



H.B. 470

123rd General Assembly
(As Introduced)

Rep. Harris

BILL SUMMARY

Ohio Department of Job and Family Services

- Renames the Director and the Ohio Department of Human Services (ODHS) the Director and Ohio Department of Job and Family Services (ODJFS).
- Abolishes the Ohio Bureau of Employment Services (OBES).
- Transfers the functions and employees of OBES to ODJFS and the Department of Commerce (DOC).
- Requires OBES and DOC to enter into an interagency agreement to implement the transfer of certain duties and responsibilities from OBES to DOC.
- Eliminates specific references to the Ohio State Employment Service and transfers its duties to the Director of Job and Family Services. Also eliminates specific reference to a director of the Ohio State Employment Service, and makes other changes corresponding to the transfer of this entity to the Department of Job and Family Services.
- Abolishes the special employment service account maintained as part of the Unemployment Compensation Administration Fund.
- Retains a provision granting free employment services to job seekers, but permits charges to employers.
- Clarifies that access to information for the administration of the Unemployment Compensation Law is limited for that purpose alone under the newly created Department of Job and Family Services. Specified

moneys related to funding of unemployment compensation functions also are limited for that purpose alone.

- Extends existing confidentiality requirements applicable under the Unemployment Compensation Law to employees and former employees of county services agencies and workforce development agencies.
- With a limited exception, prohibits any person from disclosing information maintained by or furnished to the former Administrator of OBES pursuant to the law governing unemployment compensation.
- Eliminates an administrative division within the Bureau of Employment Services specifically named the Women's Division and eliminates the position of director of that division.
- Abolishes specific references to functions currently performed by the Bureau of Employment Services in partnership with the Department of Human Services or that are authorized under the new Department of Job and Family Services.
- Exempts the decisions to rename ODHS and transfer the functions of OBES to ODJFS and DOC from collective bargaining.
- Authorizes the Director of Job and Family Services to establish work units within ODJFS as necessary for ODJFS's efficient operation and provides that the duties of the work units are to be performed under rules the Director prescribes and under the Director's control.
- Permits the Director of Human Services and the OBES Administrator to enter into contracts for staff training and development to facilitate the transfer of the staff and duties of OBES to ODJFS.
- Permits the Director of Job and Family Services to appoint such employees as are necessary for the efficient operation of ODJFS and to prescribe the title and duties of the employees.
- Permits, rather than requires, the Director to require ODJFS employees to give a bond.
- Repeals law that (1) provides that all employees holding positions in the classified service within ODHS on June 30, 1966, continue to hold such

positions and (2) provides that law governing chiefs, officers, and employees of ODHS's administrative sub-units does not affect their civil service status.

- Authorizes the Director of Job and Family Services to take certain actions to restructure the Department.
- Requires that the Director of Administrative Services, on certification of the Director of Job and Family Services, (1) fill without competition any classified position with ODJFS that requires peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character and (2) waive a residency requirement that would otherwise apply to a position with ODJFS.
- Permits the Director of Job and Family Services to temporarily appoint persons to up to five additional unclassified positions that the Director determines to be involved in policy development and implementation.
- Exempts ODJFS from the "prompt pay" law that requires an agency that purchases, leases, or otherwise acquires any equipment, materials, goods, supplies, or services from any person and fails to make payment by the required payment date to pay an interest charge to the person.
- Provides that ODJFS is not required to make a report at the end of each fiscal year of its transactions and proceedings for that fiscal year.
- Expands the authority to investigate and compel by contempt the testimony of witnesses and production of documents to duties performed by OBES under current law.
- Authorizes the Director of Job and Family Services to expend funds appropriated or available to ODJFS and to enter into contracts or agreements with, and to make grants to, public and private entities.
- Requires that ODJFS follow the Administrative Procedure Act when adopting a rule (1) concerning the administration or enforcement of state law governing unemployment compensation, (2) concerning a program administered by ODJFS, unless the statute authorizing the rule requires that it be adopted in accordance with section 111.15, or (3) that the

authorizing statute requires be adopted in accordance with the Administrative Procedure Act.

- Requires that ODJFS follow section 111.15 when adopting a rule if (1) the rule concerns the day-to-day staff procedures and operations of ODJFS or financial and operational matters between ODJFS and another government entity or a private entity receiving a grant from ODJFS, unless the statute authorizing the rule requires that it be adopted in accordance with the Administrative Procedure Act or (2) the statute authorizing the rule requires that it be adopted in accordance with section 111.15.
- Requires the Director of the Legislative Service Commission to renumber OBES and ODHS rules, if necessary, to reflect their transfer to ODJFS and DOC.
- Substitutes the Director of Job and Family Services and another member of the Governor's cabinet appointed by the Governor for the Director of Human Services and the OBES Administrator as members of the Commission on African-American Males, the Ohio Benefit Systems Data Linkage Committee, and the interagency council created by the Commission on Hispanic-Latino Affairs.

County departments of job and family services

- Provides for county departments of human services to be called county departments of job and family services.
- Provides for a CDJFS to exercise any powers and duties relating to workforce development activities imposed on it by law, the county commissioners, or the Governor, when authorized by law, to meet emergencies during war or peace.
- Permits the board of county commissioners to assign to a CDJFS any power or duty of the board regarding workforce development activities.
- Requires that a CDJFS, for the purpose of complying with a partnership agreement, exercise the powers and perform the duties the partnership agreement assigns to the CDJFS.

- Requires that a CDJFS designated as the workforce development agency provide the workforce development activities specified in a contract with the board of county commissioners.
- Exempts labor performed by a CDJFS from public notice requirements for construction contracts.
- Renames the county human services planning committee the county family services planning committee.
- Provides that a county is not always required to have a separate family services planning committee.

Workforce Development System

- Establishes a Workforce Development System and the parameters for that System.

Miscellaneous

- Eliminates ODHS's authority to lease real estate for oil and gas.
- Eliminates the requirement that ODHS accept and hold gifts and bequests made for the benefit of institutions under its control.
- Eliminates the requirement that ODHS include in its annual report a financial statement of institutions under its control and a list of the officers and agents employed by, and the condition of, those institutions.
- Repeals the requirement that an officer or employee of ODHS or an institution under ODHS's control be removed for attempting to influence another officer or employee's views on a person, issue, or candidate.
- Repeals sections of the Revised Code that reference the Division of Social Administration (abolished in 1966) and its powers and duties.
- Eliminates the requirement that plans for certain public buildings be submitted for approval to ODHS or the Departments of Mental Health, Mental Retardation and Developmental Disabilities, and Rehabilitation and Correction.

- Provides that the Administrative Procedure Act applies to a state hearing or administrative appeal concerning certain family services programs only to the extent, if any, specifically provided by ODJFS rules governing state hearings and administrative appeals.
- Requires an ODJFS hearing authority who issues state hearing decisions to have been admitted to the practice of law in this state if employed or contracted with on or after the bill's effective date.
- Requires that the Director of Administrative Services send notice of an examination for the state classified service to each agency of the type the Director of Job and Family Services specifies and, in the case of a county in which no such agency is located, to the clerk of the court of common pleas of that county and to the clerk of each city of that county.
- Requires a county to maintain a record concerning a purchase exempt from the county competitive bidding requirement for the longer of one year or the amount of time the federal government requires.

Effective date

- Delays the effective date of the bill's provisions until July 1, 2000, with the exception of those provisions that relate to workforce development or make an appropriation.

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CONTENT AND OPERATION

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

Renaming the Department of Human Services

(secs. 121.02, 121.03, and 5101.01)

The bill renames the Ohio Department of Human Services (ODHS) the Ohio Department of Job and Family Services (ODJFS) and the Director of Human Services the Director of Job and Family Services. Whenever ODHS or the Director of Human Services is referred to or designated in any statute, rule, contract, grant, or other document, the bill deems the reference to refer to ODJFS or the Director of Job and Family Services, as appropriate.

Transfer of functions and employees of the Bureau of Employment Services

(sec. 121.03; Sections 12, 14, 15, and 16)

The bill provides that the Ohio Bureau of Employment Services (OBES) ceases to exist on July 1, 2000. On that date, the bill transfers the majority of OBES's functions and duties to ODJFS, but OBES's responsibilities regarding the employment of minors, minimum wage, prevailing wage, and the Public Employment Risk Reduction Program are transferred to the Department of Commerce (DOC). Accordingly, functions that OBES performs under a grant agreement with the United States Department of Labor pursuant to the federal "Occupational Safety and Health Act of 1970" are assigned to DOC. Other functions OBES performs under grant agreements with the United States Department of Labor are assigned to ODJFS. The bill provides that the General Assembly intends that ODJFS administer federally funded employment and training programs consistent with state and federal law regarding program responsibilities and benefits administration for veterans, and that nothing in the bill may be construed as diminishing or altering those responsibilities.

Employees of OBES are transferred to ODJFS or DOC. Vehicles and equipment assigned to those employees are also transferred to ODJFS or DOC. ODJFS and DOC are the successors to and assume the obligations of OBES. Business commenced but not completed by OBES or its Administrator on July 1, 2000, must be completed by ODJFS or its Director or DOC or its Director, as appropriate. The bill specifies that the assets, liabilities, other equipment, and records of OBES are transferred to ODJFS or DOC.

The bill provides that OBES's rules, orders, and determinations continue in effect as rules, orders, and determinations of ODJFS or DOC, as appropriate, until

ODJFS or DOC modifies or rescinds them. Pending judicial and administrative actions are not affected by the transfer of OBES functions to ODJFS and DOC. If requested, ODJFS or DOC must be substituted for OBES as a party in those proceedings.

When OBES or its Administrator is referred to in any statute, rule, contract, grant, or other document, the bill deems the reference to refer to the ODJFS or its Director or DOC or its Director, as appropriate.

Interagency agreement between OBES and DOC

(Section 23)

As previously described, the bill transfers OBES's responsibilities regarding the employment of minors, minimum wage, prevailing wage, and the Public Employment Risk Reduction Program to DOC (see "**Transfer of functions and employees of the Bureau of Employment Services**," above). The bill requires OBES to enter into an interagency agreement with DOC to implement the transfer of those duties and responsibilities. The agreement may provide for the transfer of property and records, pass-through of federal financial participation, modification of agreements with the United States Department of Labor, and any other provisions necessary for the transfer and continued administration of program activities.

Elimination of specific reference to Ohio State Employment Service

(secs. 4141.04 and 4141.10; corresponding technical change: 4141.046)

The Bureau of Employment Services currently operates a division specifically referred to as the Ohio State Employment Service. This division is responsible for the establishment and maintenance of free public employment offices as necessary for the administration of the Unemployment Compensation Law (R.C. Chapter 4141.) and the federal laws governing the administration of the state's unemployment compensation system. Those federal laws are the Wagner-Peyser Act, Title III of the Social Security Act, and the Federal Unemployment Tax Act. The Ohio State Employment Service is designated and constituted as the agency of the state for purposes of the Wagner-Peyser Act.¹ The bill eliminates the specific reference to the Ohio State Employment Service and instead specifies

¹ *The Wagner-Peyser Act is the federal act that established the United States Employment Service and is the genesis of the job service functions of the Ohio Bureau of Employment Services, which currently are carried out by the Ohio State Employment Service division within the Bureau.*

that the Director of Job and Family Services must maintain or ensure the existence of public employment offices that are free to the general public. Additionally, the Department of Job and Family Services is substituted as the designated agency for purposes of the Wagner-Peyser Act.

A special employment service account is currently maintained as part of the Unemployment Compensation Administration Fund for purposes of maintaining the free public employment offices described above, and for the purpose of cooperating-operating with the United States Employment Service (now merely referred to as the Department of Labor). The bill abolishes this account.

The bill also eliminates the current requirement that the Ohio State Employment Service be administered by a full-time salaried director and that the Administrator of the Bureau of Employment Services appoint the director, other officers, and employees of the Ohio State Employment Service. Existing law states the Administrator must make those appointments in accordance with regulations prescribed by the Director of the United States Employment Service. The bill eliminates this statement.

Under existing law, the Administrator must appoint an individual from the Ohio State Employment Service to serve as an ex officio member of the Governor's Council on People with Disabilities to serve as a liaison between those two entities. The bill requires that the Director of Job and Family Services appoint an employee of the Department of Job and Family Services to serve in that capacity.

The bill requires the Director of Job and Family Services to maintain labor market information and employment statistics as necessary for the administration of the Unemployment Compensation Law (sec. 4141.04).

Fees for services

(sec. 4141.046)

Existing law specifies that no compensation or fee can be charged or received from any person seeking employment or any person desiring to employ labor through the employment offices established to administer the Unemployment Compensation Law. The bill retains this provision relative to persons seeking employment, but eliminates this provision relative to those desiring to employ labor. Additionally, existing law specifically prohibits officers and employees of the Ohio State Employment Service from violating this provision. The bill expands this prohibition to all persons, not just those officers and employees.

Limitations on access to information and specified funds

(secs. 4141.06, 4141.08, and 4141.10)

Certain provisions in existing law permit access to information and specified funds utilized in administering the Unemployment Compensation Law. Because the Bureau's functions are being transferred to a new agency that administers a wider range of law, the bill specifies that access to this information and fund is limited to purposes necessary for the administration of the Unemployment Compensation Law. Specifically, access to information by the Unemployment Compensation Review Commission and the Unemployment Compensation Advisory Council is limited as described above. Money deposited into the Unemployment Compensation Administration Fund, under the bill, is available to the Director of Job and Family Services only for the administration of the Unemployment Compensation Law.

Confidentiality requirements extended to county family services agencies and workforce development agencies

(sec. 4141.22)

Existing law prohibits employees and former employees of the Bureau of Employment Services from the unauthorized divulging of information secured by the person while employed in respect to the transactions, property, business, or mechanical, chemical, or other industrial process of any person. The bill expands this confidentiality requirement to employees and former employees of county services agencies and workforce development agencies. Additionally, the bill stipulates that this provision applies to information maintained by or furnished to the Director of Job and Family Services and secured by the employee or former employee. A person who violates this provision is disqualified, under the bill, from holding any appointment or employment by the Director of Job and Family Services, or a county family services agency or workforce development agency.

Confidentiality of information maintained by or furnished to former OBES Administrator

(Section 13)

The bill prohibits any person from disclosing information maintained by the former Administrator of OBES or furnished by employers or employees to the former Administrator of OBES pursuant to the law governing unemployment compensation, unless disclosure is otherwise permitted by law. It also prohibits any person who was in the employ of the former Administrator from divulging information to anyone other than the Director of Job and Family Services

concerning the transactions, property, business, or mechanical, chemical, or other industrial process of any person, firm, corporation, association, or partnership that was secured by the person while employed by the former Administrator. A person who violates the prohibition cannot be appointed or employed by ODJFS, a county family services agency, or a workforce development agency.

Elimination of specific reference to the women's division

(sec. 4141.042)

A women's division currently exists within the Bureau of Employment Services. The director of this division is appointed by the Administrator of the Bureau of Employment Services. The bill eliminates the reference to this specific division and eliminates the position of director of this division. Instead, the Director of Job and Family Services is given essentially the same duties as those currently held by the division, except that the permissive conduct of studies and research on subjects related to the division's functions and responsibilities is eliminated entirely. Additionally, the Director of Job and Family Services must assist state and local government *workforce development providers* instead of state and local government *agencies* in improving the employment competencies of and opportunities for women.

Abolishing specific references to functions currently performed in partnership with the Department of Human Services or that are authorized under the new Department of Job and Family Services

(secs. 4141.02, 4141.03, 4141.045, 4141.05, 4141.057, 4141.12, 4141.28(D)(4), 4141.15, 4141.16, 4141.161, 4141.163, and 4141.44)

The bill repeals various provisions of existing law that specify the manner in which the Bureau of Employment Services and the Department of Human Services must share and utilize specified information for the administration of the programs each agency is authorized to administer. It also repeals provisions detailing payment from one agency to the other for the provision or processing of information.

In like manner, the bill also repeals provisions that currently authorize the Administrator of the Bureau of Employment Services to perform functions that the new Director of Job and Family Services is authorized to perform under the bill.

Exemption from collective bargaining

(Section 11)

The bill provides that the renaming of ODHS and the reassignment of the functions and duties of OBES are not appropriate subjects for collective bargaining.

Administrative sub-units within ODJFS

(secs. 5101.02, 5101.06, and 5101.07 (repealed))

The Director of Human Services is authorized to establish offices, divisions, bureaus, and sections and prescribe their powers and duties. All duties conferred on these various administrative sub-units by law or the Director's order must be performed under rules the Director prescribes and are under the Director's control.

The bill authorizes the Director of Job and Family Services to establish work units within ODJFS as necessary for ODJFS's efficient operation. The duties of the work units are to be performed under rules the Director prescribes and are under the Director's control.

Just as the Director of Human Services is required by current law to appoint the chief of each office, division, bureau, and section, the Director of Job and Family Services is required by the bill to appoint the chief of each work unit. The bill, unlike current law, does not require that the chiefs have had special training and experience in the type of work performed by the administrative sub-unit the chief oversees. The bill also does not specify that the chiefs are to be in the classified service unless placed in the unclassified service. In contrast to ODHS chiefs under current law, ODJFS chiefs are not specifically authorized to establish, with the Director's approval, other administrative units within their work unit.

Contracts for staff training and development

(Section 21)

The bill permits the Director of Human Services and the OBES Administrator to enter into one or more contracts for staff training and development to facilitate the transfer of the staff and duties of OBES to ODJFS. The bill exempts these contracts from Controlling Board approval.

ODJFS employees

(secs. 4141.13, 5101.05, 5101.07 (repealed), and 5101.08)

Under current law, the Director of Human Services is required, except as otherwise provided concerning appointments by chiefs of divisions, to appoint such employees as are necessary for the efficient conduct of ODHS and to

prescribe the employees' titles and duties. The bill permits the Director of Job and Family Services to appoint such employees as are necessary for the efficient operation of ODJFS and to prescribe the title and duties of the employees.

ODHS is required by current law to require any of its employees and each officer and employee of every institution under its control who may be charged with custody or control of any money or property belonging to the state or who is required to give bond to give a surety company bond, properly conditioned, in a sum to be fixed by ODHS. The bill permits rather than requires the Director of Job and Family Services to require ODJFS employees to give a bond. The employees who may be required to give bond are those who may be charged with custody or control of any public (rather than state) money or property and those otherwise required. The bill does not specify that the bond must be a surety company bond. The Director is to fix the amount of bonds.

The bill repeals law that (1) provides that all employees holding positions in the classified service within ODHS on June 30, 1966, continue to hold such positions and (2) provides that state law governing chiefs, officers, and employees of ODHS's administrative sub-units does not affect their civil service status.

Temporary authority of Director of Job and Family Services to restructure

(Section 19)

From July 1, 2000 to June 30, 2002, the Director of Job and Family Services is given authority to restructure ODJFS, and the Director's actions are not subject to appeal to the State Personnel Board of Review. The Director may establish, change, and abolish ODJFS positions and assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all ODJFS employees who are not subject to collective bargaining. The Director's authority includes assigning or reassigning an exempt employee to a bargaining unit classification if the Director determines that such a classification is appropriate. The Director's actions must be consistent with federal regulations governing a merit system of personnel administration.

If an employee in the E-1 pay range is to be assigned, reassigned, classified, reclassified, transferred, reduced, or demoted to a position in a lower classification, the Director, or, if the employee is transferred outside ODJFS, the Director of Administrative Services, must assign that employee to Step X, and the employee may not receive an increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation.

Filling classified service position without competition or regard to residency

(secs. 124.30, 124.301, 5101.051, and 5101.07 (repealed))

The Director of Administrative Services may fill without competition a position in the classified service that requires peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character. To do this, there must be satisfactory evidence that for specified reasons competition in a special case is impracticable and that the position can best be filled by a person of high and recognized attainments in the qualifications. Current law requires that the Director of Administrative Services fill without competition such a position if the position is a chief of an office, division, bureau, or section within ODHS and the Director of Human Services certifies that the position can be filled without competition. The bill continues this for ODJFS, except that it applies to any position with ODJFS, not just positions as a chief of a work unit.

Current law also requires the Director of Administrative Services to waive a residency requirement if the Director of Human Services certifies that a position as a chief of an office, division, bureau, or section within ODHS can best be filled without regard to the residence of the appointee. This too continues for ODJFS and is expanded to apply to any position with ODJFS.

Appointment of unclassified positions by Director of ODJFS

(Section 18)

Current law permits the Director of Human Services and the OBES Administrator to each appoint persons to up to five unclassified positions that the Director or Administrator determines to be involved in policy development and implementation. Because OBES will no longer exist as a separate department, the five positions the OBES Administrator is permitted to appoint are eliminated. The bill permits the Director of Job and Family Services to appoint up to five additional positions to the unclassified service that the Director determines are involved in policy development and implementation. These additional positions expire no later than June 30, 2002.

Exemption from "prompt pay" law

(sec. 126.30)

State agencies are subject to the "prompt pay" law. This requires an agency that purchases, leases, or otherwise acquires any equipment, materials, goods, supplies, or services from any person and fails to make payment by the required

payment date to pay an interest charge to the person, unless the amount of the interest charge is less than \$10. The required payment date is the date on which payment is due under the terms of a written agreement between the agency and the person. If a specific payment date is not established by a written agreement, the required payment date is 30 days after the agency receives a proper invoice for the amount of the payment due. If the invoice contains a defect or impropriety, the agency must send written notice of the defect or impropriety to the person within 15 days after receipt of the invoice. If the agency sends the notice, the required payment date is 30 days after the agency receives a proper invoice.²

The bill exempts ODJFS from the prompt pay law.

Exemption from requirement to make annual report

(sec. 149.01)

Current law requires ODHS and several other state agencies to make a report at the end of each fiscal year of the transactions and proceedings of the agency for that fiscal year. The report must contain a summary of the agency's official acts and any suggestions and recommendations that are proper. The report goes to the Governor, Secretary of State, and state library. The agency also must keep a copy of the report on file at the agency.

ODJFS is not subjected to this requirement.

Authority to investigate and compel testimony and production of documents

(secs. 2705.02, 5101.37, and 5101.38)

Current law permits ODHS and each county department of human services (CDHS) and child support enforcement agency (CSEA) to make investigations necessary to perform their duties. ODHS may appoint and commission any competent person or agency to serve as a special agent, investigator, or representative to perform a designated duty for it. ODHS, a CDHS, or a CSEA may, in conducting investigations, administer oaths and enforce the attendance and testimony of witnesses, as well as the production of documents. A court, at the request of ODHS, a CDHS, or a CSEA may compel by contempt or through other remedies the attendance and testimony of witnesses and the production of

² *ODHS is required to notify the person in writing or by telephone within 15 days if ODHS determines the invoice is improperly executed or that additional evidence of the invoice's validity is required. The payment date then becomes the 30th day after ODHS receives the corrected invoice or additional evidence.*

documents. The bill expands this authority to include, in addition to functions performed by ODHS, functions currently performed by OBES.

Director of Job and Family Services expending funds

(sec. 5101.10)

As is the case with the Director of Human Services under current law, the Director of Job and Family Services is authorized to expend funds appropriated or available to ODJFS. Unlike the Director of Human Services, however, the Director of Job and Family Services is not limited to expending the funds for the purpose of the administration of, and training, education, and research in, human services. Like the Director of Human Services under current law, the Director of Job and Family Services is authorized to enter into contracts or agreements with, and to make grants to, public and private entities. But, unlike the Director of Human Services, the Director of Job and Family Services is specifically authorized, to the extent permitted by federal law, to advance funds to a grantee when necessary for the grantee to perform duties under the grant as specified by the Director.

Administrative Procedure Act and abbreviated rule-making procedure

(secs. 119.01, 119.03, and 5101.09)

There are two general statutory processes under which a state agency may adopt a rule: Revised Code Chapter 119. and Revised Code section 111.15. Chapter 119. is known as the Administrative Procedure Act. Section 111.15 is known as the abbreviated rule-making procedure. The major difference between them is that Chapter 119. requires that an agency provide public notice and conduct a hearing on a proposed rule before its adoption but section 111.15 does not.

Under current law, OBES is required to follow the Administrative Procedure Act when adopting any rule. ODHS must follow the Administrative Procedure Act when adopting a rule specifically made subject to the act.

The bill requires that ODJFS follow the Administrative Procedure Act when adopting a rule (1) concerning the administration or enforcement of state law governing unemployment compensation, (2) concerning a program administered by ODJFS, unless the statute authorizing the rule requires that it be adopted in accordance with section 111.15, or (3) that the authorizing statute requires be

adopted in accordance with the Administrative Procedure Act.³ ODJFS is to follow section 111.15 if (1) the rule concerns the day-to-day staff procedures and operations of ODJFS or financial and operational matters between ODJFS and another government entity or a private entity receiving a grant from ODJFS, unless the statute authorizing the rule requires that it be adopted in accordance with the Administrative Procedure Act or (2) the statute authorizing the rule requires that it be adopted in accordance with section 111.15.

The bill provides that, except as otherwise required by the Revised Code, the adoption of a rule in accordance with the Administrative Procedure Act does not make ODJFS, a county family services agency, or a workforce development agency subject to the notice, hearing, or other requirements of the Administrative Procedure Act concerning adjudication orders.

OBES and ODHS are required by current law to follow the Administrative Procedure Act when issuing, suspending, revoking, or canceling licenses. The bill applies this requirement to ODJFS.

Renumbering of Ohio Administrative Code

(Section 17)

The bill requires the Director of the Legislative Service Commission, if necessary to ensure the integrity of the numbering of the Ohio Administrative Code, to renumber the OBES and ODHS rules to reflect their transfer to ODJFS and DOC.

Membership of commissions, committees, and councils

(secs. 121.32, 125.24, and 4112.12)

Under existing law, a commission, a committee, and a council created pursuant to the Revised Code include both the Director of Human Services and the OBES Administrator as members. These are the Commission on African-American Males, the Ohio Benefit Systems Data Linkage Committee, and the interagency council created by the Commission on Hispanic-Latino Affairs. The bill provides, instead, that membership include the Director of Job and Family

³ *OBES is not required to hold a hearing when adopting a rule if the statutes pertaining to OBES specifically give a right of appeal to a higher authority within OBES or a court and give the appellant a right to a hearing on appeal. The bill provides that when such conditions apply to ODJFS, it is not required to hold a hearing when adopting a rule concerning the administration or enforcement of unemployment compensation.*

Services and an additional member of the Governor's cabinet appointed by the Governor.

COUNTY DEPARTMENTS OF JOB AND FAMILY SERVICES

CDHSs renamed CDJFSs

(sec. 329.011)

Under the bill, county departments of human services (CDHSs) are renamed county departments of job and family services (CDJFSs). Whenever a CDHS or county director of a CDHS is referred to or designated in the Revised Code or any rule, contract, or other document, the reference or designation is deemed to refer to a CDJFS or county director of a CDJFS, as the case may be.

CDJFS duties

(sec. 329.04)

Under current law, CDHSs are required to perform any duties assigned by ODHS regarding the provision of public social services. The bill requires that a CDJFS perform any duties assigned by ODJFS regarding the provision of public family services. The bill requires that a CDJFS cooperate with state and federal authorities in any matter relating to family, instead of human, services. A CDJFS is to exercise any powers and duties relating to family, instead of human, services imposed upon the CDJFS by law, the county commissioners, or the Governor, when authorized by law, to meet emergencies during war or peace. The bill also provides for a CDJFS to exercise any powers and duties relating to workforce development activities under such circumstances. Boards of county commissioners are permitted to assign to a CDJFS any power or duty a board has regarding family, instead of human, services and workforce development activities.

Whereas current law requires that a CDHS comply with a partnership agreement the board of county commissioners enters into with the Director of Human Services, the bill requires that a CDJFS, for the purpose of complying with such a partnership agreement, exercise the powers and perform the duties the partnership agreement assigns to the CDJFS. If a CDJFS is designated as the workforce development agency, it must provide the workforce development activities specified in a contract with the board of county commissioners.

Exception to public notice requirements for public improvements

(sec. 153.06)

Current law requires an authority with the duty to construct or alter a building for the use of the state or an institution supported by the state to give public notice of the time and place when and where bids will be received for performing the labor and furnishing the materials. There is an exception to this requirement for labor supplied by ODHS. The bill removes that exception and creates a new exception to the public notice requirements for labor supplied by a CDJFS.

County family services planning committee

(secs. 329.06 and 329.061)

Under current law, each county must have a human services planning committee to perform certain social service duties, including serving as an advisory board to the board of county commissioners with regard to the social services provided in the county. The bill renames the planning committee a family services planning committee and changes references to its social service duties to family service duties. Wherever a county human services planning committee is referred to or designated in the Revised Code or any rule, contract, or other document, the reference or designation is deemed to refer to a county family services planning committee.

A board of county commissioners either establishes a planning committee comprised of representatives of certain groups and entities or designates a committee in existence in the county on October 1, 1997, that the commissioners determine is capable of fulfilling the planning committee's responsibilities. Under current law, the following are among the groups and entities that may be represented on a planning committee if the commissioners establish a planning committee instead of designating an existing committee: consumers of social services, public entities that provide social services, private nonprofit and for-profit entities that provide social services in the county or advocate for consumers of social services, and other groups and entities that have an interest in the social services provided in the county. The bill uses the term "family services" instead of "social services" so that, for example, a planning committee may include representatives of consumers of family services.

Under circumstances discussed below under the heading "**Consolidated boards-single counties and multi-unit local areas**," the bill provides that a county is not always required to have a family services planning committee.

WORKFORCE DEVELOPMENT SYSTEM

Introduction

The bill authorizes the Director of Job and Family Services to administer the federal "Workforce Investment Act of 1998," 112 Stat. 936, 29 U.S.C.A. 2801, (hereafter WIA) and the federal "Wagner-Peyser Act," 48 Stat. 113 (1933), 29 U.S.C.A. 49, and the funds received pursuant to those federal laws. In so doing, the Director must establish and administer a Workforce Development System designed to provide leadership, support, and oversight to locally designed workforce development and family services systems. The bill permits specified combinations of political subdivisions to partner together for workforce development and family services purposes. It establishes parameters for these partnerships, including requiring the establishment of local workforce policy boards and workforce development plans, and permitting the designation of workforce development agencies. Additionally, the bill requires participation in a one-stop system for workforce development activities. It also requires the Governor to establish a State Workforce Policy Board.

Definitions

(sec. 6301.01)

The bill defines the following terms for purposes of the Workforce Development System established under the bill:

"Local area" means any of the following: A municipal corporation that is authorized to administer and enforce WIA under the Workforce Development System created by the bill, and is not joining in partnership with any other political subdivisions in order to do so; a single county; or a consortium of any of the following political subdivisions:

- (1) A group of two or more contiguous counties in the state;
- (2) One or more counties and one municipal corporation in the state;
- (3) One or more counties with or without one municipal corporation in the state and one or more counties with or without one municipal corporation in another state, on the condition that those in another state share a labor market area with those in the state.⁴

⁴ "Labor market area" is not defined by the bill, but for purposes of WIA, it means "an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without

The bill specifies that "local area" does not mean a region for purposes of determinations concerning administrative incentives.

For purposes of this analysis, a local area that is a single municipal corporation or single county is referred to as a "single unit local area" and a local area that is a consortium of political subdivisions, as described above, is referred to as a "multi-unit local area."

"Workforce development agency" means the entity given responsibility for workforce development activities that is designated by the board of county commissioners, the chief elected official of a municipal corporation, or the chief elected officials of a local area, when designated in the manner provided under the bill.

"Workforce development activity" means a program, grant, or other function, the primary goal of which is to do one or more of the following:

- (1) Help individuals maximize their employment opportunities;
- (2) Help employers gain access to skilled workers;
- (3) Help employers retain skilled workers;
- (4) Help develop or enhance the skills of incumbent workers;
- (5) Improve the quality of the state's workforce;
- (6) Enhance the productivity and competitiveness of the state's economy.

"Chief elected officials" when used in reference to a local area, means the board of county commissioners of the county or of each county in the local area, and the chief elected official of the municipal corporation, if the local area includes a municipal corporation, except that when the local area is a single unit local area, "chief elected officials" means the chief elected official of that particular municipal corporation.

Administration of the "Workforce Investment Act of 1998"

(sec. 6301.02)

changing their place of residence. Such an area shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor."

The bill authorizes the Director of Job and Family Services to administer WIA and the "Wagner-Peyser Act," 48 Stat. 113 (1933), 29 U.S.C.A. 49, as amended, and the funds received pursuant to those federal acts. In administering those acts and funds received pursuant to those acts, the Director must establish and administer a Workforce Development System designed to provide leadership, support, and oversight to locally designed workforce development and family services systems.

The Director is required by the bill to support and facilitate the development of a flexible, cost-effective, locally driven service delivery system that does both of the following:

- (1) Provides employers with a greater ability to define workforce development needs and ensures their access to skilled, trained workers;
- (2) Provides individuals opportunities to maximize their success in the workforce and recognizes that individuals have the ultimate responsibility for the choices and decisions that impact their lives.

In administering the Workforce Development System, under the bill, the Director must do all of the following:

- (1) Provide the maximum amount of flexibility and authority to political subdivisions of the state as federal law permits;
- (2) Assist and encourage political subdivisions of the state to join together into regions to consolidate and integrate family services duties and workforce development activities to form a seamless delivery system designed to provide an individual with consistent service tailored to meet the individual's needs;
- (3) Conduct investigations and hold hearings as necessary for the administration of this chapter.

The bill allows the Director, to the extent permitted by state and federal law, to adopt rules pursuant to the Administrative Procedure Act to establish any program or pilot program for the purposes of providing workforce development activities or family services to individuals who do not meet eligibility criteria for those activities or services under applicable federal law. Prior to the initiation of any program of that nature, the Director of Budget and Management must certify to the Governor that sufficient funds are available to administer a program of that nature.

The bill requires every state agency, board, or commission to provide to the Director of Job and Family Services all information and assistance requested by

the Director in furtherance of workforce development activities, unless otherwise prohibited by state or federal law.

Director of Job and Family Services may contract for workforce development activities

(secs. 127.16 and 5101.214)

The Director of Job and Family Services is authorized by the bill to contract with one or more private or government entities to provide one or more workforce development activities. The contract must (1) comply with federal requirements, the Revised Code, and state rules governing the workforce development activities included in the contract, (2) specify the responsibilities of ODJFS and the private or government entity under the contract, and (3) include the types of requirements governing workforce development activities that would be included in a partnership agreement between the Director and board of county commissioners or chief elected official of a municipal corporation. The contract is not subject to state law governing competitive selection of purchases by state agencies. The Director is permitted to adopt rules as necessary to implement the contracting authority.

Municipal corporation's participation in WIA under the bill

(sec. 763.02)

The chief elected official of a municipal corporation that is eligible for automatic or temporary designation under federal law as a local workforce investment area but does not request that the Governor grant the designation is required by the bill to administer and enforce WIA in accordance with the bill. The chief elected official of a municipal corporation that is granted automatic or temporary designation is prohibited from administering and enforcing WIA under the bill.

Workforce development agency for certain municipal corporations

(sec. 763.05)

The chief elected official of a municipal corporation that, for the purpose of WIA, is a local area comprised of just that municipal corporation is permitted by the bill to enter into a written contract with a private or government entity, including a public or private college or university, for the entity to act as the municipal corporation's workforce development agency. The entity with which the chief elected official contracts is not required to be located in the municipal corporation. The chief elected official's contracting authority is subject to any

federal limitations, including federal personnel administration merit standards for state and local governments operating certain programs, including Medicaid, food stamps, and unemployment insurance and employment services. The chief elected official also is subject to any limitations the Revised Code applies to the contracting authority.

Workforce development agency established or designated for certain counties

Establishment or designation

(sec. 330.02)

A board of county commissioners of a county that, for the purpose of WIA, is a local area comprised of just that county is required by the bill to adopt a resolution establishing or designating a workforce development agency to provide workforce development activities for the county. The board must adopt the resolution not later than July 1, 2000.

Any of the following may be the workforce development agency:

- (1) The CDJFS;
- (2) A separate agency under the direct control of the commissioners and administered by an official appointed by the commissioners;
- (3) An entity serving the county on the bill's effective date in a capacity similar to the capacity in which a workforce development agency is to serve the county on and after the bill's effective date;
- (4) An entity located in or outside the county that provides workforce development activities in the county on the bill's effective date;
- (5) Any private or government entity that federal law permits and the Revised Code does not prohibit.

County commissioners to contract with workforce development agency

(sec. 330.03)

After the workforce development agency is established or designated, the board of county commissioners must enter into a contract with the agency. The contract is to specify the workforce development activities the agency is to provide and establish standards, including performance standards, for the agency's operation. The contract must include any other provisions the board considers necessary.

Contract to enhance administration of workforce development activities

(sec. 330.07)

The board of county commissioners is permitted to contract with any government or private entity to enhance the workforce development agency's administration of the workforce development activities the agency provides. The entity with which the board contracts is not required to be located in the county the board serves.

Designating county family services agency and workforce development agency

(sec. 307.981)

A board of county commissioners is authorized by current law to designate any private or government entity as the county's CSEA, CDHS, PCSA, two of those agencies, or all three of those agencies.⁵ A board may implement this authority only to the extent permitted by federal law.⁶

The bill extends the designation authority of boards of county commissioners. A board is permitted to designate any private or government entity as the county's workforce development agency. Just as a board may combine a CSEA, CDHS (renamed CDJFS), and a PCSA in any combination, it also may combine a workforce development agency with one, two, or all three of those types of agencies.

Implementation of the designation authority continues to be subject to any federal limitations. The bill specifies that this includes federal personnel administration merit standards for state and local governments operating certain programs, including Medicaid, food stamps, and unemployment insurance and employment services. The bill also specifies that the authority is subject to any limitations established by the Revised Code and that a board may designate only a private or government entity within this state.

If the Director of Job and Family Services determines that a designation made by a board of county commissioners constitutes a substantial change from what is in the current partnership agreement between the Director and a board of county commissioners, the Director is permitted by the bill to require that the

⁵ *These agencies are collectively known as "county social service agencies." The bill calls them "county family services agencies."*

⁶ *State law also limits a board's authority to redesignate a PCSA that is operated by a county children services board.*

Director and the board amend the partnership agreement and that the board provide the Director assurances that the newly designated private or government entity will meet or exceed all requirements of the family services duties or workforce development activities the entity is to assume.

Contracting out family services duties and workforce development activities

(sec. 307.982)

As well as having authority to redesignate an entire agency, current law provides that a board of county commissioners may enter into a written contract with a private or government entity for the entity to perform a particular duty of a CSEA, CDHS, or PCSA (other than a PCSA operated by a county children services board) on behalf of the CSEA, CDHS, or PCSA.⁷ This authority is subject to any federal limitations.

The bill authorizes a board of county commissioners to contract with any private or government entity to perform a workforce development activity on behalf of a workforce development agency.

Implementation of the contracting authority continues to be subject to any federal limitations. The bill specifies that this includes federal personnel administration merit standards for state and local governments operating certain programs, including Medicaid, food stamps, and unemployment insurance and employment services. The bill also specifies that the authority is subject to any limitations established by the Revised Code.

Current law provides that a private or government entity with which a board of county commissioners may contract includes a public or private college or university. The college or university is not required to be located within the county. The bill provides that no entity with which the board contracts is required to be located in the county the board serves.

Requirements apply to entity designated by or under contract with a board of county commissioners

(sec. 307.989)

The bill provides that a private or government entity that is designated a CSEA, CDJFS, PCSA, or workforce development agency or assumes a duty or activity of a CSEA, CDJFS, PCSA, or workforce development agency pursuant to

⁷ Current law calls the duties of a CSEA, CDHS, or PCSA "social service duties." The bill calls the duties "family services duties."

a contract with a board of county commissioners is subject to federal statutes and regulations, the Revised Code, and state rules that require, permit, or prohibit an action regarding the duty or activity.

Allocation of WIA funds

(sec. 6301.03)

The Director may make allocations and payment of funds for the local administration of the workforce development activities established under the bill. The bill limits the Governor, pursuant to WIA, to reserving not more than 15% of the amounts allocated to the state under Title I of WIA for adults, dislocated workers, and youth for statewide activities, and not more than 25% of funds allocated for dislocated workers under Title I of WIA for statewide rapid response activities. The Director must allocate to local areas all funds required to be allocated to local areas pursuant to WIA. The bill permits the Director to establish a maximum amount the Director will allocate.

Under the bill, the Director must make allocations only with funds available and in accordance with all of the following:

(1) If a board of county commissioners administering workforce development activities at the local level designates the county department of job and family services as its workforce development agency, the Director must allocate the funds to that county department. That county department must deposit those funds into the county public assistance fund.

(2) If a board of county commissioners administering workforce development activities at the local level designates as its workforce development agency an entity for which the board maintains responsibility or control, but which is not the county department of job and family services, the board must establish a county workforce development fund, and the entity receiving the funds must deposit those funds into the county workforce development fund. All expenditures for activities funded under this section must be made from the county workforce development fund.

(3) If a board of county commissioners administering workforce development activities at the local level designates as its workforce development agency an entity other than one described in (1) and (2) above, the board must designate a fiscal agent to receive and be responsible for the funds. Any entity designated by the board as the fiscal agent must be an agency supervised by the Director or the county auditor.

(4) If a municipal corporation administering workforce development activities at the local level is designated to receive funds, the municipal corporation must place those funds into a special fund and all expenditures for workforce development activities must be made from that fund. The municipal corporation may use those funds only for the workforce development activities for which the funds are appropriated.

The use of funds, reporting requirements, and other administrative and operational requirements governing the use of funds received under WIA by the Director must be governed by internal management rules the Director adopts pursuant to the abbreviated rule-making procedure.

To the extent permitted by state or federal law, the Director, local areas, counties, and municipal corporations authorized to administer workforce development activities under the bill may assess a fee for specialized services requested by an employer. The Director must adopt rules governing the nature and amount of those types of fees, pursuant to the abbreviated rule-making procedure.

Partnership agreements

The Director of Job and Family Services is required by current law to enter into a written partnership agreement with each board of county commissioners regarding the administration and design of (1) the Ohio Works First Program, (2) the Prevention, Retention, and Contingency Program, (3) human services activities that are not assigned to CDHSs by state law but that a CDHS assumes pursuant to an agreement entered into under state law, (4) other CDHS duties that the Director and commissioners mutually agree to include in the agreement, and (5) CSEA and PCSA duties included in a local plan of cooperation that the Director and commissioners mutually agree to include in the agreement.

Under the bill, the Director of Job and Family Services is required to enter into partnership agreements that concern only CDJFS, CSEA, and PCSA duties; partnership agreements that concern only workforce development activities; and partnership agreements that concern both CDJFS, CSEA, and PCSA duties and workforce development activities. Partnership agreements are to be biennial.

Partnership agreements concerning both issues

(secs. 5101.21 and 6301.05)

A board of county commissioners of a county that, for the purpose of WIA, is a local area comprised of just that county is required by the bill to have a partnership agreement that concerns both (1) the duties of the CDJFS, CSEA, and PCSA included in a partnership agreement required by current law and (2)

workforce development activities provided by the county's workforce development agency.

Workforce development activities included in a partnership agreement are vested in the board of county commissioners in the same way CDJFS, CSEA, and PCSA duties included in a partnership agreement are vested in the board under current law. Just as a partnership agreement must comply with federal statutes and regulations, state statutes, and, unless waived by the agreement, state rules governing CDJFS, CSEA, and PCSA duties, the agreement also must comply with such requirements governing workforce development activities.

The bill requires that the partnership agreement have the same type of provisions applicable to workforce development activities that apply to CDJFS, CSEA, and PCSA duties included in the agreement. For example, a partnership agreement must specify (1) outcomes that the workforce development agency is expected to achieve from the administration and design of the workforce development activities, (2) performance and other administrative standards the workforce development agency is required to meet in the design, administration, and outcomes of the workforce development activities, and (3) the funding for the workforce development activities.

The bill establishes two requirements specific to workforce development activities. The workforce development plan prepared by the county's workforce policy board must be attached to and incorporated into the partnership agreement and the agreement must include a description of the services, and a list of the core services, provided in the one-stop system for workforce development activities the county participates in.

Partnership agreements concerning only workforce development activities

(secs. 5101.213 and 6301.05)

The chief elected official of a municipal corporation that, for the purpose of WIA, is a local area comprised of just that municipal corporation is required to enter into a partnership agreement with the Director of Job and Family Services.

Each board of county commissioners of a county, and the chief elected official of a municipal corporation, that, for the purpose of WIA, is a part of a local area *not* comprised of just that county or municipal corporation must either (1) individually enter into a partnership agreement with the Director or (2) enter into an agreement with the board of county commissioners of each county, and the chief elected official of the municipal corporation, included in the same local area, for the purpose of designating one board or the chief elected official as the board or chief elected official to enter into a partnership agreement on behalf of each

board and the chief elected official in that local area. The designated board or chief elected official is required to enter a partnership agreement with the Director.

These partnership agreements are to include the types of provisions regarding workforce development activities that a partnership agreement between the Director and a board of county commissioners of a county that is a local area comprised of just that county must include. A partnership agreement with a board of county commissioners of a county, or chief elected official of a municipal corporation, that is part of a local area *not* comprised just of that county or municipal corporation also must include the method and manner by which the commissioners of each county and chief elected official of a municipal corporation in the local area is to resolve disagreements over (1) choices concerning specifically who to appoint to the local area's workforce policy board, within the criteria for membership established by the bill and (2) whether a member of the local area's workforce policy board is performing satisfactory for purposes of serving at the pleasure of the chief elected officials of the local area.

Partnership agreements concerning only CDJFS, CSEA, and PCSA duties

(sec. 5101.21)

As under current law, a board of county commissioners of a county that, for the purpose of WIA, is a local area *not* comprised of just that county must enter into a partnership agreement concerning only CDJFS, CSEA, and PCSA duties. This is in addition to a partnership agreement concerning only workforce development activities that the board must enter into or have entered into on behalf of the board by another board of county commissioners of a county, or the chief elected official of a municipal corporation, in the same local area.

Consolidated funding allocation

(secs. 5101.21 and 5101.213)

Under current law and to the extent practicable and not in conflict with federal statutes and regulations, state law, and an appropriation made by the General Assembly, ODHS is authorized to establish a consolidated funding allocation for two or more CDHS duties included in a partnership agreement.

The bill permits the Director of Job and Family Services to establish a consolidated funding allocation for the following included in a partnership agreement with a board of county commissioners of a county that is a local area comprised of just that county: (1) two or more CDJFS, CSEA, and PCSA duties,

(2) two or more workforce development activities, or (3) one or more CDJFS, CSEA, and PCSA duties and workforce development activities.

The Director also may establish a consolidated funding allocation for two or more workforce development activities included in a partnership agreement with the chief elected official of a municipal corporation that is a local area comprised just of that municipal corporation or with a board of county commissioners of a county, or chief elected official of a municipal corporation, that is part of a local area *not* comprised just of that county or municipal corporation. The consolidated funding allocation may be for either (1) a municipal corporation in a local area comprised of just that municipal corporation or (2) two or more counties, or a municipal corporation and one or more counties, in a local area *not* comprised of just one county or municipal corporation that are coordinating and integrating workforce development activities in the local area.

As is the case for a CDHS under current law, a CDJFS, CSEA, PCSA, or workforce development agency that receives a consolidated funding allocation may use the funds in the allocation only for the purpose for which they were appropriated.

General requirements for partnership agreements

(sec. 307.987)

Under current law and to the extent federal statutes and regulations and state law permit, a partnership agreement concerning CDHS, CSEA, and PCSA duties must permit the exchange of information needed to improve services and assistance to individuals and families and the protection of children. In addition, a partnership agreement must (1) be coordinated and not conflict with such things as a local plan of cooperation, (2) prohibit discrimination in hiring and promotion against applicants for and participants of the Ohio Works First and Prevention, Retention, and Contingency Programs, (3) comply with federal statutes and regulations and state law, (4) be adopted by a board of county commissioners' resolution, and (5) specify how the partnership agreement may be amended.

The bill applies these general requirements to all partnership agreements.

Preparatory work before July 1, 2000

(Section 22)

The bill authorizes the Director of Human Services and the Administrator of OBES, boards of county commissioners, and the chief elected official of municipal corporations to enter into negotiations to amend an existing partnership

agreement or to enter into a new one consistent with the bill. Any such amended or new partnership agreement is to be drafted in the name of ODJFS. The amended or new partnership agreement may be executed before July 1, 2000, if the amendment or agreement does not become effective sooner than July 1, 2000.

Provisions of law concerning partnership agreements repealed

(sec. 5101.21)

The bill eliminates law that establishes a January 1, 2000, deadline for the Director of Human Services to enter into a partnership agreement with each board of county commissioners. The bill also eliminates a law that requires CDHSs, CSEAs, and PCSAs to perform their duties in the manner they were performed on October 1, 1997, until the implementation of a partnership agreement.⁸

Progress reports on partnership agreements

(sec. 5101.97)

ODHS is required by current law to complete an annual progress report on the partnership agreements between the Director and boards of county commissioners. The report must include a review of whether CDHSs, CSEAs, and PCSAs satisfied performance standards included in agreements. The bill applies this requirement to ODJFS and requires that the report also include a review of whether workforce development agencies satisfied performance standards included in agreements with boards of county commissioners of counties that are, for the purpose of WIA, a local area comprised of just one county. The report is not required to include such a review of workforce development agencies covered by a partnership agreement with the chief elected official of a municipal corporation or a board of county commissioners of a county that is a local area *not* comprised of just that county.

State Workforce Policy Board

(sec. 6301.04)

The bill requires the Governor to establish a State Workforce Policy Board and appoint members to the Board, who serve at the Governor's pleasure, to perform duties under WIA, as authorized by the Governor. The Director may assist the Board in the performance of its duties. The bill exempts the Board from

⁸ A CDHS, CSEA, or PCSA is allowed to implement a change in the way its duties are performed when the change is authorized by federal statutes or regulations, state statutes, or ODHS rules.

the statutory provision that automatically sunsets newly created boards four years after their creation.

Local workforce policy boards

(sec. 6301.06)

The chief elected officials of a local area are required by the bill to create a workforce policy board, which must consist of specified appointed members, as described below, and the chief elected official from the municipal corporation with the largest population in the local area, except that if the municipal corporation is a single unit local area, the chief elected official of that municipal corporation may determine whether to be a member of the board. Under the bill, the members the chief elected officials appoint must comply with all of the following specifications:

(1) At least five members of the board must be representatives of private sector businesses in the general labor market area that includes that local area, and must be appointed from among individuals nominated by local business organizations and business trade associations. Among these members, at least one must represent small businesses, at least one must represent medium-sized businesses, and at least one must represent large businesses. When determining what constitutes small, medium-sized, and large businesses for purposes of this division, the chief elected officials of the local area must define those sizes as those sizes are generally understood within the labor market area that includes that local area. A majority of the members of the board must be representatives of private sector businesses.

(2) At least one member of the board must represent organized labor and must be appointed from nominations submitted by organized labor unions representing workers employed in the local area;

(3) At least two members of the board must be representatives of local educational entities. "Local educational entities" includes local educational agencies, school district boards of education, entities providing educational and literacy activities, and post-secondary educational institutions.

(4) Any other individuals the chief elected officials of the local area determine are necessary.

The bill specifies that members of the board serve at the pleasure of the chief elected officials of the local area and must be compensated for reasonable and necessary expenses only. Those expenses must be paid from funds allocated

pursuant to the funding provisions of the bill (see "Allocation of WIA funds" above).

The chief elected officials of a local area may provide office space, staff, or other administrative support as needed to the board. The bill specifies that members of the board are not subject to the law requiring that specified financial disclosure statements be filed with the Ohio Ethics Commission.

Consolidated boards-single counties and multi-unit local areas

The bill requires the chief elected officials of a local area other than a local area that single municipal corporation to coordinate the workforce development activities of the county family services planning committees and the workforce policy boards in the local area in any manner that is efficient and effective to meet the needs of the local area.

Additionally, the bill specifies that the chief elected officials of that local area may, but are not required to, consolidate all boards and committees as they determine appropriate into a single board for purposes of workforce development activities. A majority of the members of that consolidated board must represent private sector businesses. The membership of that consolidated board must include a representative from each group granted representation on the local workforce policy board and also a member who represents consumers of family services and a member who represents the county department of job and family services. Under the bill, the membership of that consolidated board may include a representative of one or more groups and entities that may be represented on a county family services planning committee.

Consolidated boards-single municipal corporation local areas

The bill specifies that the chief elected official of a local area that is a single municipal corporation must coordinate, to the best of that official's ability, the workforce development activities of the county family services planning committees and the workforce policy boards in that local area in any manner that is efficient and effective to meet the needs of that local area.

The chief elected official of that local area may, but is not required by the bill to, consolidate all boards and committees that that official determines appropriate into a single board for purposes of workforce development activities. The specifications concerning the composition of that consolidated board are the same as those described above for single county and multi-unit local areas.

Workforce development plans

(sec. 6301.07)

Under the bill, every workforce policy board, with the agreement of the chief elected officials of the local area, must prepare a workforce development plan pursuant to WIA and incorporate that plan into and attach that plan to the required partnership agreements described above (see "Partnership agreements" above). The plan must accomplish all of the following:

(1) Identify the workforce investment needs of businesses in the local area, identify projected employment opportunities, and identify the job skills necessary to obtain those opportunities;

(2) Identify the local area's workforce development needs for youth, dislocated workers, adults, displaced homemakers, incumbent workers, and any other group of workers identified by the workforce policy board;

(3) Determine the distribution of workforce development resources and funding to be distributed for each workforce development activity to meet the identified needs, utilizing the funds allocated pursuant to WIA;

(4) Review the minimum curriculum required by the State Workforce Policy Board for certifying training providers and identify any additional curriculum requirements to include in contracts between the training providers and the chief elected officials of the local area;

(5) Establish performance standards for service providers that reflect local workforce development needs;

(6) Describe any other information the chief elected officials of the local area require.

The bill permits a workforce policy board to provide policy guidance and recommendations to the chief elected officials of a local area for any workforce development activities.

The bill specifies that its provisions do not prohibit the chief elected officials of a local area from assigning, through a partnership agreement, any duties in addition to the duties under this section to a workforce policy board, except that, under the bill, a workforce policy board cannot contract with itself for the direct provision of services in its local area. A workforce policy board may consult with the chief elected officials of its local area and make recommendations

regarding the workforce development activities provided in its local area at any time.

Local and regional plans of cooperation

(secs. 307.983, 307.984, 307.987, and 329.05)

Each board of county commissioners is required by current law to enter into a written plan of cooperation with the CSEA, CDHS, and PCSA serving the county. The purpose of the plan is to enhance the administration of the Ohio Works First and Prevention, Retention, and Contingency Programs and any other duties of a CSEA, CDHS, or PCSA that the board and agencies agree to include in the plan. The bill provides for the workforce development agency to be part of the plan of cooperation and for the plan to include workforce development activities the board and agencies agree to include.

The bill permits a board of county commissioners to enter into one or more regional plans of cooperation with (1) one or more other boards of county commissioners, (2) the chief elected official of one or more municipal corporations that, for the purpose of the implementation of WIA, are a local area that comprises just one municipal corporation, or (3) both boards of county commissioners and such chief elected officials. The purpose of a regional plan of cooperation is to enhance the administration, delivery, and effectiveness of workforce development activities and the duties of CSEAs, CDJFSs, and PCSAs. A regional plan of cooperation must specify how the private and government entities included in the plan will accomplish the plan's purpose.

As is the case of a local plan of cooperation under current law, a regional plan of cooperation is required to do all of the following:

- (1) To the extent federal statutes and regulations and state law permit, allow the exchange of information needed to improve services and assistance to individuals and families and the protection of children;
- (2) Be coordinated and not conflict with such things as the partnership agreement between the Director of Job and Family Services and board of county commissioners, the local plan of cooperation, and an agreement for a CDJFS to administer or assist a state or local family services activity not specifically assigned to CDJFSs by state law;
- (3) Prohibit discrimination in hiring and promotion against applicants for and participants of the Ohio Works First and Prevention, Retention, and Contingency Programs;

- (4) Comply with federal statutes and regulations and state law;
- (5) Be adopted by a resolution;
- (6) Specify how the plan may be amended.

Municipal corporation permitted to enter into regional plan of cooperation

(sec. 763.07)

The bill provides that the chief elected official of a municipal corporation that, for the purpose of WIA, is a local area comprised of just that municipal corporation may enter into a regional plan of cooperation with one or more boards of county commissioners. The purpose of the regional plan is to enhance the administration, delivery, and effectiveness of workforce development activities and the duties of CSEAs, CDJFSs, and PCSAs. A regional plan is to specify how the private and government entities subject to the plan are to accomplish the plan's purpose.

One-stop system

(sec. 6301.08)

Every local area is required by the bill to participate in a one-stop system for workforce development activities. Each board of county commissioners and the chief elected official of a municipal corporation must ensure that at least one physical location is available in the local area for the provision of workforce development activities.

Under the bill, a one-stop system may be operated by a private entity or a public agency, including a workforce development agency, any existing facility or organization that is established to administer workforce development activities in the local area, and a county family services agency.

The bill requires that a one-stop system be staffed by all the partners required under WIA.⁹ Additionally, at least one representative from a county department of job and family services must staff a one-stop system to represent all of the county family services agencies within the local area (sec. 6301.05).

⁹ "Required partners" is a term used in WIA to identify the various types of federal workforce development programs now in existence and that will continue under WIA, and to ensure that those programs and the staff who operate them will be part of and available in the one-stop systems.

Performance and other administrative standards

(sec. 5101.22)

ODHS is permitted by current law to establish performance and other administrative standards for the administration and outcomes of CDHS, CSEA, and PCSA duties and determine at intervals ODHS determines the degree to which a CDHS, CSEA, or PCSA complies with a standard. These standards do not apply to a CDHS, CSEA, or PCSA for which a different standard is specified in a partnership agreement.

The bill gives ODJFS the same authority to establish performance and other administrative standards for the administration and outcomes of workforce development activities.

Annual financial, administrative, and other incentive awards

(sec. 5101.23)

Under current law, and subject to the availability of funds, ODHS is allowed to provide annual financial, administrative, or other incentive awards to CDHSs, CSEAs, and PCSAs that exceed performance and other administrative standards. The amount of a financial incentive award must be based on the degree to which a CDHS, CSEA, or PCSA exceeds a performance or other administrative standard and the amount of money available in the Social Services Incentive Fund. Under the bill the award of an incentive award is not conditioned on exceeding performance and other administrative standards and the amount of a financial incentive award need not be based on the degree to which a CDHS, CSEA, or PCSA exceeds a standard or the amount of money available in the Social Services Incentive Fund.

The bill permits ODJFS to provide these types of incentive awards to workforce development agencies. A workforce development agency, like a CDHS, CSEA, or PCSA under current law, may spend funds provided as a financial incentive award only for the purpose for which the funds are appropriated.

Sanctions

(sec. 5101.24; corresponding technical change: 2301.357)

ODHS is authorized by current law to take action against a CDHS, CSEA, or PCSA if ODHS determines that the agency (1) fails to meet a performance standard, (2) fails to comply with a requirement established by federal statute or regulations, state statute, or ODHS rule, or (3) is solely or partially responsible for,

or contributes to, an adverse audit or quality control finding, final disallowance of federal financial participation, or other sanction or penalty.

The bill authorizes ODJFS to take action against a workforce development agency as well as a CDJFS, CSEA, or PCSA. However, if the CDJFS, CSEA, or PCSA duty or workforce development activity involved is included in a partnership agreement, ODJFS is to take action against the board of county commissioners. ODJFS is to take action against the board regardless of the fact that a CDJFS, CSEA, PCSA, or workforce development agency performs the duty or activity or the board entered into the partnership agreement on behalf of another board of county commissioners included in the same local area.

ODJFS does not have authority to take action against an agency, or board of county commissioners responsible for the agency, if the agency contributes to (as opposed to being solely or partially responsible for) an adverse audit or quality control finding, final disallowance of federal financial participation, or other sanction or penalty.¹⁰

Types of actions

ODHS may take one or more of the following actions against a CDHS, CSEA, or PCSA under current law:

(1) Require the agency to submit to and comply with a corrective action plan pursuant to a time schedule specified by ODHS;

(2) Impose a financial or administrative sanction against the agency, which may include requiring the agency to share with ODHS a final disallowance of federal financial participation or other sanction or penalty. A sanction may be increased if ODHS has previously taken such action against the agency.

(3) Perform a duty for the agency until ODHS is satisfied that the agency will perform the duty satisfactorily. ODHS is allowed to spend funds in the county treasury appropriated for the duty while administering the duty for the agency.

(4) Request that the Attorney General bring mandamus proceedings to compel the agency to take or cease the action that enables ODHS to take action against the agency.

¹⁰ *The bill does not specify the distinction between "contributing to" and being "partially responsible for" a federal sanction or penalty.*

The bill authorizes ODJFS to take one or more of the following actions against a CDJFS, CSEA, PCSA, workforce development agency, or board of county commissioners:

(1) Require the responsible entity to submit to and comply with a corrective action plan pursuant to a time schedule specified by ODJFS;

(2) Require the responsible entity to (a) share with ODJFS a final disallowance of federal financial participation or other sanction or penalty, (b) reimburse ODJFS the amount ODJFS pays to the federal government or another entity that represents the amount the CDJFS, CSEA, PCSA, or workforce development agency is responsible for of an adverse audit or quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government or other entity, (c) pay the federal government or other entity the amount that represents the amount the CDJFS, CSEA, PCSA, or workforce development agency is responsible for of an adverse audit or quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government or other entity.

(3) Impose a financial or administrative sanction or adverse audit issued by ODJFS against the responsible entity. A sanction may be increased if ODJFS has previously taken such action against the responsible entity.

(4) Perform, or contract with a government or private entity for the entity to perform, the duty or activity until ODJFS is satisfied that the responsible entity ensures that the duty or activity will be performed satisfactorily. If ODJFS performs or contracts with an entity to perform a duty or activity, ODJFS may spend funds in the county treasury appropriated for the duty or activity or withhold funds allocated to the responsible entity for the duty or activity and spend the funds for the duty or activity.

(5) Request that the Attorney General bring mandamus proceedings to compel the responsible entity to take or cease the action that enables ODJFS to take action against the responsible entity.

As is required of ODHS under current law, ODJFS must provide written notification if it decides to take action. The notice must be given to the responsible entity and county auditor.

Under current law, a CDHS, CSEA, or PCSA is allowed to request an administrative review of an action ODHS proposes to take by sending a written request to ODHS not later than 45 days after ODHS mails the notice of the proposed action.

The bill provides that the responsible entity may request an administrative review of a proposed action, other than a request by ODJFS for the Attorney General to bring mandamus proceedings. The amount of time the responsible entity has to send the request for an administrative review depends on which action ODJFS proposes to take.

If the proposed action is for a corrective action plan, the responsible entity must send the request within 15 days. If ODJFS receives the request within the required time, it must postpone taking the action for 15 days following the day it receives the request. ODHS and the responsible entity must attempt to resolve any dispute during that 15-day period.

If the proposed action is for the responsible entity to share with ODJFS a final disallowance of federal financial participation or other sanction or penalty; reimburse ODJFS for an adverse audit or quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government or another entity; or pay the federal government or another entity for an adverse audit or quality control finding, final disallowance of federal financial participation, or other sanction or penalty, the responsible entity must send the request within 45 days. The administrative review is to be limited solely to the issue of the amount the responsible entity must share with ODJFS, reimburse ODJFS, or pay to the federal government or other entity. ODJFS and the responsible entity must attempt to resolve any dispute within 60 days.

If the proposed action is for ODJFS to impose a financial or administrative sanction or adverse audit, or to perform, or contract for the performance of, a duty or activity, the responsible entity must send the request within 45 days. ODJFS and the responsible entity must attempt to resolve any dispute within 60 days.

Unlike ODHS under current law, ODJFS is not specifically authorized, if an administrative review is requested, to enter into written agreement with the responsible entity setting forth the dispute resolution procedures to be used to resolve the dispute and any other procedural matters that will assist in reaching a prompt, fair, and equitable resolution. Whereas ODHS is required by current law to conduct a hearing in accordance with the Administrative Procedure Act if ODHS and the agency fail to enter into such an agreement not later than 60 days after the agency requests the administrative review, ODJFS is required by the bill to conduct such a hearing if ODJFS and the responsible entity fail to resolve any dispute within the required time.

The bill permits the Director of ODJFS to adopt rules as necessary to implement ODJFS's authority to take actions against responsible entities. Such

rules would have to be adopted in accordance with the abbreviated rule-making procedure of R.C. 111.15.

Director of Job and Family Services' agreements, contracts, and grants

(secs. 127.16 and 5101.211)

Current law permits the Director of Human Services to enter into a written agreement with one or more state agencies, universities, and colleges to assist in the coordination, provision, or enhancement of the duties of CDHSs, CSEAs, and PCSAs. The Director also may enter into written agreements or contracts with, or issue grants to, private and government entities under which funds are provided for the enhancement or innovation of human service activities on the state or local level. The terms of an agreement, contract, or grant may be incorporated into a partnership agreement the Director enters into with a board of county commissioners, if the Director and board and state agency, state university or college, or private or government entity agree.

The bill provides that the Director of Job and Family Services not only has these powers regarding the duties of CDJFSs, CSEAs, and PCSAs and family services activities, the Director also has these powers regarding workforce development activities. In addition to having the authority to incorporate the terms of an agreement, contract, or grant into a partnership agreement the Director enters into with a board of county commissioners, the Director also may incorporate such terms into a partnership agreement with the chief elected official of a municipal corporation.¹¹

Under current law, the agreements the Director enters into under this authority are exempt from state law governing competitive selection of purchases by state agencies. The bill maintains the exemption.

The Director is authorized by the bill to adopt rules to implement the authority to enter into the agreements and contracts and issue the grants.

Exemption from county competitive bidding requirement

(sec. 307.86)

¹¹ *Although the Director of Job and Family Services may not incorporate the terms of an agreement, contract, or grant into a partnership agreement with a board of county commissioners unless the commissioners agree, the bill does not limit the Director's authority to incorporate such terms into a partnership agreement with the chief elected official of a municipal corporation on the chief elected official's agreement.*

With certain exceptions, a county is required to utilize competitive bidding when purchasing, leasing, or constructing anything at a cost exceeding \$15,000. Under current law, public social services are exempt if purchased for provision by a CDHS. Human and social services purchased from nonprofit corporations or associations under programs that are funded entirely by the federal government are also exempt. The bill provides that public family services and workforce development activities purchased for provision by a CDJFS and family services and workforce development activities purchased from nonprofit corporations or associations under programs funded entirely by the federal government are exempt from the county competitive bidding requirement.

A purchase by a PCSA consisting 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 are exempt by current law from the county competitive bidding requirement. The bill provides instead that such family services, programs, and ancillary services are exempt.

MISCELLANEOUS

Lease of real estate for oil and gas

(sec. 5101.12)

The Director of ODHS is permitted to lease to any person for not more than 40 years, for oil and gas, real estate that is owned by the state and under the supervision of ODHS. The bill repeals this authority.

Acceptance of gifts and bequests by ODHS

(secs. 5101.13 and 5101.56)

Under current law, if it is in the state's interest, ODHS is required to accept and hold any grant, gift, devise, or bequest of money or property made to or for the use or benefit of any institution under its control or any pupil or inmate thereof. A statement of those funds and that property and any terms and conditions that relate to them must be included in ODHS's annual report.¹² The bill repeals both of these requirements.

¹² It is unclear from the statute whether the annual report referred to is the report described in section 149.01 of the Revised Code, from which the bill exempts ODJFS entirely.

ODHS annual report

(secs. 5101.39, 5101.40, and 5101.56)

ODHS is required to include in its annual report a complete financial statement of the institutions under its control. ODHS must also include a list of the officers and agents employed and the conditions of, any state institution under its control.¹³ The bill eliminates both of these requirements.

Nonpartisan management of ODHS and institutions under its control

(sec. 5101.41)

Current law requires ODHS to adopt rules for the nonpartisan management of institutions under its control. Any officer or employee of ODHS or an institution under its control who exerts influence, directly or indirectly, to induce any other officer or employee to adopt a certain political view or to favor any person, issue, or candidate must be removed by ODHS, or, in the case of the Director of ODHS, by the Governor. The bill eliminates these requirements.

Division of Social Administration

(secs. 2151.011, 3313.64, 5103.01, 5103.02, 5103.05, 5103.06, 5103.09, 5103.10, 5103.11, and 5103.19)

In 1941, the General Assembly established a Division of Social Administration (DSA) in the Department of Public Welfare. The General Assembly abolished the DSA in 1966. There are a number of Revised Code sections that still reference the DSA and its powers and duties, however.

Existing law still provides that the power and duties assigned to the DSA must be executed by ODHS. The DSA is required to investigate the condition and management of public, private, benevolent, and correctional institutions of the state and county, and municipal jails, workhouses, infirmaries, and children's homes, as well as all institutions that receive and care for children. The DSA is required to receive dependent and neglected minors, and, in certain cases, delinquent minors, committed to it by the juvenile court. It must seek suitable permanent homes for those wards in private families. The traveling expenses of dependent, neglected, and delinquent children must be paid by the DSA. Board, clothing, and medical expenses must be charged by the DSA to the county from

¹³ It is unclear from the statute whether the annual report referred to is the report described in section 149.01 of the Revised Code, from which the bill exempts ODJFS entirely.

which the child was committed. When the DSA receives money for board from someone, such as a parent who is required to pay child support, it must pay it to the Treasurer of State for credit to the General Revenue Fund. The Governor can order the DSA to investigate the management of a benevolent or correctional institution. The DSA is given the authority to take depositions and compel testimony and document production in such investigations, after which the DSA must submit a report to the Governor. The bill repeals those sections of the Revised Code that reference the DSA and its powers and duties.

Submission of plans for public buildings for approval

(sec. 5103.18)

Current law requires that plans for new jails, workhouses, children's homes, infirmaries, state institutions, and municipal lockups or prisons, and important additions or alterations to such existing institutions be submitted for approval to ODHS or the Departments of Mental Health, Mental Retardation and Developmental Disabilities, or Rehabilitation and Correction, as the case requires, before their adoption by proper officials. The bill eliminates this requirement.

State hearings and administrative appeals of certain family services programs

(secs. 5101.35 and 5101.351)

A person who disputes a decision made by an agency concerning certain human services programs (called family services programs under the bill) is allowed a state-level hearing.¹⁴ If the person disagrees with the hearing's result, he or she may make an administrative appeal to the Director. The bill provides that the Administrative Procedure Act applies to such a state hearing or administrative appeal only to the extent, if any, specifically provided by rules governing state hearings and administrative appeals.

ODJFS is authorized to employ or contract with hearing officers to draft and recommend state hearing decisions. ODJFS is allowed to employ or contract with hearing authorities to issue state hearing decisions. A hearing authority employed or contracted with on or after the bill's effective date must have been admitted to the practice of law in this state. A hearing authority employed or contracted with before the bill's effective date is not required to have been admitted to the practice of law in this state.

¹⁴ *The programs include Ohio Works First, Medicaid, Disability Assistance, and publicly funded child day-care.*

Notice of examinations for state classified service

(sec. 124.23)

The Director of Administrative Services is required by current law to send written, printed, or electronic notices of every examination for the state classified service to each OBES branch office or, if no such branch office is located in a county, to the clerk of the court of common pleas of that county and to the clerk of each city of that county. The notice must be posted in a conspicuous public place in the branch office, county courthouse, and city hall.

Under the bill, the Director of Administrative Services must send the notice to each agency of the type the Director of Job and Family Services specifies and, in the case of a county in which no such agency is located, to the common pleas clerk and city clerks. The requirement to post the notice in a conspicuous public place applies to the agency specified by the Director of Job and Family Services.

Keeping record concerning exemption from county competitive bidding

(sec. 307.86)

The requirement that a county utilize competitive bidding for any purchase, lease, or construction at a cost exceeding \$15,000 does not apply when a board of county commissioners determines that a real and present emergency exists and the estimated cost is less than \$50,000. However, before awarding the contract, the county must solicit informal estimates from no fewer than three persons capable of performing the contract. Under current law, the county must maintain a record of the estimates, including the name of each person from whom an estimate is solicited, for no less than one year after the contract is awarded. The bill requires that the record be maintained for the longer of one year or the amount of time the federal government requires.

EFFECTIVE DATE

Effective date

(Sections 3, 5, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 24, and 25)

Although the bill takes effect on the 91st day after it is filed with the Secretary of State, most provisions of the bill are delayed until July 1, 2000. Provisions regarding workforce development and preparation for the transfer of OBES functions to ODJFS or DOC take effect the 91st day after the bill is filed with the Secretary of State. During the period between that date and July 1, 2000, references to ODJFS or its Director that concern a family services duty are deemed

to refer to the ODHS or its Director. References to ODJFS or its Director that concern a workforce development activity are deemed to refer to the OBES or its Administrator. The bill also contains an appropriation that goes into immediate effect.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-08-99	pp. 1236-1237

H0470-I.123/jc:rss

