



Ohio Legislative Service Commission

Final Analysis

Daniel M. DeSantis

Sub. H.B. 495

128th General Assembly
(As Passed by the General Assembly)

Reps. Book and Dodd, Gerberry, Mallory, Belcher, B. Williams, Daniels, J. Adams, Grossman, Hite, Jordan, Stebelton, Bacon, Bolon, Boose, Carney, Combs, DeGeeter, Derickson, Domenick, Driehaus, Dyer, Evans, Foley, Garland, Garrison, Hackett, Hall, Harris, Harwood, Hottinger, Letson, McClain, McGregor, Moran, Morgan, Newcomb, Oelslager, Patten, Phillips, Pillich, Pryor, Wagner, Weddington, Winburn, Yuko, Zehringer

Sen. Wilson

Effective date: Emergency, December 15, 2010

ACT SUMMARY

- Postpones operation of the Sunset Review Law until July 1, 2011.
- Incorporates into Ohio tax law recent changes to federal tax law.

CONTENT AND OPERATION

Sunset Review Law

The act postpones operation of the Sunset Review Law until July 1, 2011.¹ The Sunset Review Committee, the Sunset Review laws, and agencies subject to review by the Committee had been scheduled to expire on December 31, 2010.²

The Sunset Review Law generally provides that if the General Assembly does not renew or transfer a state "agency" within an established timeframe, the agency expires by operation of law. Thereafter, the Office of Budget and Management is

* This version updates the effective date of the act.

¹ Sections 3 and 4 of the act.

² R.C. 101.83(B) and (D); Section 6 of Am. Sub. H.B. 516, 125th General Assembly.

prohibited from authorizing the expenditure of any money for the agency. Under the Sunset Review Law's renewal procedures, an agency may be renewed by passage of a bill that continues the statutes creating and empowering the agency, that amends or repeals those statutes, or that enacts new statutes, to improve agency usefulness, performance, or effectiveness.³

The Sunset Review Law created the Sunset Review Committee, a bipartisan committee consisting of three Senate members, three House members, and three individuals appointed by the Governor with the advice and consent of the Senate. The committee carries out a periodic review of those state boards, commissions, councils, committees, and other entities to which the Sunset Review Law applies to determine whether those entities or their functions should be abolished, terminated, transferred, or continued.

As used in the Sunset Review Law, "agency" generally means any board, commission, committee, or council, or any other similar state public body required to be established pursuant to state statutes for the exercise of any function of state government and to which members are appointed or elected. "Agency" does not include: (1) the General Assembly, or any commission, committee, or other body composed entirely of members of the General Assembly, (2) any court, (3) any public body created by or directly pursuant to the Ohio Constitution, (4) the board of trustees of any institution of higher education financially supported in whole or in part by the state, (5) any public body that has the authority to issue bonds or notes or that has issued bonds or notes that have not been fully repaid, (6) the Public Utilities Commission of Ohio, (7) the Consumers' Council Governing Board, (8) the Ohio Board of Regents, (9) any state board or commission that has the authority to issue any final adjudicatory order that may be appealed to the court of common pleas under the Administrative Procedure Act, (10) any board of elections, (11) the Board of Directors of the Ohio Insurance Guaranty Association and the Board of Governors of the Ohio Fair Plan Underwriting Association, (12) the Ohio Public Employees Deferred Compensation Board, (13) the Ohio Retirement Study Council, (14) the Board of Trustees of the Ohio Police and Fire Pension Fund, Public Employees Retirement Board, School Employees Retirement Board, State Highway Patrol Retirement Board, and State Teachers Retirement Board, (15) the Industrial Commission, (16) the Parole Board, (17) the Board of Tax Appeals, (18) the Controlling Board, (19) the Release Authority of the Department of Youth Services, (20) the Environmental Review Appeals Commission, (21) the Ohio Ethics Commission, (22) the Ohio Public Works Commission, (23) the Self-Insuring Employers Evaluation Board, (24) the State Board of Deposit, (25) the State Employment Relations Board, and (26) the Workers' Compensation Council.

³ R.C. 101.83(B) and (D).

Incorporation of changes to the Internal Revenue Code into Ohio law

The act incorporates changes to the Internal Revenue Code (IRC) and other federal statutes that occurred between October 16, 2009, and the act's effective date⁴ into Ohio's tax law. Because parts of the IRC and other federal statutes have been incorporated by reference into Ohio's tax law, and because these federal laws are susceptible to being amended fairly frequently by Congress, it is necessary periodically to update the incorporating references in Ohio's tax law. Otherwise, the incorporating references in Ohio's tax law would not include amendments occurring since their last updating. The principal amendments to the IRC and other federal statutes that are being incorporated by the act are the "Worker, Homeownership, and Business Act of 2009" and the "Small Business Jobs Act of 2010." This incorporation applies to only general, undated references to the IRC or other federal statutes, and does not apply to references that specify a date.

The bill also revises Ohio tax law with respect to an election available to taxpayers. Prior law authorized a taxpayer whose taxable year ended after December 30, 2008, and before October 16, 2009, to irrevocably elect to apply to the taxpayer's state tax calculation the federal tax laws that applied to that taxable year. The election was available to taxpayers who are subject to the corporation franchise tax or personal income tax and to electric companies that are subject to municipal income taxes. The act revises this election so that it may be made for a taxpayer's taxable year ending after October 16, 2009, but before the act's effective date. The act retains a provision specifying that similar elections made under prior versions of the law remain effective for the taxable years to which the previous elections applied.

HISTORY

ACTION	DATE
Introduced	04-15-10
Reported, H. State Gov't	05-27-10
Passed House (98-0)	06-03-10
Reported S. State & Local Gov't & Veterans Affairs	12-07-10
Passed Senate (32-0)	12-07-10
House concurred in Senate amendments (94-0)	12-08-10

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⁴ Section 5. The act declares an emergency and therefore takes immediate effect.

