



# Ohio Legislative Service Commission

## Bill Analysis

Daniel M. DeSantis

### **Am. Sub. H.B. 495\***

128th General Assembly

(As Reported by S. State and Local Government and Veterans Affairs)

**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

---

## **BILL SUMMARY**

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

---

## **CONTENT AND OPERATION**

### **Sunset Review Law**

(Sections 3, 4, and 5)

The bill postpones the operation of the Sunset Review Law until July 1, 2011. The Sunset Review Law and agencies subject to review will expire on that date unless prior action is taken by the General Assembly.

The Sunset Review Law, established by Sub. H.B. 548 of the 123rd General Assembly, 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 prohibited from authorizing the expenditure of any money for the agency. Under the Sunset Review Law's renewal

---

\* This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

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. (R.C. 101.83(B) and (D).)

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.

Under current law, the Committee, the Sunset Review laws, and agencies subject to review by the Committee are scheduled to expire on December 31, 2010. (R.C. 101.83(B) and (D); Section 6 of Am. Sub. H.B. 516, 125th General Assembly.)

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.

## Incorporation of changes to the Internal Revenue Code into Ohio law

(R.C. 5701.11)

The bill incorporates into Ohio tax law references to the Internal Revenue Code (IRC) or United States Code all changes to the IRC or United States Code between October 16, 2009, and R.C. 5701.11's effective date (which will be the 91st day after the Governor signs the bill and files it with the Secretary of State). The principal federal acts whose tax law changes are incorporated are the "Worker, Homeownership, and Business Act of 2009" and the "Small Business Jobs Act of 2010." As under prior law, this incorporation does not apply to references to the IRC or federal laws as of a date certain specifying the day, month, and year.

Ohio's tax laws incorporate some provisions of federal law, and because federal law is susceptible to being amended frequently, ongoing Ohio law specifies the version of federal law that is incorporated. Specifically, under prior law, a reference in the tax title (Title 57) of the Ohio Revised Code to the Internal Revenue Code (IRC) or other laws of the United States meant those laws as they existed on October 16, 2009, unless the Revised Code section contains a date certain that specifies the day, month, and year. (October 16, 2009, is the effective date of H.B. 1 of the 128th General Assembly, which is the most recent act to incorporate federal tax law changes.)

Current law authorizes a taxpayer whose taxable year ends 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 subject to the corporation franchise tax or personal income tax and to electric companies subject to municipal income tax.

The bill revises this election so that it may be made for a taxpayer's taxable year ending after October 16, 2009, but before R.C. 5701.11's effective date. The act retains the provision specifying that similar elections made under prior versions of R.C. 5701.11 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	---

h0495-rs-128.docx/ks

