



Max Gakh

## *Bill Analysis*

*Legislative Service Commission*

### **S.B. 261**

127th General Assembly  
(As Introduced)

**Sens. Stivers, Goodman**

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#### **BILL SUMMARY**

- Changes the entity owning, operating, and maintaining a park or recreational facility that was the site of the United States Christopher Columbus Quincentenary Jubilee horticulture exhibition from a joint recreation board to a joint recreation district, and makes the appointment of certain board members discretionary.
- Authorizes the joint recreation district to issue revenue bonds for the acquisition, construction, furnishing, or equipping of any property and establishes requirements for such revenue bonds.
- Permits the joint recreation district to enter into contracts for a secured line of credit with a bank, savings and loan association, or savings bank.
- Expands the joint recreation district's power with respect to its own property.
- Allows the joint recreation district to enter into lease-purchase agreements.
- Authorizes the joint recreation district to acquire, construct, maintain, and operate additional recreation facilities.
- Authorizes the joint recreation district to designate the amounts and forms of property and casualty insurance protection to purchase.
- Authorizes the joint recreation district to exercise other powers granted in the agreement between the municipal corporation and the board of county commissioners that originally established the district.

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## CONTENT AND OPERATION

### *Background--joint recreation boards and joint recreation districts*

Under current law, any municipal corporation, township, township park district, county, or school district jointly with one or more other such subdivisions, in any combination, may acquire property for, construct, operate, equip, and maintain, and appropriate money for, parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, indoor recreation centers, or community centers.<sup>1</sup> Current law further provides that each of the same subdivisions engaged in the joint operation and maintenance of parks and recreation facilities may, by resolution, do either of the following in order to operate and maintain the parks and recreation facilities: (1) establish a joint recreation board, or (2) establish a joint recreation district. A resolution adopted in either case must provide for the membership of the board responsible for overseeing the joint board or district.<sup>2</sup>

A joint recreation district, once created, has authority to acquire property for, construct, operate, equip, and maintain, and appropriate money for, parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, indoor recreation centers, or community centers. All operating expenses are payable from the district's general fund. In addition, the district, in accordance with the Ohio Uniform Public Securities Law, may issue bonds for the purpose of acquiring lands or buildings, or extending, enlarging, or improving existing lands, facilities, or buildings for parks, recreational facilities, and community centers and the equipment thereof. The district also has the authority to levy a tax to acquire, maintain, and operate recreational facilities and community centers.<sup>3</sup>

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<sup>1</sup> A municipal corporation, township, township park district, county, or school district can also couple with an educational service center to jointly acquire property for, construct, operate, equip, maintain, and appropriate money for, parks, recreational facilities, and community centers. (Sec. 755.16 (not in the bill)). "Educational service centers" are regional public entities that offer a broad spectrum of services, including curriculum development, professional development, purchasing, publishing, human resources, special education services, and counseling services, to school districts and community schools in their regions.

<sup>2</sup> Sec. 755.14.

<sup>3</sup> Secs. 755.16, 755.17, and 755.18 (not in the bill).

**Membership of a joint recreation district board hosting the Christopher Columbus Quincentenary Jubilee horticulture exhibition**

(secs. 755.14(B)(2) and 755.141(A))

**Current law**

Under current law, if a joint recreation board owns, operates, or maintains a park or recreational facility that is the site or former site of an exhibition sanctioned by the United States Christopher Columbus Quincentenary Jubilee Commission that is or was sponsored by an organization that is also sponsoring or has sponsored an exhibition sanctioned by the International Association of Horticulture Producers (hereafter referred to as the "horticulture exhibition"),<sup>4</sup> then the Governor, Speaker of the House of Representatives, and President of the Senate must each appoint one member to the joint recreation board.

Each member appointed by the Speaker and the President may be a member of the General Assembly. However, any Senator or Representative appointed to such a joint recreation board is a non-voting member who retains the board position only while serving in the General Assembly. The joint recreation board members appointed by the Governor, Speaker, and President serve three-year terms without compensation, and any vacancies in their positions must be filled in the same manner as the original appointments.

**The bill**

Rather than providing the appointment process of board members of a joint recreation *board* owning, operating, and maintaining a park or recreational facility that was the site of the horticulture exhibition, the bill provides the appointment process of board members of a joint recreation *district* owning, operating, or maintaining the park or facility.<sup>5</sup> The bill retains the current law's appointment process for the board, but instead of requiring the Governor, Speaker, and President to each appoint one member to the board, the bill authorizes them to do so.

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<sup>4</sup> The horticulture exhibition referred to was the 1992 Ameriflora exhibition held in the Franklin Park Conservatory in Columbus. (See Ameriflora, Ohio History Central, <http://www.ohiohistorycentral.org/entry.php?rec=1651>).

<sup>5</sup>The Franklin Park Conservatory is apparently organized as a joint recreation district, despite the provisions of current law. (See [www.fpconservatory.org/ticketshows.htm](http://www.fpconservatory.org/ticketshows.htm)).

**Powers of the joint recreation district board hosting the horticulture exhibition**

The bill authorizes the joint recreation district owning, operating, and maintaining a park or recreational facility that was the site of the horticulture exhibition not only to have the same powers as any other joint recreation district, but to also have the following additional specified powers.

**Revenue bonds**

(sec. 755.141(D))

The bill authorizes the district board, by resolution, to issue revenue bonds beyond the legal limit on bonded indebtedness for the acquisition, construction, furnishing, or equipping of any property, including all incidental or related costs. These revenue bonds may only be secured by a pledge of--and a lien on--the district's revenues designated in the resolution, including any property to be acquired, constructed, furnished, or equipped with bond proceeds, after provision only for the reasonable costs of operating, maintaining, and repairing the property. They may also be secured by a covenant to maintain rates or charges to produce revenue sufficient to operate, maintain, and repair the property, to meet the bonds' interest and principal requirements, and to establish and maintain reserves for these purposes.

The district board, also by resolution, may provide for the issuance of additional revenue bonds from time to time, to be secured equally and ratably, without preference, priority, or distinction, with outstanding revenue bonds, but subject to the terms and limitations of any trust agreement (described below), and of any resolution authorizing bonds then outstanding. The district board, by resolution, may pledge and subject to lien for the payment of debt charges the revenues of additional district property, to the same extent as the revenues described above.

The bill further authorizes the district's board to secure its revenue bonds with a trust agreement with a corporate trustee, which may be any bank or trust company having powers of a trust company. If a district board opts to secure its revenue with such a trust agreement, the agreement may pledge or assign the revenues received by the district, but not the district's general credit and taxing power.

The trust agreement or the resolution providing for the issuance of revenue bonds may (1) specify the rights and remedies of the bondholders and trustees and (2) contain other provisions to protect and enforce bondholder and trustee rights and remedies that the district's board finds reasonable and proper. The trust agreement or resolution may provide for the custody, investment, and

disbursement of all money derived from the sale of the bonds or from the district's revenues (except for the money received from taxes levied by a board of county commissioners for the purposes of paying debt charges on bonds or bond anticipation notes issued for parks, recreational facilities, and community centers). The agreement or resolution may provide for the deposit of such funds without regard to Ohio's Uniform Depository Act.

Any bonds issued pursuant to the bill must have all qualities and incidents of negotiable instruments, subject to provisions for registration, and may be issued in coupon, fully registered, or other forms as determined by the district's board of trustees. The bill allows the district to provide (1) for the registration of any coupon bonds only as to principal or as to both principal and interest and (2) for the conversion into coupon bonds of any fully registered bonds or bonds registered as to both principal or interest.

The revenue bonds, as called for in their authorizing resolution, must (1) bear the interest rates and dates, and (2) mature within 30 years after the date of issuance, in the amount, at the time, and in the designated number of installments. Any original issue of revenue bonds must mature no later than 30 years from the issuance date. The resolution must provide for the execution of the bonds, which may be by facsimile signature (unless specifically prohibited by the resolution), and the manner of the bonds' sale. The resolution must also include, or provide a way to determine, any other terms and conditions related to the issuance, sale, and retirement of the bonds that the board determines reasonable and proper.

The bill authorizes a district to issue renewal notes and refund any bonds whenever it determines expedient, whether or not the bonds to be refunded have matured. The final maturity of any notes, including renewal notes, may not be later than five years from the date of issue of the original issue of notes. The final maturity of any refunding bonds may not be later than the later of: (1) 30 years from the date of the original issuance of the bond or (2) the date by which, at the time of issuance of the refunding bonds, it is expected that the useful life of all of the property, except for the interest in land, that has been refinanced with proceeds of the bonds will expire. The refunding bonds must be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded and the costs of issuance of the refunding bonds. The bill provides that the bonds and notes issued, their transfer, and the income generated from their sale or transfer to always be free from state taxation.

**Lines of credit**

(sec. 755.141(F))

The bill allows the district's board to enter into contracts for a secured line of credit with a bank, savings and loan association, or savings bank if the contract meets the following requirements: (1) the term of the contract does not exceed one year, except that the contract may provide for its automatic renewal for up to four additional one-year periods, (2) the contract stipulates that the bank, savings and loan association, or savings banks may not commence a civil action against the district's board, any board member, or the county or municipal corporation to recover the principal, interest, or any charges or amounts remaining outstanding on the secured line of credit if the board defaults, (3) the contract provides that only the assets of the district can be used to secure the line of credit, and (4) the contract's terms and conditions comply with all federal and state law regulating secured lines of credit.<sup>6</sup>

**Powers of the joint recreational district with respect to its property**

(sec. 755.141(E))

The bill authorizes a district to do the following:

(1) Operate (directly, or through agents) or provide for the operation of its properties, facilities, activities, and programs and to enter into related agreements and arrangements;

(2) Receive and apply the net proceeds of its properties, facilities, activities, and programs only to manage, operate, develop, maintain, and repair its properties, buildings, facilities, improvements, and grounds;

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<sup>6</sup> "Bank" is defined as a corporation that solicits, receives, or accepts money for deposit as a business, and includes a state bank or a corporation doing business as a bank or savings bank under authority granted by the bank regulatory authority of another state or country, but excludes savings associations, savings banks, and credit unions.

A "savings and loan association" is defined as a corporation organized to raise money to be loaned to its members or to others and has the same meaning as "building and loan association" and "savings association."

A "savings bank" is defined as a corporation with its home office in Ohio and organized to receive deposits and raise money to loan to its members or others, while maintaining at least 60% of its total assets in housing-related and other investments authorized by the Internal Revenue Code; the definition excludes "banks," "savings and loan associations," and "credit unions."

(3) Impose and collect admission charges for selective events, exhibits, and facilities;

(4) Offer various types of memberships for selective activities or facilities;

(5) Form advisory and support committees to the district board to provide counsel and assistance in managing, operating, and developing district properties, buildings, facilities, improvements, and grounds;

(6) Grant licenses or enter into leases or contracts for the use of any part of its properties, facilities, buildings, and grounds for any length of time and on any terms and conditions the board deems appropriate and necessary;

(7) Grant easements in, through, or over its property;

(8) Receive and accept from any federal, state, county, municipal, or local government or agency any grant or contribution of money, property, labor, or other things of value, to be held, used, and applied for the purpose for which such grants and contributions are made; and

(9) Accept and expend gifts, grants, devises, and bequests of money and property and to hold, use, and apply them according to their terms.

**Lease-purchase agreements**

(sec. 755.141(G))

The bill authorizes a district board to enter into a lease-purchase agreement<sup>7</sup> to obtain real or personal property it is authorized to acquire. Such an agreement must provide for a series of terms in which no term extends beyond the end of the district's fiscal year in which the term commences. The bill also prohibits the terms from operating beyond the useful life of the real or personal property that is the subject of the agreement.<sup>8</sup>

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<sup>7</sup> The bill defines a "lease-purchase agreement" as a lease with an option to purchase.

<sup>8</sup> The bill defines the "useful life" of the property as either the maximum number of installment payments permitted under the statute authorizing the board to acquire the property or, if there is no such statutory provision, by the maximum number of years to maturity provided under the Ohio Public Securities Law for the issuance of bonds based on the specific type of facility. If the useful life cannot be ascertained through either of these methods, the bill requires it to be estimated by the district's fiscal officer under the Ohio Uniform Public Securities Law.

The lease-purchase agreement must include a provision stating that, at the end of the agreement's final term, if all obligations of the district have been satisfied, the title to the leased property will vest in the district if it has not yet so vested. However, the lease-purchase agreement may require the district to pay an additional lump sum payment as a condition of obtaining that title.

The bill authorizes the district board entering into a lease-purchase agreement described under the bill to do any of the following with the property subject to the agreement: (1) if the property is personal property, assign the board's rights to it, (2) grant the lessor a security interest in the property, and (3) if the property is real property, grant leases, easements, or licenses for underlying land or facilities under the board's control for terms not exceeding five years beyond the final term of the agreement.

The bill specifies that the lease-purchase authority is in addition to, not in derogation of, any other financing authority provided by law.

### **Recreation facilities**

(sec. 755.141(C))

The bill authorizes the district board to acquire, construct, maintain, and operate horticultural facilities, public banquet facilities, and greenhouses in addition to other parks, recreational facilities, and community centers permitted under current law.

### **Insurance**

(sec. 755.141(B) and (F))

The district board may designate the amounts and forms of property and casualty insurance protection to be provided and pay for it from its operating fund. Under the bill, any insurance obligation incurred by the district board is not a general obligation of the board of county commissioners, of the county, or of the municipal corporation.

### **Other powers**

(sec. 755.141(H))

The bill authorizes the district board to exercise such other powers granted to it in the agreement between the municipal corporation and the board of county commissioners establishing the district.

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## HISTORY

ACTION	DATE
Introduced	12-04-07

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