



**Am. Sub. S.B. 164**

124th General Assembly  
(As Passed by the General Assembly)

**Sen. Jacobson**

**Reps. Peterson, Trakas, Carmichael, Oakar, Flowers, Sykes, Clancy, Patton, Hughes, G. Smith, Reidelbach, Grendell, Evans, Kearns, Webster, Coates, Schmidt, Carano, D. Miller, Hartnett, Latta, Sullivan, Salerno, Barrett, Woodard, White, Strahorn, Callender, Widowfield, Wolpert, Olman, Cirelli, Ogg, Hoops, Reinhard, Raga, Jerse, Gilb, Buehrer, Husted, Latell, Barnes, Collier, DeWine, Aslanides, Seitz, Hagan, Willamowski, Schneider, Calvert, Niehaus, Wilson, S. Smith, Distel, Allen, Driehaus, Roman, Sulzer, Core, Jones, Lendrum, Young, Redfern, Rhine, Krupinski, Key, Fedor, Perry, Sferra, Flannery, Britton, Otterman, Stapleton, Faber**

**Effective date: Emergency, November 20, 2001; certain sections effective February 19, 2002**

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**ACT SUMMARY**

- Authorizes the conveyance of separate parcels of state-owned real estate to the Village of Grafton, the City of Columbus, the Medina County Joint Vocational School, the Hamilton County Alcohol and Drug Addiction Services Board, Forest City Enterprises, Inc., the Board of Ross County Commissioners, the Board of Ross County Mental Retardation and Developmental Disabilities, the Union Scioto School District, the City of London, the Oxford Bible Fellowship, Concord Township, the United States government and, for one conveyance, a purchaser to be determined pursuant to the act.
- Removes the \$500 monthly limit on the compensation that must be paid by public employers that are state agencies to certain state employees called or ordered to active military duty by an executive order of the President or an act of Congress.
- Provides for the continuation or reactivation of health care benefits for certain state employees so called to active military duty.

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## CONTENT AND OPERATION

### Land conveyance provisions

#### Village of Grafton

The act authorizes the Governor to execute a deed in the name of the state conveying to the Village of Grafton, and its successors and assigns or heirs and assigns, all of the state's right, title, and interest in two separate parcels of land. The first parcel is a part of Original Grafton Township Lot 5, is located in the Village of Grafton in Lorain County, and contains 1.0032 acres. The second parcel is part of the Original Eaton Township Lot 58, is located in the Village of Grafton in Lorain County, and contains 1.8839 acres. The real estate must be sold as entire tracts and not in parcels. (Sections 5(A) and (C) and 6(A) and (C).)

The consideration for the conveyance of the first parcel is \$4,500, and for the conveyance of the second parcel is \$13,100 (Sections 5(B) and 6(B)). The Village of Grafton must pay all costs associated with the conveyances (Sections 5(D) and 6(E)).



The above provisions expire one year after their effective date (Sections 5(G) and 6(H)).

### **City of Columbus**

The act authorizes the Governor to execute a deed in the name of the state conveying to the City of Columbus, and its successors and assigns or heirs and assigns, all of the state's right, title, and interest in 5.825 acres of real estate located in the City of Columbus in Franklin County. The City of Columbus must pay the costs of the conveyance. (Section 7(A) and (E).)

The consideration for the conveyance is the mutual benefit and exchange of services provided under a Real Estate Purchase Agreement executed by Crewville, Ltd., on November 24, 1999, the City of Columbus on December 1, 1999, and the Director of Administrative Services on December 30, 1999, with the concurrence of the General Manager of the Ohio Expositions Commission and the Director of the Ohio Historical Society. The agreement expressly provided for Crewville, Ltd., upon conveyance of approximately 32.5 acres of land to the state, to construct a three-lane roadway connecting Velma Avenue and Silver Drive in the City of Columbus. Once the roadway is completed, the state is to seek to transfer it to the City of Columbus and dedicate it to the public's use. The City of Columbus agrees to accept the Governor's deed and accept responsibility for all maintenance and upkeep of the roadway following its transfer. (Section 7(B).)

The act specifically states that the General Assembly finds that the mutual benefit and exchange of services accruing to the state from the conveyance of the real estate is in the best interests of the state and specifically beneficial to the Ohio Expositions Commission and the Ohio Historical Center (Section 7(C)).

The above provisions expire two years after their effective date (Section 7(F)).

### **Medina County Joint Vocational School**

The act states that the Adjutant General has determined that certain property located in the City of Medina in Medina County is no longer needed by the Ohio National Guard for armory or military purposes and has requested the Department of Administrative Services to assist in transferring it. The reversionary language contained in the deed whereby the Adjutant General acquired this property requires that it revert back to the Medina County Joint Vocational School if it ceases to be used for military purposes. (Section 8(A).)

The act authorizes the Director of Administrative Services to give proper effect to the reversionary language in the original deed and authorizes the

Governor to execute a deed in the name of the state, granting all of the state's right, title, and interest in the property to the School. The parcel contains 10.8154 acres. (Section 8(A).)

The School must pay all costs associated with the conveyance (Section 8(B)).

The above provisions expire one year after their effective date (Section 8(C)).

**Hamilton County Alcohol and Drug Addiction Services Board**

The act authorizes the Governor to execute a deed in the name of the state conveying to the Hamilton County Alcohol and Drug Addiction Services Board, and its successors and assigns or heirs and assigns, all of the state's right, title, and interest in certain real estate located in the City of Cincinnati in Hamilton County. This real estate must be sold as an entire tract and not in parcels. (Section 9(A) and (C).)

The state stipulates in the act that the Offer to Purchase has been made pursuant to Section 21.01 of Am. Sub. H.B. 640 of the 123rd General Assembly. Possession of the premises prior to transfer is governed by an existing lease between the state and the Board. (Section 9(D).)

The consideration for the conveyance is \$600,000 that must be paid to the state according to the following schedule derived by mutual agreement between the state and the Board through the executed Offer to Purchase (Section 9(B)):

- (1) \$60,000 deposit upon full execution of the Offer to Purchase;
- (2) \$135,000 at closing and transfer of title in accordance with the act;
- (3) \$135,000 upon the first anniversary of the closing date;
- (4) \$135,000 upon the second anniversary of the closing date;
- (5) \$135,000 upon the third anniversary of the closing date.

The Board must pay all costs associated with the conveyance (Section 9(E)).

The above provisions expire one year after their effective date (Section 9(H)).

**Forest City Enterprises, Inc.**

The act authorizes the Governor to execute a deed in the name of the state conveying to Forest City Enterprises, Inc., and its successors and assigns or heirs and assigns, the State's Lessor's remaining interest under a certain lease dated March 16, 2001, between the state and Forest City Enterprises affecting certain real estate located in the City of Cleveland in Cuyahoga County (Section 10(A)). The deed must state that, upon transfer at closing, the Lessor's interest must merge with the Lessee's interest. The deed must further state the restrictions regarding maintenance of an existing water tower as provided in the lease must be removed. (Section 10(D).)

The consideration for the conveyance is \$630,000 (Section 10(B)). Forest City Enterprises must pay all costs associated with the conveyance (Section 10(F)).

The act also provides that the obligation of the Department of Administrative Services to convey the premises to Forest City Enterprises is also subject to and contingent upon (1) Forest City Enterprises obtaining a binding unconditional executed contract with the United States Department of Labor (the "Job Corps Contract") for the construction of a Federal Job Corps Center on or before the closing of the premises and (2) occurrence of simultaneous closings of the conveyance and the Job Corps Contract. Possession of the premises prior to transfer is governed by an existing lease between the state and Forest City Enterprises. (Section 10(E).)

The above provisions expire one year after their effective date (Section 10(I)).

**Board of Ross County Commissioners**

The act authorizes the Governor to execute a deed in the name of the state conveying to the Board of Ross County Commissioners, and its successors and assigns or heirs and assigns, all of the state's right, title, and interest in 4.349 acres of real estate located in Union Township in Ross County. The real estate must be sold as an entire tract and not in parcels. (Section 11(A) and (C).)

The consideration for the conveyance is \$1 and other valuable consideration, including improvements to the roadway previously completed by the Board (Section 11(B)). The Board must pay all costs associated with the conveyance (Section 11(D)).

The above provisions expire one year after their effective date (Section 11(G)).

### **Union Scioto School District**

The act authorizes the Governor to execute a deed in the name of the state conveying to the Union Scioto School District, and its successors and assigns or heirs and assigns, all of the state's right, title, and interest in certain real estate located in Union Township and/or Scioto Township in Ross County. The real estate contains two parcels containing 14.409 and 5.046 acres, respectively. The real estate must be sold as an entire tract and not in parcels. (Section 12(A) and (C).)

The consideration for the conveyance is \$16,536.75 (Section 12(B)). The School District must pay all costs associated with the conveyance (Section 12(D)).

The above provisions expire one year after their effective date (Section 12(G)).

### **City of London**

The act authorizes the Governor to execute a deed in the name of the state conveying to the City of London, and its successors and assigns or heirs and assigns, all of the state's right, title, and interest in a 50 acre tract of real estate located in Union Township in Madison County. (Section 13(A).)

Consideration for the conveyance is the conveyance by the City of London to the state of a parcel of real estate located in Union Township in Madison County and containing about 63.9355 acres. The real estate to be conveyed by both parties must be transferred as entire tracts and not in parcels. (Section 13(B) and (C).)

The City of London must pay all costs associated with the state's conveyance to it (Section 13(D)).

The above provisions expire one year after their effective date (Section 13(F)).

### **Undetermined purchaser**

The act authorizes the Governor to execute a deed in the name of the state conveying to a purchaser, and the purchaser's successors and assigns or heirs and assigns, all of the state's right, title, and interest in real estate located in Cuyahoga County, known as Subplot 27 in The Van Sweringen Company's Subdivision No. 14 or part of Original Warrensville Township Lots Nos. 34 and 35 (Section 14(A)). The act does not state how the purchaser is to be determined.

Consideration for the conveyance (the real estate having been purchased in 1993 for \$380,000) is a purchase price acceptable to the Board of Trustees of Cleveland State University (Section 14(B)).

The above provisions expire one year after their effective date (Section 14(E)).

### **Oxford Bible Fellowship**

The act authorizes the Governor to execute a deed in the name of the state conveying to the Oxford Bible Fellowship, and its successors and assigns, all of the state's right, title, and interest in 27,380 square feet of real estate located in the City of Oxford in Butler County (Section 15(A)).

The consideration for the conveyance is \$80,000 (Section 15(B)). The Fellowship must pay the costs of the conveyance (Section 15(D)).

The above provisions expire one year after their effective date (Section 15(F)).

### **Concord Township**

The act authorizes the Governor to execute a deed in the name of the state conveying to Concord Township in Delaware County, and its successors and assigns, all of the state's right, title, and interest in 22.415 acres of real estate located in Concord Township. (Section 16(A).)

The consideration for the conveyance is \$47,100 (Section 16(B)). Concord Township must pay the costs of the conveyance (Section 16(C)).

The above provisions expire one year after their effective date (Section 16(F)).

### **Board of Ross County Mental Retardation and Developmental Disabilities**

The act authorizes the Governor to execute a deed in the name of the state conveying to the Board of Ross County Mental Retardation and Developmental Disabilities, and its successors and assigns or heirs and assigns, all of the state's right, title, and interest in 6.064 acres of real estate located in Scioto Township in Ross County. The real estate must be sold as an entire tract and not in parcels. (Section 17(A) and (C).)

The consideration for the conveyance is \$5,154.40 (Section 17(B)). The Board must pay all costs associated with the conveyance (Section 17(D)).

The above provisions expire one year after their effective date (Section 17(G)).

**United States government**

The act authorizes the Governor to execute a deed in the name of the state conveying to the United States, and its successors and assigns, all of the state's right, title, and interest in 1244.02 acres of real estate located in Union Township and/or Scioto Township in Ross County and under the jurisdiction of the Department of Rehabilitation and Correction (Section 18(A)). The Department is required to pay the costs of the conveyance (Section 18(B)).

The act states that the obligation of the Department of Administrative Services to convey the real estate is subject to and contingent upon the occurrence of a simultaneous closing with the United States to re-convey the real estate to the state for the use and benefit of the Department of Rehabilitation and Correction. The contemporaneous transfers must be conducted according to the regulations, guidelines, and reimbursement of funds established under the Federal Surplus Real Property Transfer Program. (Section 18(C).) The Department of Rehabilitation and Correction must convey the net proceeds associated with the conveyances to the Ohio Building Authority for deposit into the appropriate bond service account created pursuant to the trust agreement securing the state facilities bonds issued in connection with the conveyances (Section 18(D)).

The above provisions expire one year after their effective date (Section 18(E)).

**Preparation, execution, and recording of deed**

The act requires the state, generally within 90 days after the effective date of the applicable land conveyance provisions (see below), to follow the procedure in codified law (R.C. 5301.13) for the preparation, execution, and recording of the deeds to the described real estate, generally following a respective grantee's payment of the consideration for the conveyance (Sections 5(E), 6(F), 7(D), 8(A), 9(F), 10(G), 11(E), 12(E), 13(E), 14(C), 15(C), 16(D), and 17(E)).

Within one year after the act's effective date, upon the request of the Department of Administrative Services, the Auditor of State, with the assistance of the Attorney General, must prepare a deed to the real estate to be conveyed to the United States government under the act. The codified law procedure generally must be followed, with the deed being delivered to the United States acting by and through the Administrator of General Services under specified federal law, regulations, and orders. The Department of Rehabilitation and Correction must

present the deed for recording in the office of the Ross County Recorder. (Section 18(B).)

**Proceeds of sales of real estate**

The net proceeds of the real estate sales to the Village of Grafton, the Hamilton County Alcohol and Drug Addiction Services Board, Forest City Enterprises, Inc., the Board of Ross County Commissioners, the Union Scioto School District, and the Board of Ross County Mental Retardation and Developmental Disabilities must be deposited in the state treasury to the credit of the General Revenue Fund (Sections 5(F), 6(G), 9(G), 10(H), 11(F), 12(F), and 17(F)).

The net proceeds of the sale of the specified real estate to the "undetermined purchaser" must be held in a restricted reserve fund of Cleveland State University and be used only for housing and housing allowances of future Presidents of the University (Section 14(D)).

The net proceeds of the sale of the specified real estate to the Oxford Bible Fellowship must be deposited in the Miami University General Fund (Section 15(E)).

The net proceeds of the sale of the specified real estate to Concord Township must be deposited in the state treasury to the credit of the Department of Youth Services Building Demolition Fund (Section 16(E)).

The Department of Rehabilitation and Correction must convey the net proceeds associated with the United States government conveyance to the Ohio Building Authority for deposit as described under **'United States government,'** above (Section 18(D)).

**Effective dates**

The act contains an emergency clause and, thus, technically takes immediate effect (Section 20). However, of the act's land conveyance provisions, only the provisions that authorize the Governor to convey certain real estate to the City of Columbus and to Forest City Enterprises, Inc. will take effect on the act's effective date; the remaining land conveyance provisions will take effect on the 91st day after that date (Section 19).

## *Calls or orders to active military service*

### *Compensation payments*

*Continuing and former law.* Under continuing law, permanent public employees of the state or any political subdivision of the state who are members of the Ohio organized militia or members of other reserve components of the United States armed forces are entitled to leave of absence without loss of pay for military service for periods of up to one month, for each calendar year in which they are performing military service (R.C. 5923.05(A)).<sup>1</sup> In addition, under former law, if these employees were *called or ordered* to active duty for longer than a month because of an *executive order of the President* or an *act of Congress*, they were entitled to a leave of absence and had to be paid, during each monthly pay period of that leave, *the lesser of* (1) the difference between their gross monthly wage or salary as an employee and the sum of their gross military pay and allowances received that month, or (2) \$500 (R.C. 5923.05(B)). Accordingly, \$500 per month was the upper limit on the amount of compensation a public employer had to pay an employee on a military leave of absence beyond a month when that employee was called or ordered to active duty by a Presidential executive order or an act of Congress.

*Changes made by the act.* The act removes the \$500 limit on the entitlement of a permanent public employee to compensation in relation to those calls or orders to active duty beyond a month if the public employer *is a state agency*. During that period of active duty, then, a covered state employee is entitled to the difference between his or her normal monthly public service wage or salary and his or her monthly military pay and allowances even if that difference is more than \$500 a month.<sup>2</sup> (R.C. 5923.05(C).) Under the act, the entitlement to receive these payments applies retroactively to the later of October

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<sup>1</sup> *"Permanent public employee" generally is defined in R.C. 5903.01 (not in the act) as any person holding a position in public employment that is not limited to a specific season or duration and that requires working a regular schedule of 26 consecutive biweekly pay periods or any other regular schedule of comparable consecutive pay periods. The term does not include student help, intermittent, seasonal, or other temporary help, individuals covered by personal services contracts, or an office filled by election.*

<sup>2</sup> *Under continuing law, a permanent public employee of the state or any political subdivision so called or ordered to active duty may not receive any payment if the sum of the employee's gross military pay and allowances received in a month exceeds the employee's gross monthly wage or salary as a permanent public employee or if the employee is receiving pay for periods of up to one month for each calendar year under R.C. 5923.05(A). See R.C. 5923.02(D) in the act.*

1, 2001, or the date a leave of absence began after a call to active duty. If a person was called to active duty before the act's effective date and that person is entitled to additional benefits under the act (i.e., more than \$500), the employing entity must pay, in a lump sum, the additional amount due. (Section 3.)

The act retains the existing \$500 limit on the entitlement of a permanent public employee to compensation in relation to those calls or orders to active duty beyond a month if the public employer is a political subdivision (R.C. 5923.05(B)).

Also, under continuing law, retirement contributions to the state's five retirement systems are not required to be made by an employee, or his or her employer, on payments made by the state or a political subdivision in relation to those calls or orders to active duty beyond a month (R.C. 145.01(R)(2)(g), 742.01(L)(2)(e), 3307.01(L)(2)(j), 3309.01(V)(2)(g), and 5505.01(S)(2)(f)).<sup>3</sup>

### **Health care benefits**

**Continuing law.** Under continuing law, public and private sector employees who are reservists and who are covered by group health policies, plans, or contracts are entitled to continued coverage under those policies, plans, and contracts when called or ordered to active duty. The continuation of benefits coverage may extend from a minimum period of 18 months to a maximum period of 36 months under specified conditions. An employee eligible for continued benefits coverage must pay the amount of contribution required by the employer, up to 102% of the group rate for the coverage being continued. The employer may pay a portion or all of the eligible employee's contribution. (R.C. 1751.54, 3923.381, and 3923.382.)

**Changes made by the act.** Under the act, notwithstanding the "**Continuing law**," above, any *state employee* who is entitled to military leave and is called to active duty for a period in excess of one month in any calendar year because of an executive order of the President or an act of Congress is entitled to continue or reactivate the person's coverage by any state-sponsored health care plan for the duration of the time the person is on active duty. The person, the person's spouse, or a dependent of the person may request the continuation or reactivation of health, medical, hospital, dental, vision, and surgical benefits coverage whether

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<sup>3</sup> *The five retirement systems laws are amended in the act, but the amendments contain erroneous cross-references to Section 3 of S.B. 173 of the 124th General Assembly. The cross-references instead should be to Section 3 of the act, which contains the retroactive application provisions described above. The erroneous cross-references have been subsequently corrected, however, by Am. Sub. H.B. 405 of the 124th General Assembly.*

those benefits are provided by an insurance company, health insuring corporation, or other health plan or entity. The person, spouse, or dependent and the person's employer are each liable for payment of the same costs for the coverage as if the person were not on the military leave of absence. (R.C. 5923.051.)

As noted above, the act provides that this entitlement applies notwithstanding the continuation of benefits provisions of continuing law explained above. Thus, a state employee's coverage under the act could continue for longer than 36 months if the period of active duty lasts longer than that time, and the state employee could not be required to pay the employer's contribution amount. (R.C. 1751.54(J) and 5923.051.)

**Joint legislative committee review**

The act requires a joint committee to biennially review the provisions of law pertaining to compensation for military leaves of absence. The first review must begin on or after October 1, 2003. The committee must consist of the standing committees of the House of Representatives and the Senate that normally address veterans affairs matters. Upon completion of each review, the joint committee is required to issue a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The report must make recommendations for whatever changes the joint committee determines are necessary to those provisions of law. (Section 4.)

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**HISTORY**

| ACTION                                     | DATE     | JOURNAL ENTRY |
|--|----------|---------------|
| Introduced                                 | 09-25-01 | p. 902        |
| Reported, S. Judiciary on<br>Civil Justice | 10-11-01 | pp. 959-960   |
| Passed Senate (32-0)                       | 10-11-01 | pp. 962-963   |
| Reported, H. State Gov't                   | 10-25-01 | p. 994        |
| Passed House (95-0)                        | 10-30-01 | pp. 1002-1033 |
| Concurrence (30-0)                         | 11-14-01 | pp. 1120-1121 |

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