.C. 5101.853 and 5101.854)

ODHS, based on the recommendations of the Council and using qualified state expenditures (as defined in federal law), must establish a program providing support services to kinship caregivers. The program must be established by March 31, 2000. The program must provide services that include the following: publicly funded child day-care; respite care; training related to caring for special needs children; a toll free telephone number that may be called to obtain basic

information about the rights of, and services available to, kinship caregivers; and legal services.

ODHS is required to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) to implement the program. To the extent permitted by federal law and the Revised Code, the rules may expand eligibility for programs administered by ODHS in a manner making kinship caregivers eligible for the program.

**"Kinship caregiver" defined**

(R.C. 5101.85)

The bill defines "kinship caregiver" as any of the following individuals who is age 18 or older and is caring for a child in place of the parents:

(1) The following individuals related by blood or adoption to the child: grandparents, including grandparents with the prefix "great," "great-great," or "great-great-great"; siblings; aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand"; and first cousins and first cousins once removed.

(2) Stepparents and stepsiblings of the child;

(3) Spouses and former spouses of individuals named in (1) and (2) above;

(4) Legal guardian of the child;

(5) Legal custodian of the child.

**Adult Emergency Assistance Program**

(R.C. 5101.86)

Sub. H.B. 167 of the 121st General Assembly established the Adult Emergency Assistance Program for operation in state fiscal years 1996 and 1997 to assist low-income adults with emergency needs such as food, clothing, and shelter. Am. Sub. H.B. 215 of the 122nd General Assembly renamed the program the Non-TANF Emergency Assistance Program and provided for its operation in state fiscal years 1998 and 1999. The bill provides for the program to have its original name and codifies the section creating the program so that it will continue, subject to appropriations, indefinitely.

Under current law, only an adult ineligible for Temporary Assistance for Needy Families (known as Ohio Works First in Ohio) with income not greater than

40% of the federal poverty guidelines is eligible for the program. The bill changes the eligibility requirements. Instead of having to be ineligible for Temporary Assistance for Needy Families, an adult must not be a parent who resides with his or her child. An adult may have income greater than 40% of the federal poverty guidelines if the adult is age 65 or older and receives Supplemental Security Income (SSI). SSI is a federal program that provides cash assistance to disabled and elderly people who are not eligible for Social Security.

**Reimbursement of type B day-care homes with limited certification**

(R.C. 5104.30)

Current law provides that a type B family day-care home is eligible for reimbursement under the publicly funded child day-care program if the home is certified by the county department of human services. Eligibility for public funds extends to type B homes with limited certification, which is granted to a day-care provider who provides care only for children who are relatives or only for the children of one parent. Under the bill, type B homes with limited certification are to be reimbursed at a rate of the greater of the rate in effect on October 1, 1997 for the home or 75% of the rate paid to homes with full certification.

**Payment for absentee publicly funded child day-care**

(R.C. 5104.32)

In general, purchases of publicly funded child day-care are made under contracts entered into between licensed or certified child day-care providers and a county department of human services. The Revised Code sets forth specifications for such contracts. The bill provides that the specifications must include payment in each six-month period for up to ten days of publicly funded child day-care that would have been provided had the child been present. The county department may elect to pay for a greater number of days.

**Income limit for publicly funded child day-care**

(R.C. 5104.38)

The Ohio Department of Human Services (ODHS) is required to adopt rules establishing procedures and criteria to be used in making eligibility determinations for publicly funded child day-care. The rules must specify the maximum amount of income a family may have for initial and continued eligibility. Under current law, the maximum amount may not exceed 185% of the federal poverty guidelines. If ODHS specifies a maximum amount that is less than 185% of the guidelines, a

county department of human services may specify a maximum amount that is higher than the amount ODHS specifies but does not exceed 185% of the guidelines.

The bill raises the maximum amount that ODHS or a county department may set as the income eligibility limit for publicly funded child day-care. Effective July 1, 2000, the income limit may be raised to 200% of the guidelines.

**Schedule of fees for publicly funded child day-care**

(R.C. 5104.38)

ODHS is required to adopt rules establishing a schedule of fees for all caretaker parents receiving publicly funded child day-care. The bill provides that the schedule may not provide for a caretaker parent to pay a fee that exceeds 10% of the parent's family income.

**Rules regarding eligibility determinations for publicly funded child day-care**

(R.C. 5104.38)

The bill requires that the Department of Human Services adopt rules establishing procedures for a county department of human services to follow in making eligibility determinations and redeterminations for publicly funded child day-care available through the telephone, computer, and other means at locations other than the county department.

**Publicly funded child day-care eligibility determination valid for one year**

(R.C. 5104.341)

The bill provides that an eligibility determination for publicly funded child day-care is valid for one year and a fee charged pursuant to ODHS's schedule of fees may not be changed during that one-year period, unless, because of changes in income, family size, or both, the county department of human services lowers the fee after a caretaker parent's request to do so. These provisions do not apply if the recipient of the day-care ceases to be eligible or the day-care is 30-day maximum day-care provided to caretaker parents seeking employment or taking part in employment orientation activities or activities in anticipation of enrollment or attendance in an educational or training program expected to begin within the 30-day period.

## **Ohio Works First**

The Ohio Works First program is a time-limited, income maintenance program for families with children or pregnant women. Families participating in the program receive cash assistance and other benefits in exchange for fulfilling work and other requirements designed to lead to self-sufficiency and personal responsibility.

### **Information to be included on application**

(R.C. 5107.05)

Current law requires the Department of Human Services to adopt rules specifying the minimum information an Ohio Works First application must contain. The bill provides that, if there are at least two telephone numbers available that a county department of human services can call to contact members of an assistance group, which may include the telephone number of an individual who can contact an assistance group member for the county department, the minimum information must include at least those two telephone numbers.

### **Composition of assistance groups**

(R.C. 5107.02, 5107.10, 5107.11; ancillary sections: 5107.16, 5107.24, 5107.28, and 5107.60)

Current law provides that to be eligible to participate in Ohio Works First an assistance group must include certain types of individuals. An assistance group must include at least (1) a child who, with one exception, resides with a custodial parent, guardian, or specified relative caring for the child, (2) a specified relative residing with and caring for a child receiving Supplemental Security Income, foster care, or adoption assistance, or (3) a woman who is at least six months pregnant.<sup>13</sup> A specified relative is an adult who is one of the following a (1) grandparent (including a grandparent with the prefix "great," "great-great," or "great-great-great"), (2) sibling, (3) aunt, uncle, nephew, or niece (including such a relative with the prefix "great," "great-great," or "great-grand"), (4) first cousin or first cousin once removed, (5) stepparent or stepsibling, or (6) spouse or former spouse of such relatives.

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<sup>13</sup> *Under certain circumstances, a child who is a parent or pregnant may reside in an adult-supervised living arrangement rather than with a custodial parent, guardian, or specified relative. (See "**Adult-supervised living arrangement**" below.)*

The bill revises the assistance group composition requirements. Instead of referring to "custodial parents," the bill uses the term "parents." The ability of an assistance group to consist of a child residing with a guardian who cares for the child is limited to the extent permitted by federal statutes and regulations. The bill defines "guardian" as an individual who is granted authority by a probate court, or court of competent jurisdiction in another state, to exercise parental rights over a child to the extent provided in the court's order and subject to residual parental rights of the child's parents.

The bill also expands the types of assistance groups that may participate in Ohio Works First. An assistance group may include a parent residing with and caring for a child receiving Supplemental Security Income or, to the extent permitted by federal statutes and regulations, a child who resides with a custodian caring for the child.<sup>14</sup> "Custodian" is defined as an individual who has legal custody of a child or comparable status over a child created by a court of competent jurisdiction in another state.

The bill provides that a specified relative of a child is not required to be included in the child's assistance group. To the extent permitted by rules governing assistance group composition requirements, the specified relative is allowed to choose to be included in the assistance group. However, if the specified relative resides with his or her own child as well as the other child, the specified relative must be, to the extent provided by rules governing assistance group composition requirements, a member of the assistance group of his or her own child but may not be a member of the other child's assistance group. A guardian or custodian is not permitted to be a member of the assistance group of the child for whom the guardian or custodian is guardian or custodian, unless the guardian or custodian is the child's specified relative.

**Continued participation despite removal of child**

(R.C. 5107.10)

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<sup>14</sup> *The provision of the bill that allows an assistance group to consist of a parent residing with and caring for a child receiving Supplemental Security Income may need to be amended to correct a mistake. In its current form, the bill would also permit an assistance group to consist of a custodial parent residing with and caring for a child receiving foster care or adoption assistance. A child does not receive foster care if residing with the child's parent. The provision regarding adoption assistance would result with a family receiving adoption assistance while participating in Ohio Works First.*

Under current law, an assistance group may continue to participate in Ohio Works First even though a public children services agency removes the assistance group's children from the assistance group's home due to abuse, neglect, or dependency if the agency (1) notifies the county department of human services at the time the agency removes the children that it believes the children will be able to return to the assistance group within three months and (2) informs the county department at the end of both of the first two months after the agency removes the children that the parent, guardian, custodian, or specified relative is cooperating with the case plan and that the agency is making reasonable efforts to return the children to the assistance group.<sup>15</sup> Continued participation under this circumstance is limited to three months.

The bill extends to six months the time an assistance group may continue to participate in Ohio Works First even though a public children services agency has removed the children from the assistance group's home due to abuse, neglect, or dependency. The agency is required to inform the county department at the end of each of the first five months after removal that the parent, guardian, custodian, or specified relative is cooperating with the case plan and the agency is making reasonable efforts to return the children. The agency also must notify the county department at the time the agency removes the children that it believes the children will be able to return to the assistance group within six months.

#### **Adult-supervised living arrangement**

(R.C. 5107.24)

Current law provides that, with certain exceptions, a pregnant minor, minor parent, or child of a minor parent must reside in a place of residence maintained by a parent, guardian, custodian, or specified relative as the parent, guardian, custodian, or specified relative's own home to be eligible to participate in Ohio Works First.<sup>16</sup> The exceptions are that (1) the minor parent or pregnant minor does not have a parent, guardian, custodian, or specified relative living or whose

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<sup>15</sup> *The requirement that the public children services agency inform the county department of human services that the custodian is cooperating with the case plan is added by the bill to be consistent with the provision of the bill that allows an assistance group, to the extent permitted by federal statutes and regulations, to consist of a child residing with a custodian caring for the child.*

<sup>16</sup> *The requirement that a pregnant minor, minor parent, or child of a minor parent reside in the home of a custodian is added by the bill to be consistent with the provision of the bill that allows an assistance group, to the extent permitted by federal statutes and regulations, to consist of a child residing with a custodian caring for the child.*

whereabouts are known, (2) no parent, guardian, custodian, or specified relative will allow the pregnant minor, minor parent, or minor parent's child to live in his or her home, (3) the Department of Human Services, a county department of human services, or a public children services agency determines that the physical or emotional health or safety of the pregnant minor, minor parent, or minor parent's child would be in jeopardy if he or she lived in the same home as the parent, guardian, custodian, or specified relative, or (4) the department, county department, or agency otherwise determines that it is in the best interest of the pregnant minor, minor parent, or minor parent's child to waive this requirement. If exempt, the pregnant minor, minor parent, or minor parent's child must instead reside in an adult-supervised living arrangement.

The bill provides that the requirement that a pregnant minor, minor parent, and minor parent's child live in the home of the pregnant minor or minor parent's parent, guardian, custodian, or specified relative, and the exceptions to this requirement, apply only to the extent permitted by federal statutes and regulations.

Whenever possible, the Department of Human Services is required to provide cash assistance under Ohio Works First to the parent, guardian, custodian, or specified relative of the pregnant minor or minor parent on behalf of the pregnant minor, minor parent, or minor parent's child. The bill provides that this requirement applies only to the extent permitted by federal statutes and regulations.

### **Gross income standard**

(R.C. 5107.05 and 5107.10)

Current law establishes a two-step process for determining whether an assistance group meets the income requirement for initial eligibility to participate in Ohio Works First. Under the first step, a county department of human services must determine whether the assistance group's gross income exceeds a certain amount specified in the law. This amount is known as the gross income standard. For example, current law provides that the gross income standard for an assistance group with three members is \$630. If the assistance group's gross income, less certain amounts that are disregarded, does not exceed the applicable gross income standard, the assistance group passes the first step.<sup>17</sup>

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<sup>17</sup> *Under the second step, the county department must determine whether the assistance group's countable income is less than the maximum amount of cash assistance the assistance group may receive under Ohio Works First from state and federal funds. The assistance group satisfies the income requirement if its countable income is less than that amount.*

The bill eliminates the gross income standard established by current law and provides instead for the Department of Human Services to adopt a rule establishing the standard. The Department is to adopt the rule in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

**Earned income disregard**

(R.C. 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 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.

**Notice before sanction**

(R.C. 5107.161)

A county department of human services is required to sanction an Ohio Works First assistance group if a group member fails or refuses, without good cause, to comply in full with a provision of a self-sufficiency contract. A

sanctioned assistance group is ineligible to participate in Ohio Works First for a certain amount of time.

The bill requires that a county department of human services, before sanctioning an assistance group, provide the assistance group written notice of the sanction. The written notice must include a provision printed in bold type face that informs the assistance group that it may request a face-to-face meeting with the county department not later than ten days after receiving the written notice to explain why the assistance group believes it should not be sanctioned. The written notice also must include the telephone numbers of the assistance group's caseworker and of an Ohio Works First ombudsperson who the assistance may call if unable to contact the caseworker and the toll-free telephone number of the Ohio Department of Human Services.

**Eligibility for services despite sanction**

(R.C. 5104.30, 5104.34, and 5107.16)

A county department is required to provide an Ohio Works First assistance group member who causes the group to be sanctioned an opportunity to demonstrate a willingness to cease the failure or refusal to comply with the self-sufficiency contract. The bill requires that the county department provide the member this opportunity by continuing to work with the assistance group. Despite a sanction, an assistance group retains eligibility for the following:

- (1) To the extent permitted by federal law, to participate in Ohio Works First's work requirements;
- (2) Support services provided for participating in the work requirements;
- (3) Publicly funded child day-care provided for participating in the work requirements.

**Resumption of participation after sanction**

(R.C. 5107.17)

The bill provides that an assistance group that resumes participation in Ohio Works First following a sanction is not required to do either of the following:

- (1) Reapply for the program, unless it is the assistance group's regularly scheduled time for an eligibility redetermination;

(2) Enter into a new self-sufficiency contract, unless the county department determines it is time for a new appraisal regarding work requirements or the assistance group's circumstances have changed in a manner necessitating an amendment to the contract as determined using procedures included in the contract.

**Exception to six-month sanction for terminating employment**

(R.C. 5107.26)

Each member of an assistance group participating in Ohio Works First is ineligible to participate in the program for six payment months if a member of the group terminates employment without just cause. Similarly, each person who, on the day before a recipient began to receive transitional child day-care or Medicaid, was a member of the recipient's assistance group is ineligible to participate in Ohio Works First for six payment months if the recipient terminates employment without just cause. An assistance group member does not lose eligibility to participate in Ohio Works First if the county department of human services certifies that the assistance group member or recipient terminated employment with just cause. Just cause includes discrimination; unreasonable work demands or conditions; or employment that has become unsuitable because the wage is less than the federal minimum wage or, with certain exceptions, the work is at a site subject to a strike or lockout. The bill provides that an assistance group member also does not lose eligibility to participate in Ohio Works First if the termination of employment was because the member or recipient secured comparable or better employment.

**Monthly energy assistance payments**

(R.C. 5107.77 and 5115.08 (repealed); technical change: R.C. 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.

**Eligibility for the Prevention, Retention, and Contingency Program**

(R.C. 5108.06)

The Prevention, Retention, and Contingency Program is required to provide assistance or services needed to overcome immediate barriers to achieving or maintaining self-sufficiency. An assistance group is eligible to receive assistance or services under the Program if it includes a minor child and meets the Program's eligibility requirements. The amendment expands eligibility for the Program to include assistance groups that include a pregnant woman.

**Expansion of Medicaid eligibility**

(R.C. 5111.01 and 5111.014)

Ohio's Medicaid Program provides medical assistance to certain low-income persons. The bill requires the Director of Human Services to submit to the United States Secretary of Health and Human Services an amendment to the state Medicaid plan that expands Medicaid eligibility to the following individuals who comply with any rules established by the Department of Human Services: (1) pregnant women whose countable income does not exceed 150% of the federal poverty guidelines, and (2) working parents of children under 19 years of age whose countable income does not exceed 100% of the federal poverty guidelines.<sup>18</sup> The Director must implement the amendment as soon as possible after receiving notice that the federal government has approved it, but no sooner than January 1, 2000.

**Medicaid-covered community mental health services**

(R.C. 340.03, 5111.022, and 5119.61)

Current law provides for Medicaid to cover the following mental health services provided in the community: (1) outpatient mental health services, including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed, (2) partial-hospitalization mental health services of three to 14 hours per service day rendered by persons directly supervised by a mental health professional, and (3) unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional. Only community mental health facilities that have quality assurance programs accredited by the Joint Commission on Accreditation of Healthcare Organizations or certified by the

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<sup>18</sup> *To be eligible for Medicaid under current law, a pregnant woman's countable income may not exceed 133% of the federal poverty guidelines. Ohio Administrative Code § 5101-1-40-08.*

Department of Mental Health or Department of Human Services may provide the services.

The Department of Human Services is required to enter into a contract with the Department of Mental Health regarding the Medicaid-covered community mental health services. The contract must specify that the Department of Mental Health and boards of alcohol, drug addiction, and mental health services are to provide state and local matching funds for Medicaid reimbursement of the services. The bill requires that the contract also specify how the community mental health facilities will be paid for providing the services.

The Director of Mental Health is required to make rules as necessary to carry out the purposes of state law governing community mental health services. The bill provides that the rules may govern the method of paying a facility for providing Medicaid-covered community mental health services. The rules must be consistent with the contract between the Departments of Human Services and Mental Health.

Boards of alcohol, drug addiction, and mental health services are required to contract with public and private agencies for the provision of community mental health services and facilities. The bill requires that such a contract with a facility to provide Medicaid-covered community mental health services provide for the facility to be paid in accordance with the contract between the Departments of Human Services and Mental Health and the rules adopted by the Director of Mental Health.

#### **Adjustment to Medicaid reimbursement**

(R.C. 5111.025)

The bill requires that the Ohio Department of Human Services adjust the rate it reimburses certain medical providers under Medicaid by the percentage increase in the gross domestic product deflator for the preceding calendar year. The Department must make the adjustment annually, beginning July 1, 2001.

The Department is to adopt rules specifying which providers will receive the adjustment. The rules must include at least physicians, dentists, and ambulance service providers. The rules must exclude nursing facilities, intermediate care facilities for the mentally retarded (ICFs/MR), hospitals, and managed care organizations. The bill provides that this provision does not affect current law governing Medicaid reimbursement of nursing facilities and ICFs/MR or preclude the Department from adjusting the rate it reimburses hospitals and managed care organizations in a manner different from that specified in the bill.

**Report concerning Medicaid recipients' access to and reimbursement rates for services provided by physicians and dentists**

(R.C. 5111.026)

The bill requires the Ohio Department of Human Services, on or before December 31, 2000, and each even-numbered year thereafter, to complete and prepare a survey that includes all of the following:

- (1) An examination of access by Medicaid recipients to physicians and dentists;
- (2) The effect of Medicaid rates and methods of reimbursement on participation in Medicaid by physicians and dentists;
- (3) A comparison of the rates of reimbursement for services provided under Medicaid and equivalent services provided in the private sector by physicians and dentists.

The results of each survey must be submitted to the Governor, Speaker and Minority Leader of the House of Representatives, and President and Minority Leader of the Senate.

To meet the survey requirement, the department is required to use a survey format and questions recommended by a committee appointed by the department.

**Medicaid Managed Care Study Committee**

(R.C. 5111.173)

The bill abolishes the Medicaid Managed Care Reimbursement Study Committee created by Am. Sub. H.B. 215 of the 122nd General Assembly and replaces it with the Medicaid Managed Care Study Committee. The committee is to consist of 17 members, including legislators, representatives of the Governor's office and state and local government agencies, and representatives of private entities that provide services to Medicaid recipients. The committee is to examine the Medicaid Managed Care Program and may study such issues as consumer access and satisfaction, reimbursement, alternative service delivery models, and future plans. The Legislative Budget Office is to serve as staff for the committee.

The bill requires the committee to complete its examination and submit its report to the Governor and leadership of the House of Representatives and Senate by July 3, 2000, after which the committee ceases to exist.

### **Medicaid Administrative Simplification**

(Section 55.03)

The bill requires the Department of Human Services to implement a series of initiatives designed to simplify administrative procedures in the Medicaid program. The initiatives must be designed to do the following with regard to the application process and eligibility determination: (1) reduce complexity, (2) create and promote consistency, and (3) coordinate with other health and human services programs, including the Women, Infants and Children Program administered by the Ohio Department of Health. The initiatives are also to be designed to provide information to the public regarding the opportunity to receive Medicaid benefits and how to apply for them.

The bill requires the Department of Human Services, during fiscal year 2000, to work with a targeted group of county departments of human services in developing and testing the initiatives to determine which would be best for implementation statewide. The following counties are included in the targeted group: Butler, Clermont, Cuyahoga, Franklin, Hamilton, Hocking, Warren, and other counties selected by the Department. During fiscal year 2001, the Department is to promote the initiatives that were determined to be best for statewide implementation.

### **Medicaid reimbursement of nursing facilities**

(R.C. 5111.231; Section 55.09)

The Department of Human Services is required to pay each nursing facility eligible for Medicaid reimbursement a per resident per day rate for direct care costs established prospectively for each facility. As part of the process of determining rates for direct care costs, the department must determine case-mix scores for nursing facilities using data for each resident from a resident assessment instrument specified in rules and the case-mix values established by the United States Department of Health and Human Services. The department also must use a grouper methodology.

Current law requires that the department use the grouper methodology specified in the department's rules in effect on July 1, 1993. The department is allowed to modify the grouper methodology only if the revision is first recommended by the Medicaid Long-Term Care Reimbursement Study Council.

The bill provides for the department to use a different grouper methodology. The department is to use the grouper methodology used on the bill's

effective date by the United States Department of Health and Human Services for prospective payment of skilled nursing facilities under Medicare. The department is permitted to modify the methodology in the following ways:

- (1) Establishing a different hierarchy for assigning residents to case-mix categories under the methodology;
- (2) Prohibiting the use of the index maximizer element of the methodology;
- (3) Incorporating changes the United States Department of Health and Human Services makes after the bill's effective date;
- (4) Making other changes approved by the Medicaid Long-Term Care Reimbursement Study Council.

Current law provides that the department may penalize a nursing facility that fails to timely submit information for a calendar quarter necessary to calculate its case-mix score or submits incomplete or inaccurate information for a calendar quarter. Before penalizing a nursing facility, the department must permit the facility a reasonable period of time to correct the information. Under current law, the department may not penalize the nursing facility unless it fails to submit corrected information prior to the 81st day after the end of the calendar quarter to which the information pertains. The bill provides that the department is not to penalize the nursing facility unless it fails to submit corrected information prior to the earlier of the date provided by current law or the deadline for submission of such corrections established by federal Medicare and Medicaid regulations.

The department is permitted to adopt rules establishing procedures for nursing facilities to correct assessment information. The rules may prohibit a nursing facility from submitting corrected assessment information, for the purpose of calculating its annual average case-mix score, more than two calendar quarters after the end of the quarter to which the information pertains or, if the information pertains to the quarter ending the 31st day of December, after the 31st day of the following March. The bill provides that the rules may prohibit a nursing facility from submitting corrected assessment information later than the earlier of the date permitted by current law or the deadline for submission of such corrections established by federal Medicare and Medicaid regulations. The rules also may limit the content of the corrections in a manner required by federal Medicare and Medicaid regulations.

For the purpose of determining nursing facilities' rate of direct care costs for fiscal year 2000, the department is authorized by the bill to calculate annual average case-mix scores for calendar year 1998 using resident assessment

information for calendar quarters ending September 30, 1998, and December 31, 1998.

**Medicaid reimbursement of intermediate care facilities for the mentally retarded**

(R.C. 5111.23 and 5111.231)

The Department of Human Services is required to pay each intermediate care facility for the mentally retarded (ICF/MR) eligible for Medicaid reimbursement a per resident per day rate for direct care costs established prospectively for each ICF/MR. Each ICF/MR must report resident assessment information to the department for the department to determine the ICF/MR's rate. Current law authorizes the department to adopt a rule that permits some or all ICFs/MR to submit the information annually with their cost reports, instead of quarterly. The bill eliminates the department's authority to adopt this rule. All ICFs/MR will be required to submit the information quarterly.

**Hospital Care Assurance Program**

(R.C. 5112.01, 5112.03, 5112.06, 5112.07, 5112.08, 5112.09, and 5112.17; Sections 139 and 140)

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.<sup>19</sup>

**Extension of "sunset"**

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

**Assessment rates**

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

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<sup>19</sup> A portion of the assessment also goes to pay the expenses of the Legislative Budget Office.

hospitals' total facility costs. The Department must assess hospitals in a manner consistent with federal statutes and regulations.

### **Distribution of funds**

Current law requires that the Director of Human Services adopt rules establishing a methodology to pay hospitals for the indigent care they provide through the Hospital Care Assurance Program. Under the rules, the Director is required to classify similar hospitals into groups and allocate the program's funds for distribution within each group. The bill permits the Director to classify hospitals into groups, thus allowing rules to be adopted under which payments are made directly to individual hospitals. In addition, the bill clarifies that the "payments" are actually "distributions of funds."

### **Responsibility of third-party payers**

The bill permits a hospital to take actions to ensure that there is no other third-party payer available before using funds received under the Hospital Care Assurance Program as the source of reimbursement for providing services to an individual.

### **Disability Assistance for individuals receiving substance abuse treatment**

(R.C. 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.

### **Licensure of mental health residential facilities**

(R.C. 5119.22; Section 133)

A "residential facility" is a publicly or privately operated home or facility that provides individuals with a mental illness or a severe mental disability who are referred by or are receiving mental health services from a mental health agency, hospital, or practitioner with any of the following services:

- (1) Room and board, personal care services, and mental health services to one or more individuals;
- (2) Room and board and personal care services to one or two individuals;
- (3) Room and board to five or more individuals.

The Department of Mental Health is required to inspect and license the operation of residential facilities and may issue full, probationary, and interim licenses. Under current law, a full license issued by the Department expires one year after the date of issuance; a probationary license expires in a shorter period of time as determined in rules adopted by the Director of Mental Health; and an interim license expires 90 days after the date of issuance. The bill changes the current expiration date for a full license to two years from the date of issuance. The bill specifies that the expiration date of a full license issued before the bill's effective date is not affected, but, on and after that date, the license must be renewed for two-year periods.

### **Replacement facilities for community mental health services**

(R.C. 5119.631)

Under current law, the Department of Mental Health operates a Community Capital Grant Program to distribute state capital funds for the acquisition or construction of local facilities providing housing and other services to severely mentally disabled persons. (R.C. 5119.63, not in the bill.) The director of mental health can release funds for a facility upon application by a board of alcohol, drug addiction, and mental health services, a community mental health board, another governmental entity, or a private, nonprofit organization. The local agency must commit to using the facility to provide agreed-upon mental health services for 40 years, and the department holds a mortgage or other security interest on the property to enforce the commitment. If the agency stops using the facility to provide the services during the 40-year period, it must reimburse the department a portion of the state funds it received to open the facility. The amount of the

reimbursement is determined by how much of its 40-year commitment the agency fulfilled.

The bill addresses a situation that arises if a local agency decides it is advantageous to sell its facility, but desires to continue providing mental health services to the population it serves. Under the bill, the local agency can apply to the director of mental health for permission to sell the existing facility and use the proceeds (including the amount owed the state due to the state's security interest in the property) to acquire, construct, or renovate a replacement facility.

### **Application process**

The director of mental health is required to prescribe the form of the application a local agency must use to apply for approval to sell its existing facility and acquire, construct, or renovate a replacement facility. If the agency is a private, nonprofit organization or a governmental entity, it must obtain approval of the application from the board of alcohol, drug addiction, and mental health services or community mental health board with jurisdiction over the service district in which the existing facility is located before submitting the application to the director.

The director is required to approve an application for a replacement project upon determining that the project provides for the continuation of appropriate mental health services to the population served by the local agency. When approving an application, the director must establish a deadline by which the agency is to notify the director that it is ready to acquire, construct, or renovate the replacement facility.

### **Community Capital Replacement Facilities Fund**

After a project is approved and the local agency sells the existing facility, it must pay the proceeds of the sale to the director of mental health. The director is required to deposit the proceeds to the credit of the Community Capital Replacement Facilities Fund, which the bill creates in the state treasury. When the agency notifies the director that it is ready to acquire, construct, or renovate its replacement facility, the director must pay to the agency from the fund an amount equal to the lesser of an amount equal to the proceeds of the sale of the original facility or the amount of the state's agreed-upon participation (as a per cent of the total cost) in the cost of the replacement facility. If the amount of the state's agreed-upon participation in the cost of the replacement facility is less than the value of the state's security interest in the original facility, the difference must be retained in the fund, and any excess proceeds must be paid to the agency. The director must obtain Controlling Board approval before releasing the indicated

amount if either (1) the replacement facility is located in a different alcohol, drug addiction, and mental health service district than the original facility or (2) the purposes for which the replacement facility will be used are not the same as or similar to those for the original facility.

The director and the local agency must enter into an agreement specifying the terms of the payments to the agency. The terms can provide for the Department of Mental Health to hold a security interest in the replacement facility.

**Disposition of funds if replacement facility is not built**

If the local agency is not ready to acquire, construct, or renovate the replacement facility by the deadline established by the director, the director is authorized to cancel the project. Upon canceling the project, the director must pay the agency from the Community Capital Replacement Facilities Fund an amount equal to the portion of the proceeds of the sale of the original facility that exceeds the value of the state's security interest in the facility.

The local agency also may cancel the project. If at any time it notifies the director that it does not intend to acquire, construct, or renovate a replacement facility, the director is required to pay the agency the portion of the proceeds of the sale of the original facility that exceeds the value of the state's security interest in the facility.

After a replacement project is canceled, the director is to use the portion of the proceeds of the sale of the original facility that is not paid back to the local agency for additional Community Capital Grant Program grants or reimbursements. The director must obtain Controlling Board approval before releasing the new grants or reimbursements.

**Charging for state-operated community mental health services**

(R.C. 5121.03, 5121.04, 5121.06, 5121.07, 5121.08, 5121.09, and 5121.10)

Under current law, a mentally ill individual whose care or treatment at a private facility or home is paid for by the Department of Mental Health and the individual's liable relatives (parents of minor children and spouses) may be required to pay for all or part of the cost of the care and treatment. The amount they may be charged is based on the average per capita cost of the care and treatment of such individuals.

The bill provides instead that a mentally ill individual receiving state-operated community mental health services and the individual's liable relatives may be required to pay for all or part of the cost of the services. State-operated

community mental health services are community-based services the Department of Mental Health operates for a board of alcohol, drug addiction, and mental health services pursuant to the board's approved community mental health plan. The amount the individual and liable relatives may be charged is an amount determined using guidelines the department is to issue. The guidelines are to be based on cost-findings and rate-settings applicable to the services.

**Local funds for Medicaid home and community-based services for individuals with mental retardation and developmental disabilities**

(R.C. 5126.054)

Under the Medicaid program, waivers of certain federal requirements have been received for purposes of providing home and community-based services to individuals with mental retardation and developmental disabilities. These "waivers" are administered by the Department of Mental Retardation and Developmental Disabilities (MR/DD) on behalf of the Department of Human Services. Like other Medicaid services, the cost of the residential services provided under the waivers are shared by the state and the federal governments.

Under the bill, a county board of mental retardation and developmental disabilities (MR/DD board) may participate in the waiver program by entering into an agreement with the Department of MR/DD under which the MR/DD board agrees to use and to continue using the board's funds as the state's share of the cost of providing services to individuals under the waiver program. Funds that the board may agree to use include funds received through tax levies and other appropriations from the board of county commissioners and funds received from the Department for use in providing residential and other support services. The board's agreement remains in effect as long as there are residents of the county who need the services made available under the waiver program or until the Department cancels the agreement.

The bill permits the Department to take any action necessary to ensure that an MR/DD board fulfills the terms of its agreement. If the Department takes the action of withholding funds that it would otherwise distribute to the board, and the amount withheld is insufficient to cover the state's share of the cost of services provided to the board's clients under the waiver program, the Department may, through the Attorney General, bring an action, including a mandamus action, against the MR/DD board in the court of common pleas of the county served by the board or in the Franklin County Court of Common Pleas. If the court finds that the Department's claim is valid, the court must order that the board provide the funds or that the funds be recovered in any other appropriate manner.

The bill requires that the Department establish uniform accounting practices to segregate the funds that an MR/DD board agrees to use pursuant to an agreement entered into under the bill. The Department may adopt any necessary rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

**Health tasks performed in homes of clients with mental retardation or developmental disabilities**

(R.C. 5126.35 and 5126.357)

Current law requires that each county board of mental retardation and developmental disabilities (MR/DD board) adopt a policy on whether it will permit or prohibit its workers who are not licensed health professionals to engage in (1) giving or applying prescribed medications to individuals who are the board's clients and (2) performing certain nursing tasks for the individuals. If the MR/DD board's policy authorizes the board's workers to engage in those activities, the activities must be delegated by a registered nurse in accordance with standards the Board of Nursing establishes by adopting rules, which include standards for training and supervision of the workers performing the delegated services. If an MR/DD board's policy does not authorize the board's workers to engage in those activities, the board's workers are permitted to give or apply prescribed medications and to perform other health care tasks if the activities are authorized by a health care professional who trains the worker. This delegation provision applies only with respect to individuals receiving respite care, supported living, or residential services.

Under the bill, when an individual is receiving in-home care and the individual's parent or guardian authorizes an in-home care worker who is not a licensed health professional to give or apply the medication or perform other health care tasks as part of the individual's in-home care, the laws regarding delegation to MR/DD board workers do not apply. The authority of a parent to make such an authorization ends when the individual reaches age 21, unless the parent becomes the individual's guardian.

The exemption from the delegation laws applies to any unlicensed worker who provides in-home care, including a worker who is a regular employee, volunteer, or person who contracts with the MR/DD board. In-home care includes any supportive service funded by an MR/DD board and provided in the home, including residential services funded through the Medicaid program's home and community-based services waivers administered by the Department of MR/DD, the family support services program, and the supported living program. In-home care also includes care that is provided to an individual outside the home in places

and travels incidental to the home, but does not extend to care provided in MR/DD board facilities or schools.

To authorize an unlicensed worker to engage in health activities for an individual, a parent or guardian must be the primary supervisor of the care and the worker must be selected by the parent or guardian. The bill requires that the parent or guardian obtain a prescription, if applicable, and written instructions from a health care professional for the care that is to be provided to the individual. The authorization must be made in writing and the parent or guardian must provide the unlicensed worker with appropriate training and written instructions in accordance with the instructions obtained from the health care professional.

The bill specifies that the parent or guardian retains full responsibility for the health and safety of the individual who receives the care and for ensuring that the care is provided appropriately and safely. The unlicensed worker is not liable for any injury caused in providing the care, unless it was provided in a manner that is not consistent with the training and instructions received or the worker acted in a manner that constitutes wanton or reckless misconduct. The bill specifies that no entity that provides funding or monitoring of in-home care is liable for the results of the care provided by an unlicensed worker, including the MR/DD board, any other entity that employs an unlicensed worker, and the Department of MR/DD.

An MR/DD board may evaluate the authority granted by a parent or guardian to an unlicensed worker. If the board determines that the parent or guardian acted in a manner that is inappropriate for the individual's health and safety, the bill provides that the authorization granted by the parent or guardian is void and that the parent or guardian may not authorize other unlicensed workers to provide the care. When making such a determination, the board must use appropriately licensed health care professionals and must provide the parent or guardian an opportunity to file a complaint with the board and have the complaint resolved administratively.

### **Job creation collaborative project**

(Section 37.16)

The Department of Development and the Department of Human Services are required, under the bill, to establish a joint project to develop and implement ways to create at least 1,000 new jobs in both federal empowerment zones and rural economically depressed counties. The departments are required to issue to the Welfare Oversight Committee a final report in connection with the joint project no later than December 31, 2000. That report must describe the activities undertaken pursuant to the joint project to create the new jobs. The Committee

also may require additional interim reports from the departments in connection with the joint project.

## 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 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.
- Requires any enterprise zone "side" agreements affecting school district property taxes to be filed with the Department of Development.
- Requires the Director of Development to report to the General Assembly, and to appear before a joint hearing of the House and Senate Finance committees, each biennium to discuss the efforts of the Director to reform the Enterprise Zone Program.
- Expressly requires local governments to notify joint vocational school districts of proposed property tax exemptions within the district's territory.
- Eliminates the tangible personal property tax on inventory over a period of 25 years, by reducing the existing rate of 25% of true value by 1% each year, beginning in tax year 2002.
- Removes natural gas companies from the public utility excise tax on gross receipts and instead subjects them to a new excise tax on gross receipts.
- Also taxes combined electric and gas companies under the new tax with respect to their gross receipts from operating as gas companies.

- Levies the new tax at the same rate as the current tax, but prescribes a payment schedule allowing payment for the preceding quarter or year rather than the "advance" payment schedule of the current public utility excise tax.
- Requires that a natural gas company that has over 300,000 open access residential customers pay \$10.3 million on June 30, 2001 as advance payment of the new tax.
- Establishes tax assessment and refund procedures for the new tax and creates a refundable credit for payment of the public utility excise tax.
- Restores the specific exclusion for agricultural land in the determination of a corporation's net worth for the purposes of computing the corporation franchise tax.
- 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.
- Permits a taxpayer to continue claiming the credit for the remainder of the seven-year credit period even after the property is sold or transferred, provided the property has been fully depreciated for federal income tax purposes.
- Restricts related taxpayers to a single credit, and allows them to have their pre-2001 purchases of machinery or equipment treated as purchases by a single, consolidated taxpayer.
- Grants a nonrefundable corporation franchise tax credit for expenditures made by railroad companies to maintain active grade crossing warning devices.
- Beginning in 2002 grants a corporate franchise tax credit for qualified research expenses equal to 7% of the amount by which a corporation's

expenses for the taxable year exceed its three-year average qualified research expenses. The credit is nonrefundable, but may be carried forward up to seven years.

- Beginning in 2002 and ending after 2005, grants a corporate franchise tax credit for job training expenses equals up to 50% of the amount by which one year's job training expenses exceed the corporation's three-year average job training expenses, subject to specified maximums. The credit is nonrefundable, but may be carried forward one year.
- The new job training credit must be approved by the Tax Commissioner before it can be claimed. Not more than \$20 million in job training credits may be approved by the Tax Commissioner in any year; not more than \$10 million of this may be granted to manufacturing companies, and at least \$5 million is reserved for smaller-sized nonmanufacturing companies.
- 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.
- Exempts from use tax prescription drug samples that are distributed for free to medical practitioners.
- 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.
- Permits persons who timely filed a real property tax complaint for tax year 1994 or 1995 to refile on or before March 31, 2000, a complaint respecting valuations for those tax years, notwithstanding a provision of existing law limiting persons to one complaint every three years.

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## CONTENT AND OPERATION

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

(R.C. 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**

(R.C. 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**

(R.C. 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.

**Enterprise zone agreements affecting school revenues**

(R.C. 5709.62, 5709.63, and 5709.632)

Many of the specific terms of enterprise zone agreements are dictated by statute. Copies of these agreements must be sent to the Director of Development. But agreements may include terms other than those specified by law, including "side" agreements to compensate school districts that stand to forgo property tax revenue because of property tax exemptions granted by an enterprise agreement. These side agreements do not necessarily have to be sent to the Director of Development.

The bill requires a copy of any enterprise zone side agreement to be sent to the Director of Development if it affects a school district's revenue, causes a school district to forgo revenue, or compensates a school district for an enterprise zone property tax exemption.

**Biennial report to the General Assembly on efforts to reform the Enterprise Zone Program**

(R.C. 5709.70)

Beginning with the 2002 fiscal year, in every biennium in which the Enterprise Zone Law remains in effect, the bill requires the Director of Development to certify to the General Assembly that the Director is making an effort to reform the Enterprise Zone Program. The Director is also required to appear in each such biennium before a joint hearing of the House and Senate Finance committees to discuss the efforts the Director is making to reform the program. The chairpersons of the two committees are to arrange for the hearing whenever the Director notifies them of the availability of the Director to make the appearance.

**Notification to joint vocational school districts of property tax exemptions**

(R.C. 5709.83)

Current law requires local governments to notify school boards of property tax exemptions that the local government intends to grant for economic or community development purposes. The notice must be made at least 14 days before the exemption is formally approved by the local government. School boards also have the right to "comment" on the proposed tax exemption, and to meet with local government officials to "discuss" the terms of the tax exemption. Current law does not specify the kinds of school boards that must be notified, however, but it includes at least city, local, and exempted village school district boards.

The bill expressly includes joint vocational school district boards among the kinds of school boards that are entitled to be notified of proposed tax exemptions and to comment on the exemption. The bill does not give joint vocational school district boards the right to meet with the local government officials, but such meetings could occur with the mutual consent of the joint vocational school district board and the local government officials, as allowed under current law.

**Elimination of the tangible personal property tax on inventory**

(R.C. 5711.16, 5711.22, 5727.111, and 5727.12)

Tangible personal property used in business, which includes inventory held by manufacturers and merchants, currently is assessed for taxation at 25% of its true value in money. The 25% assessment rate became permanent in 1993, following an extended series of 1% per year reductions in the rate.



The bill, in effect, eliminates the tangible personal property tax on inventory over a period of 25 years by reducing the assessment rate by 1% each year, beginning in tax year 2002, until it equals zero in tax year 2026. During and after tax year 2026, the bill provides that inventory may not be listed or assessed for property tax purposes. The bill affects inventory held by either a manufacturer or merchant, but not certain property in storage that is temporarily held in Ohio warehouses for transshipment, the taxation of which is being phased out under existing law.

Noninventory tangible personal property used in business, including merchants' furniture and business fixtures and manufacturers' engines, machinery, tools, and implements, will continue to be assessed at 25% of true value.

**Removal of natural gas companies from the public utility excise tax and levy of a new tax on them**

(R.C. 5727.01, 5727.24, 5727.30, 5727.31, 5727.311, 5727.32, 5727.38, 5727.42, 5727.48, 5727.50, and 5727.60; Sections 170 to 172)

Current law requires that natural gas companies pay an excise tax (the public utility excise tax) on their gross receipts, computed by multiplying gross receipts by 4¾%. The bill exempts natural gas companies from the public utility excise tax but levies a new tax on their gross receipts derived from taxable activities that occur after April 30, 2000. The bill establishes new tax filing dates and new tax assessment and refund procedures in connection with the new tax, and creates a refundable credit for final payment of the old public utility excise tax.

The bill provides that for the purpose of providing revenue with which to meet the needs of the state, the new excise tax is levied on the gross receipts of a natural gas company at the rate of 4¾% of gross receipts. The bill also applies to a combined electric and gas company with respect to its gross receipts from operating as a natural gas company. The bill defines a "combined electric and gas company" as a person who primarily engages in the activities of an electric company, but also engages in the activities of a natural gas company.

Gross receipts are determined by the Tax Commissioner as under existing public utility excise tax law. The Commissioner must assess the new tax and certify it to the taxpayer and the Treasurer of State. A combined electric and gas company is subject to this new tax on any gross receipts derived from operating as a natural gas company, but also is subject to the existing public utility excise tax for all other gross receipts, excluding the gross receipts derived from operating as a natural gas company that are subject to the new tax.

To transition from the public utility excise tax to the new tax, natural gas companies and combined electric and gas companies must file the annual statement that is required under the public utility excise tax law, on or before August 1, 2000. The Tax Commissioner must issue an assessment pursuant to the public utility excise tax law on or before the first Monday in November for the period ending April 30, 2000. These companies are required to make payments of the public utility excise tax on or before October 15, 1999, March 1, 2000, and June 1, 2000 in accordance with existing public utility excise tax law.

**Payment of the new tax**

(R.C. 5727.25)

Although the new tax is levied at the same rate as the existing excise tax, the bill requires a quarterly or annual return and a different payment period than the public utility excise tax. Natural gas companies and combined electric and gas companies must pay the tax due for the preceding quarter or year, rather than making payments in advance as was required under the public utility excise tax law.

Except as discussed in the next paragraph, within 45 days after the last day of March, June, September, and December, each natural gas company or combined electric and gas company subject to the new tax must file a return quarterly with the Treasurer of State, in such form as the Tax Commissioner prescribes, and pay the full amount of the tax due for the preceding calendar quarter, except that the first payment must be made on or before November 15, 2000, for the five-month period of May 1, 2000, to September 30, 2000. Thereafter, payments are required to be made quarterly before the dates indicated above. All quarterly payments must be made by electronic funds transfer in accordance with existing public utility excise tax law.

There is an exception to the quarterly filing of returns. Any natural gas company or combined electric and gas company subject to the new tax that has an annual tax liability for the year ending December 31 of less than \$325,000 must file an annual return the next year with the Treasurer of State, in such form as the Tax Commissioner prescribes, and remit the taxes due for the year within 45 days after December 31. The first annual payment of the tax must be made on or before February 14, 2001, for the year ending December 31, 2000. The minimum tax for a company is \$10, and the company cannot be required to remit the tax due by electronic funds transfer.

A quarterly or an annual return must show the amount of tax due from the company for the period covered by the return and any other information as

prescribed by the Tax Commissioner. A return is considered filed when received by the Treasurer of State. The Commissioner may extend the time for making and filing returns and paying the tax.

Any natural gas company that, as of July 1, 1999, has over 300,000 open access residential customers is required to pay \$10,300,000 on June 30, 2001, as an advance payment of the new tax for the quarter ending June 30, 2001. This payment is an advance payment of the new tax that is due within 45 days after the last day of June. In the event that the natural gas company's liability for the quarter ending June 30, 2001, is less than \$10,300,000, the remaining amount must be applied to the natural gas company's liability for the quarter ending September 30, 2001.

A natural gas company or combined electric and gas company that fails to file a return or pay the full amount of the tax due within the required time period is required to pay an additional charge of \$50 or 10% of the tax required to be paid for the reporting period, whichever is greater. If any tax due is not timely paid, the company liable for the tax must pay interest, calculated at the rate per annum prescribed by existing law (8% per annum for 1999), from the date the tax payment was due to the date of payment or to the date an assessment was issued, whichever occurs first. The Tax Commissioner may collect any additional charge or interest by assessment in the manner provided in "Assessment of the tax," below. The Commissioner may abate all or a portion of the additional charge and may adopt rules governing such abatements.

The taxes, additional charges, penalties, and interest collected under the new tax must be credited to the General Revenue Fund, the Local Government Fund, and the Local Government Revenue Assistance Fund in accordance with existing public utility excise tax law.

#### **Deduction from gross receipts**

(R.C. 5727.33)

Under existing law, a public utility is entitled to a deduction of \$25,000 in determining its gross receipts. Under the bill, the deduction from gross receipts in the calculation of the new tax is \$6,250 for each quarterly return or \$25,000 for each annual return filed by a natural gas company, and \$25,000 on the annual statement filed under the existing public utility excise tax law by a combined electric and gas company. A combined company is not entitled to a deduction in computing the gross receipts subject to the new tax.

*Assessment of the new tax*

(R.C. 5727.26)

The bill establishes an assessment procedure for the new tax. The Tax Commissioner may make an assessment, based on any information in the Commissioner's possession, against any natural gas company or combined electric and gas company that fails to file a return or pay any tax, interest, or additional charge as required under the new tax provisions. The Commissioner must give the company assessed written notice of the assessment by personal service or certified mail. A penalty of up to 15% may be added to all amounts assessed. The Commissioner may adopt rules providing for the remission of the penalty.

If a party to whom the notice of assessment is directed objects to the assessment, the party may file a petition for reassessment with the Tax Commissioner. The petition must be made in writing, signed by the party or the party's authorized agent having knowledge of the facts, and filed with the Commissioner, either personally or by certified mail, within 30 days after service of the notice of assessment. The petition must indicate the objections of the company assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination of the Commissioner. Upon receipt of a properly filed petition, the Commissioner is required to notify the Treasurer of State.

Unless the petitioner waives a hearing, the Commissioner must grant the petitioner a hearing on the petition, assign a time and place for the hearing, and notify the petitioner of the time and place of the hearing, by personal service or certified mail. The Commissioner may continue the hearing from time-to-time, if necessary.

If the party to whom the notice of assessment is directed does not file a petition for reassessment, the assessment is final and the amount of the assessment is due and payable to the Treasurer of State.

The Tax Commissioner may make any correction to the assessment that the Commissioner finds proper and must issue a final determination thereon. The Commissioner must serve a copy of the final determination on the petitioner either by personal service or certified mail, and the Commissioner's decision in the matter is final, subject to appeal under existing tax appeals law. The Commissioner also must transmit a copy of the final determination to the Treasurer of State. Only objections decided on the merits by the Board of Tax Appeals or a court may be given collateral estoppel or res judicata effect in considering an application for refund of an amount paid pursuant to the assessment.

After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the Tax Commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the natural gas company's or combined electric and gas company's principal place of business is located, or in the office of the Clerk of Court of Common Pleas of Franklin County.

The clerk, immediately on the filing of the entry, must enter judgment for the state against the company assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "Special Judgments for the Public Utility Excise Tax," and has the same effect as other judgments. Execution issues upon the judgment at the Tax Commissioner's request, and all laws applicable to sales on execution apply to sales made under the judgment.

The portion of the assessment not paid within 30 days after the day the assessment was issued bears interest at the rate per annum prescribed by existing law from the day the Tax Commissioner issues the assessment until it is paid. Interest must be paid in the same manner as the tax and may be collected by the issuance of an assessment.

If the Tax Commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure its collection are instituted without delay, the Commissioner may issue a jeopardy assessment against the person liable for the tax. On issuance of the jeopardy assessment, the Commissioner immediately must file an entry with the clerk of the court of common pleas. Notice of the jeopardy assessment must be served on the party assessed or the party's legal representative within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment and provides security in a form satisfactory to the Commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the Commissioner's consideration of the petition for reassessment.

All interest collected by the Tax Commissioner under the assessment provision must be paid to the Treasurer of State, and when paid is considered revenue arising from the new tax.

No assessment can be made or issued against a natural gas company or combined electric and gas company for the new tax more than four years after the return date for the period in which the tax was reported, or more than four years after the return for the period was filed, whichever is later.

### **Record keeping requirements**

(R.C. 5727.27)

Every natural gas company or combined electric and gas company liable for the new tax must keep complete and accurate records as prescribed by the Tax Commissioner. The records must be preserved for four years after the return for the tax to which the records pertain is due or filed, whichever is later. The natural gas company or combined electric and gas company is required to make the records available for inspection by the Commissioner or the Commissioner's agent, on the request of the Commissioner or agent.

### **Refunds**

(R.C. 5703.052, 5703.053, and 5727.28)

Under the bill, the Treasurer of State must refund to a natural gas company or combined electric and gas company subject to the new tax the amount of tax paid illegally or erroneously, or paid on an illegal or erroneous assessment. Applications for a refund must be filed with the Tax Commissioner, on a form prescribed by the Commissioner, within four years of the illegal or erroneous payment of the tax.

On the filing of the application for a refund, the Commissioner must determine the amount of refund due and certify that amount to the Director of Budget and Management and Treasurer of State for payment from the existing tax refund fund. If the application for refund is for taxes paid on an illegal or erroneous assessment, the Tax Commissioner must include in the certified amount interest calculated at the rate per annum prescribed under existing law from the date of overpayment to the date of the Commissioner's certification.

If a natural gas company or combined electric and gas company entitled to a refund of taxes is indebted to the state for any tax or fee administered by the Tax Commissioner that is paid to the state or any charge, penalty, or interest arising from such a tax or fee, the amount refundable may be applied in satisfaction of that debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt must be refunded.

In lieu of granting a refund, the Tax Commissioner may allow a natural gas company or combined electric and gas company to claim a credit of the amount of the tax refund on the return for the period during which the tax became refundable.

The Commissioner may require the company to submit information to support a claim for a credit, and the Commissioner may disallow the credit if the information is not provided.

**Refundable credit for payment of the old public utility excise tax**

(R.C. 5727.29)

Under the bill, natural gas companies and combined electric and gas companies are entitled to a refundable credit equal to the sum of the three payments of the public utility excise tax made on or before October 15, 1999, and on or before the first day of March and June 2000. For combined electric and gas companies, the credit is equal to the sum of these payments derived from operating as a natural gas company. A combined electric and gas company claiming the credit must file a separate report as prescribed by the Tax Commissioner segregating gross receipts from operating as an electric company and gross receipts from operating as a natural gas company, for the period ending April 30, 2000.

Natural gas companies and combined electric and gas companies must claim one-fortieth of the credit on each quarterly tax return until the full amount of the credit is claimed. The credit first may be claimed on the return filed on or before November 15, 2001. If the credit exceeds the total taxes due for any quarter, the Tax Commissioner must refund or credit the excess.

If the new tax is repealed or amended, natural gas companies and combined electric and gas companies and their successors and assigns are allowed to apply the credit to any other tax, additional charge, penalty, interest, or fee administered by the Tax Commissioner. Under no circumstances can payment of the refundable credit be accelerated.

Under the bill, the Public Utilities Commission (PUC) is prohibited from ordering any surcharge, refunds, or credits in the rates of any natural gas company or combined electric and gas company as a result of or in response to the change from the public utility excise tax to the new tax. The PUC is not precluded from considering the effects of the refundable credit, in the context of adjusting rates in a rate proceeding under PUC law.

**Miscellaneous**

(R.C. 122.15, 122.152, 129.55, 129.63, 129.73, 718.01, 1555.12, 5528.36, and 5733.16)

The bill makes assorted other changes consistent with the transition from the public utility excise tax to a new tax for natural gas companies and combined electric and gas companies. The bill:

(1) Adds a reference to the new tax in the Edison Center technology tax credit so that companies paying the new tax may qualify for a tax credit against liability for the new tax, since the credit already exists against public utility excise tax liability;

(2) Adds the new tax to the list of revenues that may be transferred to various bond retirement funds, in the event they are needed to meet in full the payment of interest, principal, and charges due.

(3) Prohibits municipal corporations from levying an income tax on the income of a public utility that pays the new tax; and

(4) Makes the law establishing when corporations are deemed to be organized or admitted to do business in Ohio for purposes of the public utility excise tax also applicable with respect to the new tax.

**Restore exclusion of farmland in computing corporation franchise tax net worth**

(R.C. 5733.05(C)(1); Section 173)

Prior to 1999, corporations computing their net worth for the purpose of determining their corporation franchise tax liability could exclude the value of various classes of assets, including agricultural land. In order to exclude the value of agricultural land, the land had to qualify for Current Agricultural Use Valuation (CAUV)--the favorable valuation accorded to agricultural land that in effect insulates property tax valuations from local real estate market influences.

Beginning with tax year 1999, the specific exclusion for agricultural land and other classes of assets was eliminated from the computation of a corporation's net worth. In lieu of excluding the value of these specific classes of assets, corporations must compute net worth on the basis of the net book value of all assets minus the net carrying value of its liabilities.

The bill restores the specific exclusion for agricultural land that qualifies for CAUV beginning with tax year 2000. Corporations may continue to compute net worth on the basis of the net book value of assets minus the net carrying value of liabilities, but the net book value of its assets may exclude the value of CAUV land.

The bill also allows corporations to recover the extra franchise tax they paid for 1999, because the exclusion for CAUV land was eliminated for 1999, by authorizing a credit to be claimed against the corporation's tax for tax year 2000. The credit is nonrefundable, but any excess credit that cannot be claimed in tax year 2000 may be claimed in ensuing tax years until the entire credit amount is claimed.

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

(R.C. 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**

(R.C. 5733.33; Section 174)

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 R.C. 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"**

(R.C. 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**

(R.C. 5733.33(I); Section 174)

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 R.C. 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.)

The bill also permits related taxpayers to retroactively choose to have their prior (pre-2001) machinery or equipment purchases treated as purchases by a single, consolidated taxpayer. The amendment allows taxpayers to choose single-taxpayer treatment for pre-2001 purchases at any time, including when an amended report is filed, when a refund is applied for, or when a petition for reassessment is filed (requesting an administrative review of a tax determination). Once a group of related taxpayers elects to have pre-2001 purchases treated as purchases by a single taxpayer, the election cannot be revoked.

**Effect of selling property for which the credit has been claimed**

(R.C. 5733.33(C)(4))

The tax credit for manufacturing machinery and equipment is claimed over seven years, with 1/7 of the credit claimed each year. But if a taxpayer sells or transfers the machinery and equipment before the end of the seven-year credit period, current law does not permit the taxpayer to claim the credit for the remaining years.

The bill permits a taxpayer that sells machinery and equipment or transfers it out of the county within the seven-year credit period to continue claiming the credit after the sale or transfer, as long as the property has been fully depreciated for federal income tax purposes by the time the sale or transfer occurs.

**Tax credit for maintaining railroad crossing warning devices**

(R.C. 5733.39 and 5733.98)

The bill grants a credit against the corporation franchise tax for railroad companies for the cost of maintaining active grade crossing warning devices. For the purpose of the tax credit, an active grade crossing device is a sign, signal, gate, or other protective device at a railroad-highway grade crossing that is activated by means of an electrical circuit.

The amount of the credit for each equals \$200 or 10% of the company's annual maintenance expenditure, whichever is less, for each device for which the company makes a maintenance expenditure. The credit is nonrefundable, meaning that if the total credit claimed exceeds a company's tax liability, the company is not entitled to a refund for the difference. Companies claiming a credit must maintain records of maintenance expenditures for four years after the credit is claimed, and must make them available to the Tax Commissioner upon the Tax Commissioner's request.

The credit may be claimed for any qualifying expenditures made after January 1, 2001.

**Tax credit for qualified research expenses**

(R.C. 5733.39 and 5733.98)

The bill grants a credit against the corporation franchise tax for increases in qualified research expenses incurred by a corporation. The expenses must be incurred in Ohio. "Qualified research expenses" is defined in the same way as it is

defined for the purpose of the existing federal tax credit for research expenses (see below).

The amount of the credit equals 7% of the amount by which the expenses incurred in a corporation's taxable year exceed the corporation's three-year average of those expenses. The three-year average is measured over the three taxable years that precede the taxable year for which the credit is claimed (e.g., if a taxable year ends on December 31, 2002, the average would be taken over 1999, 2000, and 2001).

The credit is nonrefundable, but if the amount of the credit for a year exceeds the amount of a corporation's tax liability, the excess may be claimed as a credit against future years' tax liability for up to seven years.

The credit may be claimed for expenses incurred in taxable years beginning on or after January 1, 2002.

#### **Definition of "qualified research expenses"**

"Qualified research expenses" includes expenses incurred for certain kinds of research, whether the research is conducted "in-house" or under contract with another person or entity. Expenses qualifying for the credit include those undertaken "for the purpose of discovering information which is technological in nature . . . and the purpose of which is intended to be useful in the development of a new or improved" product, process, technique, formula, invention, or computer software that the corporation uses in a trade or business or sells, leases, or licenses to another. Research and experimental expenses that qualify for favorable federal tax treatment under section 174 of the Internal Revenue Code also qualify (these expenses can be deducted on a current basis, rather than being used to compute capital gain or loss).

Among the expenses that are specifically disqualified are expenses incurred for research after commercial production begins; for adapting existing business functions to a particular customer; for duplicating existing business functions; for surveys, marketing research, and routine testing or data collection; and for developing computer software primarily for internal use.

#### **Tax credit for job training expenses**

(R.C. 5733.42 and 5733.98; Section 176)

#### **Eligible job training expenses**

(R.C. 5733.42(A)(1), (2), and (3))

The bill grants a corporation franchise tax credit for certain corporations that incur specified kinds of job training expenses. To be eligible for the credit, the expenses must be for an "eligible training program"--that is, a program "to provide job skills to eligible employees who are unable effectively to function on the job due to skill deficiencies or who would otherwise be displaced because of their skill deficiencies or inability to use new technology." The expenses may include either (1) direct instructional costs (instructor salaries, materials, supplies, books, manuals, videotapes, other media, and equipment that is used exclusively to train employees), or (2) wages paid to employees for time those employees devote exclusively to training during normal paid working hours.

An eligible employee is any employee who is an Ohio resident; has been employed by the same corporation for at least 180 consecutive days; has been "on the same job" for at least 90 consecutive days; and has worked at least 24 hours each week. Executive and managerial personnel do not qualify as eligible employees unless they are the immediate supervisors of nonexecutive or nonmanagerial employees.

### **Computing the credit**

(R.C. 5733.42(B))

The credit equals 50% of the amount by which a qualifying corporation's eligible training expenses for a year exceed the corporation's three-year average of those expenses. The three-year average is measured over the three taxable years that precede the taxable year for which the credit is claimed.

The maximum credit that a corporation may receive for a taxable year is subject to the following limits:

- The credit may not exceed the equivalent of \$500 per eligible employee who is trained.
- The credit may not exceed \$100,000 or 50% of the corporation's franchise tax liability, whichever is less.

The credit is nonrefundable, but if the amount of a corporation's credit exceeds the corporation's end-of-year tax liability, the excess may be carried over and applied to the next year's liability.

### **Eligible corporations**

(R.C. 5733.42(C))

The credit is available only to corporations that are engaged in business primarily in one of the following industrial categories (based on the Standard Industrial Classification system):

- Manufacturing;
- Finance, insurance, and real estate;
- Business services;
- Legal services;
- Engineering, accounting, research, management, and related services.

The corporation's job training program must be "economically sound" and must "benefit the people of this state by improving workforce skills and strengthening the economy" of Ohio. Also, the tax credit must be a "major factor" in the corporation's decision to conduct the training program.

**Applications; confidentiality of contents**

(R.C. 5733.42(C), (E), and (H))

Corporations must apply to the Tax Commissioner for the credit, and before approving a credit, the Tax Commissioner must determine that all the bills' criteria relating to the credit are satisfied.

The Tax Commissioner must prescribe the form of the application; the application must require applicant corporations to provide a detailed description of the corporation's proposed job training program. Any financial statements or other information submitted with an application, or taken from such submissions, are not public records subject to disclosure under the public records law, but the Tax Commissioner is permitted to use such information to issue public reports or in connection with any court proceedings involving the tax credit.

The credit is to be granted to qualifying applicants on the basis of the order in which complete, accurate applications are submitted, until the applicable aggregate dollar limit is exhausted for the year.

**Total limit on credits; allocation**

(R.C. 5733.42(H))

The maximum total amount that may be granted in credits each calendar year is \$20 million. Of this \$20 million, no more than \$10 million may be

allocated to corporations that are primarily engaged in manufacturing, and at least \$5 million must be granted to nonmanufacturing corporations with fewer than 500 employees.

**Recapture**

(R.C. 5733.42(D))

The Tax Commissioner has the authority to reduce the amount of a corporation's tax credit if the Tax Commissioner finds that the corporation's job training program fails to satisfy the conditions for the tax credit.

**Administration; rulemaking; reporting**

(R.C. 5733.42(F) and (G))

The Tax Commissioner must adopt rules governing the tax credit pursuant to the Administrative Procedure Act. Once public notice of the rules is required to be given, the Tax Commissioner must submit copies of the rules to the chairpersons and ranking minority members of the House and Senate standing committees responsible for economic development matters.

Annually, by March 31, the Tax Commissioner must submit a report on the tax credit to the Senate President, House Speaker, and the Governor. The report must include the following information: the number of job training programs for which a credit was granted in the preceding year, a description of each of those programs, the dollar amounts of the credits granted, and "an estimate of the impact of the credits on the economy" of Ohio.

**Effective date; termination**

The credit may be granted for eligible job training expenses incurred during taxable years beginning on or after January 1, 2002, but before January 1, 2006.

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

(R.C. 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**

(R.C. 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.

**Exemption of drug samples from use tax**

(R.C. 5741.02)

Effective July 1, 2001, the amendment exempts from the use tax prescription drug samples that are or are intended to be distributed for free to practitioners licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner.

**Sale of cigarettes on which tax has not been paid**

(R.C. 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**

(R.C. 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.)

**Refiling real property tax complaints dismissed for the unauthorized practice of law**

(Section 145 and 146)

Sub. H. B. 694 of the 122nd General Assembly permitted a person who timely filed a real property tax complaint for tax year 1996 or 1997 (i.e., filed by March 31, 1997, and March 31, 1998, respectively) to refile the complaint on or before March 31, 1999, if the complaint was dismissed for the reason that filing it was, or the person filing it was engaged in, the unauthorized practice of law. The act was remedial legislation applying to complaints regarding valuations for tax year 1996 or 1997, and to complaints filed for tax years 1998 and thereafter, notwithstanding existing law that limits persons to one complaint every three years.

The bill also applies this filing provision to tax years 1994 and 1995, and extends the refiling deadline to March 31, 2000.

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**NOTE ON EFFECTIVE DATES**

(Sections 157 to 168)

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.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-30-99	p. 376
Reported, H. Finance & Appropriations	05-05-99	pp. 554-555
Passed House (92-6)	05-06-99	pp. 566-612
Reported, S. Finance & Financial Institutions	---	---

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