



Bill Analysis

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Legislative Service Commission

H.B. 640*

123rd General Assembly

(As Introduced)

(excluding appropriations, fund transfers, and similar provisions)

Rep. Corbin

BILL SUMMARY

- Implements Section 2n of Article VIII of the Ohio Constitution by granting to the Ohio Public Facilities Commission authority to issue general obligations of the state for the purposes of paying costs of facilities for the state system of common schools and facilities for state-supported and state-assisted institutions of higher education.
- Transfers to the Ohio Public Facilities Commission from the Board of Commissioners of the Sinking Fund the authority to issue general obligations of the state for highway capital improvements, coal research and development projects, and state and local parks and other natural resources capital improvements.
- Transfers to the Ohio Building Authority from the Ohio Public Facilities Commission the authority to issue obligations of the state that are *not* general obligations to pay costs of capital facilities for mental health and retardation, state-supported and state-assisted institutions of higher education, and parks and recreation.
- Implements the new "5% limitation" on the amount of direct obligation debt the state can issue (Section 17 of Article VIII of the Ohio Constitution) by requiring the Governor or the Governor's designee to compute the amounts required to determine compliance with the limitation.

* *This analysis was prepared before the bill's introduction appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Expands the Director of Budget and Management's authority over scheduling the issuing of state obligations and approving information used in offering documents, disclosure filings, and other materials related to such obligations.
- Requires the Office of Budget and Management to study the comparative financial impact on the state of negotiated versus competitively bid sales of obligations, and to report its findings by April 30, 2003.
- Changes procedures for contracts to maintain, control, or manage the state's public works and for determining and then repairing, removing, or preventing public exigencies related to the state's public works.
- Increases from \$10,000 to \$50,000 the aggregate cost of public works and other state-related construction projects or equipment installations that require architectural or engineering plans, estimates, and cost analyses.
- Increases the hourly rates paid to exempt employees, beginning on the first day of the pay period that includes July 1, 2000, July 1, 2001, and July 1, 2002; eliminates the compensation tables that apply only to exempt employees of the Treasurer of State's office; and adds a step 7 to pay ranges 12 through 18 in Salary Schedule E-1.
- Requires step advances for exempt employees in Salary Schedule E-1 only if the employee satisfies performance criteria established by the employee's appointing authority.
- Provides that a probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction to the State Personnel Board of Review or to a municipal civil service commission or civil service township civil service commission, as applicable.
- Requires that an employee paid by warrant of the Auditor of State who retires in accordance with any state retirement plan be paid for each hour of the employee's accumulated sick leave balance at a rate of 55% of the employee's last base rate of pay.
- Makes eligible for disability leave benefits an employee who (1) has completed one year of continuous state service immediately prior to the

date of the disability, (2) is a part-time permanent employee who has worked at least 1,500 hours within the 12-month period immediately preceding the date of the disability, and (3) is eligible for sick leave credit under the provision of current law that grants sick leave to employees paid by warrant of the Auditor of State.

- Requires that each part-time permanent exempt employee, and certain other part-time permanent employees exempt from collective bargaining coverage, receive a pro-rated personal leave credit as established by rule of the Director of Administrative Services.
- Provides that (1) an employee receiving occupational injury leave accumulates sick leave and personal leave, (2) when such an employee's disability extends beyond 120 work days the employee becomes eligible for disability leave benefits, and (3) such an employee's occupational injury leave must be paid at the employee's total rate of pay.
- Creates the Professional Development Fund and requires the Director of Administrative Services to use moneys credited to the Fund to pay for programs that provide professional development opportunities for employees who are exempt from collective bargaining coverage and paid by warrant of the Auditor of State.
- Makes other changes in the law governing the grant of employee benefits to employees paid by warrant of the Auditor of State.
- Provides compensation to six members of the Ohio Bicentennial Commission's executive committee who are appointed by the Governor, in the amount of \$3,000 per year, but only if those members attend at least two-thirds of the meetings of the executive committee in a given calendar year.
- Exempts from the Unclaimed Funds Law certain payments and credits resulting from business to business transactions, and specifies that certain credits to be refunded to a retail customer are "unclaimed funds" if left unclaimed for three years.
- Abolishes the Ohio Coal Development Fund.

- Makes more explicit the requirement of current law that vocational education students be counted on a full-time-equivalent basis for purposes of calculating state vocational education payments to school districts.
- Provides state vocational education payments to community schools.
- Requires that state vocational education payments follow open enrollment students to the districts where they enroll.
- Modifies the Ohio Arts and Sports Facilities Commission Law with regard to local historical facilities, local contribution requirements, and certain contracting requirements.
- Provides that rules the Public Health Council may adopt concerning the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) may provide for civil money penalties for violations of the rules.
- Requires the Department of Health, if it determines that a vendor has committed an act with respect to WIC that federal or state law prohibits, to take action against the vendor in the manner required by federal regulations or Public Health Council rules.
- Requires the Public Health Council to adopt rules to provide for screening, rather than testing, newborn children for genetic, endocrine, and metabolic disorders.
- Provides that the newborn screenings are to be performed by the Department's laboratory or on a contractual basis by a laboratory the Director determines is qualified and that rescreenings of children with abnormal results may be performed by other laboratories approved by the Director and authorized by Public Health Council rules.
- Provides that, of the fee collected for newborn screenings, *not less than* a specific amount, rather than the specific amount, is earmarked for the newborn screening program, phenylketonuria programs, and the Director of Health's duties regarding sickle cell disease.
- Eliminates the requirement that the Board of Examiners of Nursing Home Administrators hold examinations for licensure as a nursing home administrator at least two times each year, at such times and places as the Board designates, and provides instead that the Board may administer the

examinations or contract with a government or private entity to administer the examinations.

- Provides that the fee an applicant for licensure as a nursing home administrator must pay to be admitted to the licensing examination is the amount charged by the Board of Examiners of Nursing Home Administrators, or a government or private entity under contract with the Board to administer the examination, rather than \$150.
- Eliminates the custodial nature of the Penalty Enforcement Fund and the Prevailing Wage Fund and makes expenditures from those funds subject to legislative appropriation.

TABLE OF CONTENTS

PROVISIONS RELATING TO THE IMPLEMENTATION AND CONSOLIDATION OF DEBT ISSUANCE DUTIES

Background: Sections 2n and 17 of Article VIII of the Ohio Constitution, S.B. 206	7
Codified implementation of Section 2n	7
S.B. 206 provisions superseded	8
Consolidation of debt issuance duties.....	9
Background: composition of the Board of Commissioners of the Sinking Fund, the Ohio Public Facilities Commission, and Ohio Building Authority	9
Changes to general obligation bonding authority	9
Transition provisions.....	10
Changes to other bonding authority (nongeneral obligations)	10
Codified implementation of Section 17 debt service computation.....	11
Scheduling sales of public debt offerings	13
Submission of annual sale plans and fractionalized interest reports	15
OBM approval of offering and disclosure documents.....	15
Modification of Treasurer of State certification requirement	16
OBM study of negotiated and competitively bid sales	16

OTHER PROVISIONS

State public works contracts.....	17
Plans and cost analyses for certain public improvement projects	18
Pay raises for exempt employees.....	19
Elimination of mandatory step advances	19
Holiday pay	20
Appeal of the removal or reduction in position of a probationary employee	20

Payment of accumulated sick leave at retirement.....	20
Disability leave benefits for permanent part-time employees.....	21
Personal leave credit for part-time permanent exempt employees.....	21
Eligibility of recipients of occupational injury leave program for sick leave and disability leave.....	22
Professional Development Fund.....	22
Ohio Bicentennial Commission.....	23
Existing law.....	23
Unclaimed Funds Law.....	25
Exemptions.....	25
Credits to be refunded to a retail customer.....	25
Application.....	26
Abolition of the Ohio Coal Development Fund.....	26
Specification that vocational education weighted funding is based on FTE.....	26
Current law: weighted funding for vocational education.....	26
The bill makes the FTE reporting requirement more explicit.....	27
Vocational education weighted funding for community schools.....	27
Current community school payment procedures.....	27
The bill adds vocational education weighted funding.....	28
The bill allows vocational education weighted funding to follow open enrollment students.....	28
Ohio Arts and Sports Facilities Commission Law.....	29
Ohio arts facilities and arts projects.....	29
Local match change.....	29
Commission and Department of Administrative Services duties.....	30
Special Supplemental Nutrition Program for Women, Infants, and Children.....	31
Screening newborn children for genetic, endocrine, and metabolic disorders.....	32
Examination for licensure as a nursing home administrator.....	33
Commerce funds made subject to appropriation.....	34

CONTENT AND OPERATION

PROVISIONS RELATING TO THE IMPLEMENTATION AND CONSOLIDATION OF DEBT ISSUANCE DUTIES

Background: Sections 2n and 17 of Article VIII of the Ohio Constitution, S.B. 206

In November, 1999, the state's electors approved Sections 2n and 17 of Article VIII of the Ohio Constitution. Section 2n allows the state to issue general obligation bonds to pay the costs of constructing, acquiring, or improving facilities for "a system of common schools throughout the state" and for "state-supported

and state-assisted institutions of higher education." The Constitution does not limit the aggregate principal amount of debt that can be issued under Section 2n. But Section 17 imposes a limitation on the state's overall authority to incur debt, by prohibiting the issuance of new bonds under Article VIII if the amount of debt service on the state's direct obligations (obligations on which the state is the primary or only obligor) that must be paid in any future fiscal year from the General Revenue Fund (GRF) and net lottery proceeds would exceed 5% of total estimated GRF and net lottery proceeds revenue during the fiscal year of issuance. (The General Assembly can waive the limitation by the vote of at least 3/5 of the members of each house.) Section 17 requires the General Assembly to provide by law for computing the amounts required for debt service payments for the purposes of the 5% limitation.

Am. S.B. 206 of the 123rd General Assembly, effective December 10, 1999, provided temporary authority under Section 2n for the Treasurer of State to issue up to \$150 million of state general obligations for common school facilities and for the Ohio Public Facilities Commission to issue up to \$150 million of state general obligations for higher education facilities. For these obligations, S.B. 206 required the Governor to compute the amounts required for debt service payments for purposes of the Section 17 "5%" limitation.

Codified implementation of Section 2n

(R.C. 151.01, 151.03, 151.04, and 3770.06)

The bill grants the Ohio Public Facilities Commission authority to issue general obligations of the state for the purposes of paying costs of facilities for the state system of common schools and facilities for state-supported and state-assisted institutions of higher education.¹ The obligations are to be issued in principal amounts authorized by the General Assembly, and used to pay costs of facilities or projects identified by or pursuant to actions of the General Assembly.

The net proceeds of obligations for common schools must be deposited into the School Building Program Assistance Fund, which is created in the state treasury under existing law for the use of the Ohio School Facilities Commission (R.C. 3318.25). The net proceeds of obligations for higher education must be deposited into the Higher Education Improvement Fund, which also is created in

¹ For the bill's purposes, a "state-supported or state-assisted institution of higher education" means one of the 13 state universities, a community college district, a technical college district, a university branch district, a state community college, the Northeastern Ohio Universities College of Medicine, or the Medical College of Ohio at Toledo.

the state treasury under existing law, and contains the proceeds of obligations the Commission issues for higher education purposes (R.C. 154.21).

The Commission is authorized to sell the obligations at public or private sale. The state's full faith and credit, revenue, and taxing power are pledged to the timely payment of debt service on the obligations. Net state lottery proceeds can be used to pay debt service on common school obligations, but not higher education obligations. Revenue relating to the registration, operation, use, or fueling of vehicles on public highways cannot be used to pay debt service on any of the obligations. State revenue pledged to repay common school obligations must be credited to the Common Schools Capital Facilities Bond Service Fund, and state revenue pledged to repay higher education obligations must be credited to the Higher Education Capital Facilities Bond Service Fund. (S.B. 206 created both of these funds in the state treasury.) Debt service payments for the respective obligations are to be made from those funds.

S.B. 206 provisions superseded

(Section 52.04)

The bill provides that on and after its effective date, the authority it grants to the Ohio Public Facilities Commission supersedes any equivalent authority granted to the Commission or Treasurer of State in S.B. 206. The Commission is authorized to use the appropriations made in S.B. 206 to pay debt service on the higher education and common school obligations issued by the Commission or Treasurer of State under that act. The Treasurer must transfer to the Commission any documents and records relating to those obligations.

Consolidation of debt issuance duties

Background: composition of the Board of Commissioners of the Sinking Fund, the Ohio Public Facilities Commission, and Ohio Building Authority

The bill makes changes to the debt-related responsibilities of the Board of Commissioners of the Sinking Fund, the Ohio Public Facilities Commission, and the Ohio Building Authority. The Board of Commissioners of the Sinking Fund consists of the Governor, Treasurer of State, Auditor of State, Secretary of State, and Attorney General. The Auditor of State is the president of the Board, and the Secretary of State is the secretary.² The Ohio Public Facilities Commission consists of these same five officers plus the Director of Budget and Management. The Governor serves as the chairperson of the Commission, and the Director of

² Section 8, Article VIII, Ohio Constitution, and R.C. 129.01.

Budget and Management as its secretary.³ The Ohio Building Authority is composed of five members appointed by the Governor with the advice and consent of the Senate.⁴

Changes to general obligation bonding authority

(R.C. Chapter 151.; R.C. 129.41, 129.42, 129.45, 129.46, 129.50, 129.52 to 129.57, 129.60, 129.62 to 129.65, 129.72, 129.73, 135.14, 1555.03, 1555.05, 1555.08, 1555.10 to 1555.15, 1557.01 to 1557.05, 3318.21, 3318.25, 5528.32, 5528.36, 5528.51, 5528.53 to 5528.57, 5735.05, 5735.23, 5743.02, 5743.023, 5743.32, and 5743.322)

The bill transfers to the Ohio Public Facilities Commission from the Board of Commissioners of the Sinking Fund the authority to issue general obligations of the state for the following purposes:

--Highway capital improvements pursuant to Section 2m of Article VIII of the Ohio Constitution;

--State and local parks, land and water management projects, and other natural resources capital improvements pursuant to Section 2l of Article VIII of the Ohio Constitution;

--Coal research and development projects pursuant to Section 15 of Article VIII of the Ohio Constitution.

As a result of these changes and the bill's granting of authority to the Public Facilities Commission to issue common school and higher education general obligations (see above), the Commission will be the issuing agency for five of the state's six categories of general obligations. The Treasurer of State will remain the issuing authority for the Ohio Public Works Commission's local government infrastructure obligations (also known as "Issue Two" bonds).

With respect to the issuance of the obligations at public or private sale, the costs that can be paid with the proceeds, and the rights, remedies, powers, and duties of the state and the bondholders, the Commission's new authority to issue general obligations parallels the existing authority of the Commissioners of the Sinking Fund (and of the Treasurer of State and the Public Facilities Commission itself under S.B. 206) to issue general obligations for the same purposes.

³ R.C. 154.04.

⁴ R.C. 152.01.

Transition provisions

(Section 52)

The bill provides that on and after its effective date, the authority and duties of the Ohio Public Facilities Commission supersede any prior authority and duties of the Board of Commissioners of the Sinking Fund for issuing general obligations for highways, parks and natural resources, and coal research and development. The Commission is required to use existing appropriations made to the Sinking Fund for payment of debt service on outstanding obligations. The Board must transfer to the Commission any documents and records relating to those obligations, and can meet by June 30, 2001, to wind up its affairs related to the obligations.

Changes to other bonding authority (nongeneral obligations)

(R.C. 154.01 to 154.12, 154.14 to 154.23, 3318.26, and 3333.13; Section 52.03)

The bill transfers to the Ohio Building Authority from the Ohio Public Facilities Commission the authority under Section 2i of Article VIII of the Ohio Constitution to issue obligations of the state that are *not* general obligations, to pay costs of capital facilities for mental health and retardation, state-supported and state-assisted institutions of higher education, and parks and recreation. While in practice debt payments for these kinds of obligations may be made from the GRF, the holders of the obligations do not have the right to demand that the state levy taxes to make the payments. Section 2i provides that such obligations can be secured by revenues such as charges for services, user fees, and rents generated in connection with the facilities.

The Ohio Building Authority must issue the obligations, when authorized by the General Assembly, subject to the same requirements and conditions as are currently imposed on the Ohio Public Facilities Commission. The bill provides that on and after its effective date, the authority and duties of the Building Authority supersede any prior authority and duties of the Public Facilities Commission for issuing the obligations. The Authority is required to use existing appropriations made to or for the Commission for payment of debt service on outstanding obligations. The Commission must transfer to the Authority any documents and records relating to the obligations, and can meet by June 30, 2001, to wind up its affairs related to the obligations. Any facility lease or other agreement between the Commission and the Ohio Board of Regents, Department of Mental Health, Department of Mental Retardation and Developmental Disabilities, or Department of Natural Resources is binding on the Authority.

The bill repeals authority for the Public Facilities Commission to issue nongeneral obligations under Section 2i of Article VIII of the Ohio Constitution to pay for facilities to house branches and agencies of state government. The Ohio Building Authority already has authority to issue such obligations.

The bill also repeals authority for the Building Authority to issue nongeneral obligations to pay for public elementary and secondary schools for school districts designated as state agencies. On a related subject, the bill provides that the Treasurer of State's authority to issue and service nongeneral obligations for School Facility Commission projects applies only to obligations issued before December 1, 1999.

Codified implementation of Section 17 debt service computation

(R.C. 126.16)

As mentioned above under "**Background: Sections 2n and 17 of Article VIII of the Ohio Constitution, S.B. 206**," Section 17 of Article VIII of the Ohio Constitution requires the General Assembly to provide by law for computing the amounts required for debt service payments for the purposes of the 5% limitation on the amount of direct obligation debt the state can issue. The bill prescribes the manner in which the Governor or the Governor's designee is to make the computation.

The bill states that debt service, for purposes of the computation, includes debt service payable on securities that are direct obligations of the state issued under Article VIII of the Ohio Constitution (and on bonds anticipated by bond anticipation notes), to the extent the debt service is anticipated to be paid from the GRF or net state lottery proceeds.⁵ An example given by the bill of securities for which debt service is not anticipated to be paid from either the GRF or net lottery proceeds is state bonds for highway purposes issued under Section 2i or 2m of Article VIII of the Ohio Constitution. These bonds, although general obligations of the state, have been and are anticipated to be paid from highway user receipts and not from the GRF or net lottery proceeds.

Absent any other applicable constitutional or statutory provision, the amount of debt service on bonds anticipated by bond anticipation notes is to be estimated by the Governor or the issuing authority by taking the amount that would have been payable on bonds maturing serially in each fiscal year after the

⁵ "Debt service" is defined to mean principal (including any mandatory sinking fund deposits and mandatory redemption payments) and interest or interest equivalent payable on securities, as those payments are stated to come due and to be payable.

fiscal year of issuance over the maximum period of maturity authorized for the bonds, as if the bonds had been issued without the prior issuance of the notes, and computed on a substantially level debt service basis applying an interest rate or rates certified to be market rates at the time of issuance of the notes. For securities issued to refund or retire other securities, the debt service on the new securities is to be counted and the debt service on the securities being refunded or retired is not to be counted.

With regard to the Section 17 limitation, the bill requires the Governor to determine and certify all of the following:

--The fiscal year amounts required to be applied or set aside for payment of debt service, including debt service on any variable rate bonds;

--The securities to which the debt service relates;

--The total state GRF revenues and net state lottery proceeds during the fiscal year in question, as estimated by the Office of Budget and Management;

--Any other financial data necessary or appropriate for the purpose of the computations required by Section 17 and the bill.

The Governor must file the determinations and certifications with the Director of Budget and Management, the Treasurer of State, and the issuing authority for the particular obligations, at or prior to the time the securities are issued. The Governor can designate the Director or Assistant Director of Budget and Management or any employee or official of the Governor's office to perform the Governor's functions under the bill.

Scheduling sales of public debt offerings

(R.C. 126.11)

Current law requires the Director of Budget and Management, in consultation with the Treasurer of State, to provide assistance to the state's debt issuing agencies in coordinating the timing of issues on which the state or a state agency is the direct obligor or source of money for payment. The bill expands the control of the Director over such scheduling.

Under the bill, the Director, upon consultation with the Treasurer of State, is required to coordinate and approve the scheduling of initial sales of publicly offered state securities and publicly offered fractionalized interests in or

securitized issues of state public obligations.⁶ This requirement applies to obligations on which the state or a state agency is the direct obligor or obligor on any backup security or related credit enhancement facility, or source of money subject to state appropriations that is intended for payment of the obligations. From time to time, the Director is to develop and distribute to state issuers an approved sale schedule for such obligations.

The bill also expands the amount of information the issuers of state obligations must submit to the Director (or an Office of Budget and Management employee designated for this purpose) about their issues. The Ohio Public Facilities Commission, Ohio Building Authority, Commissioners of the Sinking Fund, and Treasurer of State (but only in connection with the Treasurer's issuance of "Issue Two" general obligations) must submit to the Director all of the following:

--For review and approval: (1) the projected sale date, amount, and type of obligations proposed to be sold, (2) the purpose, security, and source of payment for the obligations, and (3) the proposed structure and maturity schedule;

--For review and comment: (1) the authorizing order or resolution, (2) preliminary and final offering documents and pricing information, (3) the method of sale, and (4) any written reports or recommendations of financial advisors or consultants related to the obligations;

--Promptly after each sale of obligations: (1) final terms, including sales price, maturity schedule and yields, and sources and uses, (2) names of the original purchasers or underwriters, (3) copies of the final offering document and a transcript of the proceedings, and (4) other pertinent information requested by the Director.

The bill establishes less extensive requirements in connection with the issuance of other categories of obligations that are not to be secured by or repaid with GRF revenues. Such obligations are issued by the Treasurer of State (development bonds under R.C. Chapter 166. that are secured by state liquor

⁶ *"Fractionalized interests in public obligations" are defined as "participations, certificates of participation, shares, or other instruments or agreements, separate from the public obligations themselves, evidencing ownership interests in public obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of an obligor pursuant to public obligations. (R.C. 133.01, not in the bill.)*

profits, and bonds secured by the Department of Transportation's State Infrastructure Bank), the Ohio Water Development Authority (for wastewater facilities), the Ohio Rail Development Commission, and transportation improvement districts. The bill requires these issuers to submit to the Director of Budget and Management all of the following:

--For review and approval: (1) the projected sale date, amount, and type of obligations proposed to be sold, and (2) the purpose, security, and source of payment for the obligations;

--For review and comment: preliminary and final offering documents;

--Promptly after each sale of obligations: (1) final terms, including a maturity schedule, (2) names of the original purchasers or underwriters, (3) a certified copy of the complete continuing disclosure agreement required under federal rules, and (4) other pertinent information requested by the Director.

Other issuers of various revenue-bond-type obligations authorized by state law, to the extent not subject to the above requirements, must submit to the Director of Budget and Management copies of the preliminary and final offering documents for their obligations. This requirement applies to the Treasurer of State for development bonds issued under R.C. Chapter 122. and student loan bonds issued under R.C. Chapter 3366., the Director of Development for industrial development bonds under R.C. Chapter 165., the Ohio Water Development Authority for obligations issued for energy redevelopment or solid waste facilities, the Ohio Housing Finance Agency, state universities, the Ohio Higher Educational Facility Commission, the Air Quality Development Authority, the Petroleum Underground Storage Tank Release Compensation Board, and the Ohio Turnpike Commission. Such obligations are repaid by revenues generated by the facilities or other purposes to which proceeds of the obligations are devoted.

Submission of annual sale plans and fractionalized interest reports

(R.C. 126.11(A)(4) and (C))

The bill requires all of the issuers mentioned in the preceding section of this analysis to submit to the Director of Budget and Management and the Treasurer of State, within the first 30 days of each fiscal year, a sale plan for that year for each type of obligation it issues. The plan must project the amount and term of each issuance, the method of sale, and the month of sale.

The bill also requires every state agency obligated to make payments on outstanding public obligations for which fractionalized interests have been publicly issued to submit a report to the Director by January 1 each year. The

report must specify amounts payable from state appropriations with respect to those obligations during the then current and next two fiscal years, and identify the appropriation or intended appropriation from which payment is expected to be made.

OBM approval of offering and disclosure documents

(R.C. 126.11(D) and (E))

Under current law, the Director of Budget and Management or the Director's designee must approve as to format and accuracy any statements or tables relating generally to the demographics, economy, financial condition, or funds of the state to be contained in any official statement, offering circular, prospectus, or similar document prepared, approved, updated, authorized, or committed to be provided by an issuer or state obligor in connection with the original issuance and sale of most state obligations, before the information is published in preliminary, draft, or final form or publicly filed. The bill extends this approval authority to (1) any information on general operations of the state and descriptions of any state contractual obligations relating to public obligations, (2) information to be contained in any "containing disclosure document" or written presentation used by an issuer, and (3) information used in connection with rating, remarketing, or credit enhancement facilities relating to public obligations. The bill specifies the approval must be obtained before the information is presented or publicly disseminated in preliminary, draft, or final form, or publicly filed in paper, electronic, or other format. The requirement does not apply to issuers of revenue bonds that are not subject to the control of the Director when scheduling their sales (see above).

The bill states that the materials approved by the Director are the information relating to the particular subjects provided by the state or state agencies that are required or contemplated by any applicable state or federal securities laws and any commitments by the state or state agencies made under those laws. Reliance should not be placed on any other information publicly provided by a state agency for other purposes, and a statement to that effect must be included in the approved materials.

The bill specifies that with respect to information the Director of Budget and Management must approve, the Director is responsible for making all filings necessary for compliance with applicable lawful disclosure requirements related to obligations of the state, including fractionalized interests in those obligations. The bill allows the Director to designate an employee of the Office of Budget and Management to be responsible for this duty and for any of the Director's other duties regarding scheduling and approving sales of obligations.

Modification of Treasurer of State certification requirement

(R.C. 164.11)

Current law requires the Treasurer of State annually to certify to the Office of Budget and Management the total amount of money required during the year for debt service payments on bonds issued for local government infrastructure projects ("Issue Two" bonds), including anticipation and renewal notes. The bill provides that the certification is to be made on a fiscal year basis, by July 15 each year, rather than a calendar year basis by January 15 each year as provided under current law.

OBM study of negotiated and competitively bid sales

(Section 52.05)

Under the bill, the General Assembly recommends that a portion of the sales of state general obligation bonds beginning on the bill's effective date and continuing through December 31, 2002, be by negotiated sale and a portion by competitive public bid sale. The Office of Budget and Management is to study and determine the comparative financial impact on the state of both methods of sale. By April 30, 2003, the Office is to report its findings to the applicable bond issuing authorities and to the finance committees of both houses of the General Assembly.

OTHER PROVISIONS

State public works contracts

(R.C. 123.15, 123.20, 123.21, and 126.14)

Current law provides that the Director of Administrative Services may contract for labor, materials, or construction to maintain, control, or manage the state's public works. Whenever the Director so contracts, the Director must require a bond of not less than one-half of the contract price. In addition, except in emergencies (or "extreme public exigency"), if the cost of an improvement or repair is greater than \$500, the Director must advertise in a specified manner for bids and award the contract to the lowest responsive and responsible bidder. If an emergency ("public exigency") occurs, the Director may use eminent domain procedures to take possession of lands, materials, or other property necessary for the maintenance, protection, or repair of the state's public works. (R.C. 123.15 and 123.21.)

The bill removes existing law's special bonding, advertisement for bids, and contract awarding requirements mentioned above for these state public works contracts and instead generally requires the Director to follow the procedures in the State Public Improvements Law (R.C. Chapter 153.) in advertising, awarding, and administering those contracts *unless a public exigency (see below) is involved*. Those procedures are much more detailed and, for example, require bids and bid guaranties for contracts. (R.C. 123.15(B).)

The bill provides a procedure for the Director to follow in certain *emergency situations* (public exigencies) related to the state's public works. Whenever an injury or obstruction occurs in any public works that materially impairs its immediate use or places property adjacent to it in jeopardy, or whenever there is an immediate danger of such an injury or obstruction, or whenever an injury or obstruction, or an immediate danger of an injury or obstruction, occurs during the process of construction of any public works that materially impairs its immediate use or places in jeopardy property adjacent to it, the Director may declare a public exigency. The Director may do this on the Director's own initiative or upon the request of the director of any state agency. That declaration must identify the specific injury, obstruction, or danger that is the subject of the declaration and must set forth a dollar limitation for the repair, removal, or prevention of that exigency under the declaration (R.C. 123.15(A) and (C) and 123.21; repeal of R.C. 123.20).

Before any project to repair, remove, or prevent a public exigency can begin, the Director must send to the Director of the Office of Budget and Management (1) a notice detailing the project to be undertaken and (2) a copy of the public exigency declaration that establishes the monetary limitations on that project. The bill authorizes the Director of the Office of Budget and Management to release unencumbered capital balances for that project in the amount designated in the public exigency declaration. (R.C. 123.15(C) and 126.14.)

Plans and cost analyses for certain public improvement projects

(R.C. 153.01)

Current law requires that, when any building or structure for the use of the state or any institution supported in whole or in part by the state or involving the state's public works is to be constructed, when improvements are to be made related to them, or when heating, cooling, or ventilating plants or other equipment is to be installed in or materials supplied for them, if the aggregate cost of the construction, improvements, equipment, or materials is *\$10,000 or more*, then an architect or engineer must prepare, and the Attorney General must approve, the following:

- (1) Full and accurate plans for use by mechanics and other builders, as well as details to scale and full-sized;
- (2) Accurate bills showing the exact quantity of different kinds of material necessary to construction;
- (3) Complete specifications of the work to be performed;
- (4) A full and accurate estimate of each item of expense and the aggregate cost of those items of expense;
- (5) A life-cycle analysis;
- (6) Any other data that the Department of Administrative Services may require.

The bill changes these provisions so that the above-listed items need only be so prepared and approved when the aggregate construction, improvement, equipment, or materials cost is *\$50,000 or more*.

Pay raises for exempt employees

(R.C. 124.152)

The bill (1) increases the hourly rates paid to exempt employees, beginning on the first day of the pay period that includes July 1, 2000, July 1, 2001, and July 1, 2002, (2) eliminates the compensation tables that apply only to exempt employees of the Treasurer of State's office, and (3) adds a step 7 to pay ranges 12 through 18 in Salary Schedule E-1.

Current law defines "exempt employee" as meaning: (1) a permanent full-time or permanent part-time employee paid directly by warrant of the Auditor of State whose position is included in the job classification plan established by the Director of Administrative Services but who is not considered a public employee for purposes of the Public Employees Collective Bargaining Law and (2) a permanent full-time or permanent part-time employee of the Secretary of State, Auditor of State, Treasurer of State, or Attorney General who has not been placed in an appropriate bargaining unit by the State Employment Relations Board.

Elimination of mandatory step advances

(R.C. 125.15(E) and (G))

Current law requires that the base rate of pay of an exempt employee paid in accordance with Salary Schedule E-1 *must advance to the next higher step* in

the employee's pay range at annual intervals until the maximum step is reached, if the employee has maintained satisfactory performance. The bill instead specifies that each such exempt employee *is eligible to advance to the next higher step* until the employee reaches *step 6* (see the following paragraph for advancement to step 7), if the employee has maintained satisfactory performance *in accordance with criteria established by the employee's appointing authority*. The bill provides that such step increases cannot occur more frequently than once in a 12-month period.

Under the bill, an employee may advance to *step 7* in a pay range only upon performing at an exemplary level as determined in the employee's performance evaluation, and an employee's advancement to *step 7* is at the discretion of the employee's appointing authority. An employee may not appeal the denial of advancement to *step 7* to the State Personnel Board of Review.

Holiday pay

(R.C. 124.18(B))

The bill (1) prohibits an employee who is paid directly by warrant of the Auditor of State, who is scheduled to work on a holiday, and who does not report to work due to illness of the employee or a member of the employee's immediate family from receiving holiday pay as provided under existing law and (2) provides that employees whose work schedules are based on the requirement of a seven-days-per-week operation must observe holidays on the actual days specified in current law. Otherwise, the bill maintains the current holiday pay law.

Appeal of the removal or reduction in position of a probationary employee

(R.C. 124.27(C) and 124.34(B))

The bill provides that a probationary employee duly removed or reduced in position for unsatisfactory service does not have the right to appeal the removal or reduction to the State Personnel Board of Review or to a municipal civil service commission or civil service township civil service commission, as applicable. Current law allows a probationary employee to be removed or reduced in position at any time during the employee's probationary period if the employee's service is unsatisfactory.

Payment of accumulated sick leave at retirement

(R.C. 124.384)

Current law requires that an employee whose salary or wage is paid by warrant of the Auditor of State and who has accumulated sick leave under either of

two statutes that grant sick leave to state employees be paid for a percentage of the employee's accumulated balances, upon separation for any reason, including retirement or death, at the employee's last base rate of pay *at the rate of one hour of pay for every two hours of accumulated balances*. The bill instead requires that such an *employee who retires in accordance with any retirement plan offered by the state* be paid upon retirement for each hour of the employee's accumulated sick leave balance *at a rate of 55% of the employee's last base rate of pay*. The bill maintains existing law with respect to accumulated balances of sick leave and separations for other reasons.

Disability leave benefits for permanent part-time employees

(R.C. 124.385(A))

Under current law, an employee is eligible for disability leave benefits if the employee has completed one year of continuous state service immediately prior to the date of disability and either of the following applies: (1) the employee is a full-time permanent employee and is eligible for sick leave credit under the provision of current law that grants sick leave to employees paid by warrant of the Auditor of State or (2) the employee is a full-time permanent employee, is on disability leave or leave of absence for medical reasons, and would be eligible for sick leave credit except that the employee is in no pay status.

Under the bill, an employee is also eligible for disability leave if the employee (1) has completed one year of continuous state service immediately prior to the date of the disability, (2) is a part-time permanent employee who has worked at least 1,500 hours within the 12-month period immediately preceding the date of the disability, and (3) is eligible for sick leave credit under the provision of current law that grants sick leave to employees paid by warrant of the Auditor of State. The bill also changes the class of employees described in item (2) in the immediately preceding paragraph *to include part-time permanent employees* and to specify that, if an employee in that class is in no pay status, it must be because of the employee's medical condition.

Personal leave credit for part-time permanent exempt employees

(R.C. 124.386(A))

Under current law, each full-time permanent exempt employee, and certain other full-time permanent employees who are not exempt employees but are exempt from collective bargaining coverage, must be credited with 32 hours of personal leave each year. Under the bill, each part-time permanent exempt employee, and certain other part-time permanent employees who are not exempt employees but are exempt from collective bargaining coverage, must receive a pro-

rated personal leave credit as established by rule of the Director of Administrative Services. The bill also prohibits personal leave from being used on a holiday when an employee is scheduled to work.

Eligibility of recipients of occupational injury leave program for sick leave and disability leave

(R.C. 124.381)

Current law grants occupational injury leave to employees of the following state agencies who suffer bodily injury inflicted by an inmate, patient, client, youth, or student in certain manners: (1) the Departments of Rehabilitation and Correction, Mental Health, Mental Retardation and Developmental Disabilities, and Youth Services, (2) the Ohio Veterans' Home, and (3) the Schools for the Deaf and Blind. An employee receiving occupational injury leave generally does not accumulate sick leave or vacation leave credit, but, whenever an employee's disability extends beyond 120 work days, the employee becomes eligible for sick leave.

The bill provides that (1) an employee receiving occupational injury leave does accumulate sick leave and personal leave credit, (2) when an employee's disability extends beyond 120 work days, the employee also becomes eligible for disability leave benefits, and (3) an employee receiving occupational injury leave must be paid at the employee's *total rate of pay*, rather than just the employee's *regular rate of pay* as specified in current law.

Professional Development Fund

(R.C. 124.182)

The bill creates in the state treasury the Professional Development Fund. The Director of Administrative Services must use moneys credited to the Fund to pay for programs that provide professional development opportunities for employees who are exempt from collective bargaining coverage and paid by warrant of the Auditor of State. The Director must identify by rules adopted under the Administrative Procedure Act programs for which payments from the Fund must be made. The Fund also must be used to pay any direct or indirect costs that are attributable to consultants or a third-party administrator and that are necessary to administer the bill's Fund provisions. All investment earnings of the Fund must be credited to it.

The Director of Administrative Services, in consultation with the Director of Budget and Management, must determine a rate (1) at which the payrolls of all participating state agencies with employees paid by warrant of the Auditor of State

must be charged each pay period and (2) that is sufficient to cover the costs of administering the programs the Fund pays for. The rate must be based on the total number of those employees and may be adjusted as the Director of Administrative Services, in consultation with the Director of Budget and Management, considers necessary. All money collected from these charges must be credited to the Fund.

If the Director of Administrative Services determines that additional appropriation amounts are necessary, the Director may request that the Director of Budget and Management increase those amounts. Those amounts are then appropriated.

Ohio Bicentennial Commission

(R.C. 149.32)

Existing law

Membership. Existing law creates the Ohio Bicentennial Commission to (1) promote, encourage, and coordinate the celebration and commemoration of the bicentennial anniversary of the state's admission to the union, (2) determine if there are sites within Ohio that are especially appropriate for the bicentennial celebration and ensure that appropriate observances and exhibits are held at those sites during the bicentennial celebration, (3) receive any proposed plans and programs that may be submitted to it by political subdivisions and representative civic bodies in connection with the bicentennial celebration, and (4) submit to the Governor, the Ohio Historical Society, and the members of the General Assembly, at the earliest practical time, its recommendations for the bicentennial celebration. The Commission consists of 51 total members, 16 of whom are members of an *executive committee*. (R.C. 149.32(A) and (B).)

The Governor appoints *six members* of the executive committee in the Governor's discretion, with two caveats: all of them must be Ohio residents and at least one of them must be a representative of a state university (hereafter, the gubernatorial discretionary appointees). The remaining ten members of the executive committee are *ex officio members*, including (1) the Governor or the Governor's representative, (2) two Ohio Senate members appointed by the President of the Senate, not more than one of whom is a member of the same political party, (3) two Ohio House of Representatives members appointed by the Speaker of the House of Representatives, not more than one of whom is a member of the same political party, (4) the Superintendent of Public Instruction, (5) the Director of Development, (6) the Director of the Ohio Historical Society, (7) the Chief Justice of the Ohio Supreme Court or the Chief Justice's representative, and (8) the Chairperson of the Capitol Square Review and Advisory Board. (R.C. 149.32(B)(1) to (9).)

The executive committee must recommend to the Governor individuals for appointment as the remaining 35 members of the Commission. The Governor may appoint only persons so recommended by the executive committee. (R.C. 149.32(B).)

Finally, existing law refers to three Commission *officers*. The executive committee must select a chairperson and vice-chairperson of the Commission from among the executive committee's members. In addition, the Director of the Ohio Historical Society must serve as the Commission's secretary. (R.C. 149.32(B).)

Compensation. Currently, all Commission officers and members must serve without additional compensation but are entitled to be reimbursed for the actual and necessary expenses they incur in carrying out their official duties on behalf of the Commission (R.C. 149.32(B)).

Changes proposed by the bill

The bill provides that, unlike current law, the six "gubernatorial discretionary appointees" to the Commission's executive committee are entitled to receive an annual compensation in the amount of \$3,000 for carrying out their official duties as members of the executive committee *if those members attend at least two-thirds of the meetings of the executive committee* in a given calendar year. In addition, similar to current law, these executive committee members must be reimbursed for their actual and necessary expenses incurred in carrying out their official duties. (R.C. 149.32(B)(1)(i) and (C)(1).)

The bill continues the provisions of existing law (although in new locations) that prohibit additional compensation to, but allow expense reimbursements to, (1) the ten ex officio members of the Commission's executive committee, (2) the 35 members of the Commission appointed by the Governor following the receipt of executive committee recommendations, and (3) unless they happen to be one of the six "gubernatorial discretionary appointees" to the Commission's executive committee, the Commission's chairperson and vice-chairperson (R.C. 149.32(B)(1)(a) to (h), (2), and (3), (C)(2) and (3), and (D)).

Unclaimed Funds Law

Exemptions

(R.C. 169.01(B))

The bill modifies the Unclaimed Funds Law (Chapter 169. of the Revised Code) by excluding the following business to business transactions from the definition of "unclaimed funds":

(1) Any payment or credit due to a business association from a business association representing sums payable to suppliers, or payment for services rendered, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates;

(2) Any payment or credit received by a business association from a business association for tangible goods sold, or services performed, in the course of business, including, but not limited to, checks or memoranda, overpayments, unidentified remittances, nonrefunded overcharges, discounts, refunds, and rebates.

"Business association" is defined by the bill as any corporation, joint venture, business trust, limited liability company, partnership, association, or other business entity composed of one or more individuals, whether or not the entity is for profit.

Credits to be refunded to a retail customer

(R.C. 169.02(N))

In general, the Unclaimed Funds Law declares certain moneys, rights to moneys, and other intangible property to be unclaimed funds, if held or owed by a holder "unclaimed" for a specified period of time *and* if not excluded from the definition of "unclaimed funds." Under that law, the following constitute unclaimed funds, if held or owed by the holder unclaimed for one year from the date payable or distributable:

[a]ny sum payable as wages, salaries, or commissions, any sum payable for services rendered, funds owed or held as royalties, oil and mineral proceeds, funds held for or owed to suppliers, and moneys owed under pension and profit-sharing plans.

All other credits held or owed by a holder are considered unclaimed funds, if such credits are unclaimed for three years from the date payable or distributable. Under the bill, all other credits *to be refunded to a retail customer* by a holder are *also* unclaimed funds, if left unclaimed for three years from the date payable or distributable.

Application

(Section 53)

The bill states that these modifications to the Unclaimed Funds Law apply to payments and credits that, on the effective date of this portion of the bill, are in the possession, custody, or control of a business association.

Abolition of the Ohio Coal Development Fund

(R.C. 1551.12, 1551.30, 1551.31, 1551.33, 1551.34, 1551.36, 4905.01, and 4906.03)

Current law establishes the Ohio Coal Development Fund. Revenues received by the Ohio Coal Development Office must be deposited in the State Treasury to the credit of the fund. Moneys in the fund may be spent for any activities or expenses of the Office. The bill abolishes the fund.

Specification that vocational education weighted funding is based on FTE

(R.C. 3317.03(B)(8) and (9) and (C))

Current law: weighted funding for vocational education

State funding for vocational education is paid to school districts as an add-on to base-cost funding. The additional funding is calculated using "weights," which are expressed as a percentage of the base-cost formula amount. For example, the weight of 0.60, which is used for job-training and workforce development programs approved by the Department of Education, means that the funding for those programs is an additional 60% of the per pupil base-cost formula amount per vocational education student. (The FY 2000 formula amount is \$4,052 per pupil, and 60% of that is \$2,431 per pupil.) Other vocational education classes are assigned a weight of 0.30. The state pays a share of each district's calculated amount, which varies based on the district's property wealth per pupil.⁷

Because vocational education weighted funding is calculated on a per-pupil basis, the amount a school district receives depends on how many students are enrolled in vocational education programs. Current law requires that school districts report their enrollments in vocational education programs on a full-time-equivalent (FTE) basis. For example, if a student spends half of his or her time in vocational education, and the other half in regular classes, the student is to be counted as one-half student in the vocational education funding formula (but still as a whole student in the base-cost formula).

⁷ See R.C. 3317.014, 3317.02(A), and 3317.022(E), not in the bill.

The bill makes the FTE reporting requirement more explicit

The bill maintains the FTE reporting requirement, but spells it out more explicitly than does the current law. It states that a child is to be counted in the vocational education formula "in the same proportion as the percentage of time that the child spends in the vocational education programs and classes."

The bill also clarifies that individual special education students and vocational education students may be counted as more than one student in combined base-cost, special education, and vocational education funding formulas. (State special education funding is also calculated with weights.) This would occur, for example, if a handicapped student was also enrolled in a vocational education program. While that appears to be the intent of the current law, the actual wording is somewhat ambiguous. This clarification would be consistent with the "add-on" nature of state funding for special education and vocational education, which is paid as a supplement for additional costs imposed by these programs.

Vocational education weighted funding for community schools

(R.C. 3314.08 and 3314.13)

Current community school payment procedures

Community schools, popularly called "charter schools," are public schools that operate independently of any school district. They receive state funding for their base costs and their costs for providing special education for disabled students. They can receive state DPIA funds if they serve children whose families participate in the Ohio Works First public assistance program. Community school funding flows through a process in which (1) the community schools' students are counted in the enrollments of their resident school districts, (2) the districts' state payments are calculated with the community school students counted in their enrollments, which for most districts (but not all) results in their being credited with the state funding that the community school students would have generated for them, and (3) the state deducts the community schools' funds from the school districts' state payments and pays them to the community schools.

The bill adds vocational education weighted funding

The bill makes state vocational education funding available to community schools. The funding is to be calculated with the same 0.60 and 0.30 weights used for school districts, and is to be paid using the same procedures currently employed for paying community schools for special education. As with special education, the state is to pay community schools the full amount of the calculation.

There is no local share, as community schools have no authority to levy taxes. The school districts, however, will be credited with only the state share while the full amount will be deducted from their state payments, as is currently done with community school special education payments.

Community schools must report enrollment in vocational education programs, and the payments will be based on, an FTE basis. They may be paid only for programs that they provide and that are comparable, as determined by the state Superintendent of Public Instruction, to school district vocational education programs and classes that are eligible for state funding.

The bill allows vocational education weighted funding to follow open enrollment students

(R.C. 3313.98 and 3313.981)

Any school district may establish an open enrollment policy under which it enrolls students who live in other school districts. Funding for these open enrollment students follows much the same process as funding for community schools, in that the students are counted in the enrollments of their home districts for state funding calculations and then the payments to the districts where they enroll are deducted and transferred. This is popularly characterized as the state funding "following" the open enrollment students. Under current law, base-cost and special education funding "follow" open enrollment students.

The bill adds that vocational education weighted funding likewise must follow open enrollment students. The payments are to be based on an FTE basis, meaning the amount paid is to be proportionate to the percentage of time each open enrollment student spends in vocational education programs.

Ohio Arts and Sports Facilities Commission Law

(R.C. 3383.01, 3383.03, and 3383.07)

Ohio arts facilities and arts projects

Existing law provides for the Ohio Arts and Sports Facilities Commission. The Commission is required to determine the need for Ohio arts facilities and Ohio sports facilities and to report that need to the Governor and the General Assembly. In addition, the Commission generally engages in and provides for the development, performance, and presentation or the making available of the arts and professional sports to the public in Ohio.

The bill expands the existing definition of an "Ohio arts facility" by including a *local historical facility* in it. The bill defines a "local historical facility" as a site or facility, other than a state historical facility (currently included in the definition of an Ohio arts facility), of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by an arts organization, so long as the facility meets specified requirements, is managed by or pursuant to a contract with the Ohio Arts and Sports Facilities Commission, and is used for or in connection with the Commission's activities (such as the presentation or making available of arts to the public). (R.C. 3383.01(A)(3), (H), and (J)(3).)

The bill defines an "arts project" and incorporates into the Ohio Arts and Sports Facilities (OASF) Commission Law the concept of an arts project being *all or a portion* of an Ohio arts facility. Apparently, this would allow for additions or renovations of existing facilities as well as the construction of new facilities. (R.C. 3383.01(C).)

Local match change

The bill changes the existing provision of the OASF Commission Law pertaining to the local match requirement. Current law provides that no state funds, including any state bond proceeds, can be spent on the construction of any "Ohio arts facility" unless all of the following apply: (1) the Commission has determined that there is a need for the facility in the region of Ohio where the facility is proposed to be located, (2) provision has been made, satisfactory to the Commission and as an *indication of substantial regional support for the facility*, for a contribution amounting to not less than *one-third of the total estimated cost* of the facility, including any cost of the site, from sources other than the state to be used for costs of construction and/or management, and (3) the General Assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the facility, or for rental payments relating to the financing of the construction of the facility.

The bill generally substitutes "arts project" for "Ohio arts facility" in these provisions (in a few instances both terms are used) and changes the second requirement pertaining to regional support to require that the *arts organization* involved has made provision satisfactory to the Commission (in its sole discretion) for local contributions (see below) amounting to no less than *50% of the total state funding* for the arts project (R.C. 3383.07(D)). The bill defines "local contribution" as the value of an asset provided by or on behalf of an arts organization from sources other than the state, the value and nature of which the Commission must approve in its sole discretion. Local contributions may include

the value of the site where an arts project is to be constructed. All local contributions, except a contribution attributable to the site, must be for the costs of construction of an arts project or the costs of operation (see below) of an arts facility. (R.C. 3383.01(G).)

The bill relatedly defines "costs of operation" as amounts required to manage an Ohio arts facility that are incurred following the completion of construction of its arts project, provided that (1) the amounts either have been committed to a fund dedicated to that purpose or equal the principal of any endowment fund, the income from which is dedicated to that purpose and (2) the Commission and the arts organization have executed an agreement with respect to either of those funds (R.C. 3383.01(D)).

Commission and Department of Administrative Services duties

The bill requires the Commission to determine the need for arts projects in addition to Ohio arts facilities and Ohio sports facilities (R.C. 3383.03(A)). It also specifies that the Department of Administrative Services must provide for the construction of *an arts project* (instead of the current "Ohio arts facility") in conformity with the Public Improvements Law (R.C. Chapter 153.) *except* for the following: (1) an arts project that has an estimated construction cost, excluding its acquisition cost, of \$25 million or more and that is financed by the Ohio Building Authority, in which case the bill specifies that construction services may be provided by the OBA, and (2) an arts project, other than a state historical facility, may have construction services provided on behalf of the state by the Commission, or by a governmental agency or an arts organization that occupies, will occupy, or is responsible for the Ohio arts facility involved, as determined by the Department of Administrative Services, in which case (a) construction services to be provided by a *governmental agency or an arts organization* must be specified in an agreement between the Commission and the agency or organization and (b) the agreement, and any actions taken under it, are not subject to the Public Works Law (R.C. Chapter 123.) or the Public Improvements Law (except for their respective provisions relating to minority set-asides (R.C. 123.151) and the use of steel products made in the United States (R.C. 153.011) and are subject to the Prevailing Wage Law (R.C. Chapter 4115.). (R.C. 3383.07(A)(1) and (2).)

Finally, the bill continues another existing exception to the Department of Administrative Services construction requirement that pertains to *state historical facilities*. But it amends that exception and another state historical facility provision to refer to "an arts project" that is a state historical facility or to "an arts project related to" a state historical facility (R.C. 3383.07(A)(3) and (E)).

Special Supplemental Nutrition Program for Women, Infants, and Children

(R.C. 3701.132)

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides supplemental foods and nutrition education as an adjunct to good health care during critical times of growth and development to prevent health problems, including drug and other harmful substance abuse, and to improve the health status of low-income women and children.⁸ WIC supplements the Food Stamp Program and, like the Food Stamp Program, is administered on the federal level by the United States Department of Agriculture.

Continuing law designates the Department of Health as the state agency to administer WIC and authorizes the Public Health Council to adopt rules as necessary for administering the program. The bill provides that the rules may include civil money penalties for violations of the rules. If the Department determines that a vendor has committed an act with respect to WIC that federal or state law prohibits, the Department is required by the bill to take action against the vendor in the manner required by federal regulations, including imposition of a civil money penalty, or Public Health Council rules.

Screening newborn children for genetic, endocrine, and metabolic disorders

(R.C. 3701.23 and 3701.501)

The Public Health Council is required by current law to adopt rules for testing of newborn children for the presence of phenylketonuria, homocystinuria, galactosemia, and hypothyroidism. If certain conditions are met, the rules may require tests for other genetic, endocrine, or metabolic disorders. The Council is required to establish by rule a fee of not less than \$14 for the tests. The bill provides for the Council's rules to provide for screening, rather than testing, newborn children for such disorders.

The Department of Health's laboratory is required by current law to perform the tests for genetic, endocrine, and metabolic disorders in newborn children. The Public Health Council is permitted to adopt rules authorizing a laboratory approved by the Director of Health to retest children with abnormal results. Under the bill, the screenings are to be performed by the Department's laboratory or on a contractual basis by a laboratory the Director determines is qualified. The Council

⁸ *Current law incorrectly refers to WIC as the Special Supplemental Food Program for Women, Infants, and Children. The bill corrects this.*

continues to be permitted to adopt rules authorizing other laboratories approved by the Director to perform rescreenings of children with abnormal results.

Current law authorizes the Public Health Council to adopt rules establishing reasonable fees to be charged for services the Department's laboratory performs. The bill authorizes the Council to adopt rules that also establish reasonable fees to be charged for services that another qualified laboratory under contract pursuant to the bill performs. Whereas current law provides that the fees (other than fees for tests of newborn children) must be used to defray expenses of operating the Department's laboratory, the bill provides that the fees may also be used to make payments required by contracts entered into under the bill with other qualified laboratories.

Of the fee collected for newborn testing, current law earmarks \$10.25 for the Genetic Services Fund and \$3.25 for the Sickle Cell Fund. Of the amount deposited in the Genetic Services Fund, \$3 must be used to defray costs of phenylketonuria programs and \$7.25 to defray the costs of the newborn screening program. The money in the Sickle Cell Fund must be used to defray the costs of the Director of Health's duties regarding sickle cell disease. Instead of earmarking specific amounts of the fee for these purposes, the bill provides that "not less than" the amount specified by current law is so earmarked. For example, not less than \$10.25 of the fee is earmarked for the Genetic Services Fund and not less than \$3 of the \$10.25 must be used to defray costs of phenylketonuria programs.

Examination for licensure as a nursing home administrator

(R.C. 149.43, 1347.08, 4751.04, 4751.041, 4751.05, and 4751.06)

Under current law unchanged by the bill, no person may operate a nursing home unless it is under the supervision of an administrator whose principal occupation is nursing home administration or hospital administration and who holds a valid nursing home administrator's license and registration, or a temporary license, issued by the Board of Examiners of Nursing Home Administrators. A nursing home administrator is an individual responsible for planning, organizing, directing, and managing the operation of a nursing home, or who in fact performs those functions, whether or not the functions and duties are shared by one or more other persons.

One condition for obtaining a nursing home administrator's license is passing an examination prescribed by the Board. The Board is required to hold examinations at least two times each year, at such times and places as the Board designates.

The bill eliminates the requirement that the Board hold examinations at least two times each year, at such times and places as the Board designates, and provides instead that the Board may administer the examinations or contract with a government or private entity to administer the examinations. If the Board contracts with a government or private entity to administer the examinations, the contract may authorize the entity to collect and keep, as all or part of the entity's compensation under the contract, any fee an applicant for licensure pays to take an examination. The government or private entity is not required to deposit the fee into the state treasury.

Under current law, the Board is required to admit to the examination an applicant who, among other things, pays the examination fee of \$150. The bill requires that the Board, or a government or private entity under contract with the Board to administer the examination, admit to the examination an applicant who, among other things, pays the examination fee charged by the Board or entity.

The bill prohibits the Board, except when it considers it necessary, from disclosing test materials, examinations, or evaluation tools used in the examination. The prohibition applies regardless of whether the Board, or a government or private entity under contract with the Board, administers the examination. The test materials, examinations, and evaluation tools are exempted by the bill from disclosure under the public records law and release under the personal information systems law.

Commerce funds made subject to appropriation

(R.C. 4115.10 and 4115.101)

Under current law, the Director of Commerce is required to deposit into the Penalty Enforcement Fund all penalties received from employers who violate prevailing wage provisions as applied to the construction of public improvements. The Director is required to deposit into the Prevailing Wage Fund all money paid by employers to the Director that are held in trust for employees to whom prevailing wages are due and owing. Under current law, both funds are in the "custody" of the State Treasurer but are not a part of the state treasury. A custodial fund does not require a legislative appropriation to make expenditures from the fund.

The bill eliminates the custodial nature of both funds making expenditures subject to legislative appropriation.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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Introduced	---	---
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H0640-I.123/jc

