



Ohio Legislative Service Commission

Bill Analysis

Bethany Boyd

Sub. H.B. 225*

129th General Assembly
(As Reported by H. Local Government)

Reps. Peterson and Landis, Pillich, Grossman, Sears, Boose, Derickson, Carey, Thompson, J. Adams, Hayes, Stinziano, Ruhl, McClain, Balderson, Maag

BILL SUMMARY

- Authorizes a county auditor, the legislative authority of a municipal corporation, or a board of township trustees, as the case may be, to adopt a direct deposit payroll policy for all county, all municipal, or all township employees.
- Allows the policy to exempt from the direct deposit requirement those county, municipal, or township employees who cannot provide, by written authorization, an account number designating a financial institution for the direct deposit, or for other reasons specified in the policy.
- Provides that the written authorization is not a public record under the Public Records Law.
- Authorizes counties and townships to increase the amount of money credited to "rainy day" reserve balance accounts.
- Expands the types of insurance plans and programs, and what a subdivision may pay for, out of reserve balance accounts established for self-insurance or workers' compensation payments.
- Authorizes the county auditor, rather than the Tax Commissioner, to review and approve property tax exemption applications for certain public property.
- Clarifies that a board of township trustees may offer deferred compensation plans or programs to all of the township's officers and employees.

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

- Authorizes a board of county commissioners to offer any "qualified benefit" available under a cafeteria plan, and a health and wellness benefit program, to county officers, employees, and their immediate dependents; if provided, these benefits must be issued by an insurance company or administered by a board of county commissioners or a contractor.
- Authorizes a board of township trustees to offer a health and wellness benefit program to township officers, employees, and their immediate dependents.
- Permits the county auditor or the township fiscal officer, as appropriate, to deduct from an employee's salary or wages the amount authorized to be paid by the employee for qualified and existing benefits.
- Authorizes a regional council of governments to operate a public safety answering point (PSAP) as part of a countywide 9-1-1 system under an adopted or amended final plan.
- Requires a regional council of governments operating a PSAP to pay all costs associated with the PSAP, and to allocate costs among itself and the subdivisions served by the PSAP based on the allocation formula in the final plan.
- Revises the membership of the Ohio Business Gateway Steering Committee.

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CONTENT AND OPERATION

Direct deposit of municipal, county, or township payrolls

The bill authorizes the legislative authority of a municipal corporation, for employees of the municipal corporation, a county auditor, for county employees, or a board of township trustees, for township employees, to adopt a payroll policy under

which all municipal, all county, or all township employees are paid their compensation by direct deposit. If such a policy is adopted, a municipal, county, or township employee, as the case may be, must provide a written authorization designating a financial institution and an account number to which payment of the employee's compensation is to be credited. The bill authorizes the legislative authority of the municipal corporation, the county auditor, or the board of township trustees, in its direct deposit payroll policy, to exempt from the direct deposit requirement those municipal, county, or township employees who cannot provide an account number, or for other reasons specified in the policy.¹

The bill provides that the written authorization designating a financial institution and an account number is not a public record under the Public Records Law,² which mandates full access to public records upon any person's request unless the requested record falls within a specified exception.

Reserve balance accounts

The bill authorizes counties and townships to increase the amount of money credited to "rainy day" reserve balance accounts. Under current law, the taxing authority of a political subdivision may establish reserve balance accounts in which money may be accumulated for the following purposes:

- (1) To stabilize subdivision budgets against cyclical changes in revenues and expenditures (generally referred to as "rainy day accounts");
- (2) To provide for the payment of claims under a self-insurance program for the subdivision, if the subdivision is permitted by law to establish such a program;
- (3) To provide for the payment of claims under a retrospective ratings plan for workers' compensation.

Balance increase in county "rainy day" accounts

A "rainy day account" established for the purpose described in (1), above, may be established in the subdivision's general fund or in one or more special funds for the operating purposes of the subdivision. The bill authorizes *counties and townships*, but not other subdivisions, to reserve in a rainy day account *the greater* of 5% of the revenue credited in the preceding fiscal year to the fund in which the account is established *or* one-sixth of the expenditures during the preceding fiscal year from the fund in which

¹ R.C. 9.37(G).

² R.C. 149.43, not in the bill.

the account is established. Under current law, the amount of money that may be reserved in a rainy day account by any subdivision cannot exceed 5% of the revenue credited in the preceding fiscal year to the fund in which the account is established.³

Purposes for which other reserve balance accounts may be used

The bill expands the purposes described in (2) and (3), above, for which the taxing authority of a subdivision may establish a reserve balance account and expands what may be paid for from the account. The bill does not affect the requirement that a reserve balance account established for the purposes described in (2) or (3), above, be established in the subdivision's general fund or by the establishment of a separate internal service fund. And the bill does not affect the requirement that only one reserve balance account may be established for each of the purposes in (2) and (3), above.

For self-insurance purposes under (2), above, the bill authorizes the taxing authority of a subdivision to provide for the payment of not only insurance claims under a self-insurance program, but also for the payment of deductibles under an individual or joint self-insurance program out of the reserve balance account.⁴

For purposes under (3), above, regarding paying claims out of the reserve balance account for workers' compensation, the bill authorizes the taxing authority of a subdivision to provide for the payment not only of claims under a retrospective ratings plan for workers' compensation, but also for the payment of assessments and deductibles, under a self-insurance program, individual retrospective ratings plan, group rating plan, group retrospective rating plan, medical-only program, deductible plan, or large deductible plan for workers' compensation.⁵

Under continuing law, the "subdivisions" for which a taxing authority may establish a reserve balance account for the bill's expanded purposes under (2) and (3), above, are any county; municipal corporation; township; township police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized for single- or joint-county juvenile facilities; a combined district organized as a joint-county juvenile facility or a juvenile detention facility for delinquent children; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district; a union

³ R.C. 5705.13.

⁴ R.C. 5705.13(A)(2).

⁵ R.C. 5705.13(A)(3).

cemetery district; a county school financing district; a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district.⁶

The bill eliminates a provision that prohibits a subdivision from establishing a reserve balance account to provide self-insurance for the subdivision if the subdivision participates in a risk sharing pool whereby governments pool risks and funds and share in the costs of losses.⁷

County auditor's responsibility for property tax exemption applications

Beginning in tax year 2011 (January 1, 2011),⁸ the bill authorizes the county auditor to review and approve property tax exemption applications for certain public property.⁹ Generally, under current law, the owner or long-term lessee of property files a property tax exemption application with the Tax Commissioner, or, for real property located in a community reinvestment area, with the Housing Officer, to request that the property be exempted from taxation and that the taxes, interest, and penalties already levied on the property be remitted (forgiven).¹⁰ Under the bill, if the property that is the subject of an application for tax exemption is any of the following, the application must be filed with the county auditor of the county in which the property is listed for taxation:

- A public road or highway.
- Property belonging to the United States federal government.
- Additions or other improvements to an existing building or structure belonging to the state or a political subdivision, and that is exempted from taxation as property used exclusively for a public purpose.
- Property of the boards of trustees and of the housing commissions of the state universities, the Northeastern Ohio Universities College of Medicine, and of the state, to

⁶ R.C. 5705.01, not in the bill.

⁷ R.C. 5705.13(A).

⁸ R.C. 323.11, not in the bill.

⁹ R.C. 5715.27(A) and Section 3.

¹⁰ R.C. 5715.27; R.C. 3735.67, not in the bill.

be exempted from taxation under continuing law under which the property must be held for the use and benefit of those institutions.¹¹

For purposes of exempting an existing building or structure belonging to a political subdivision, "political subdivision" includes townships, municipalities, counties, school districts, boards of education, all state and municipal universities, park boards, and any other entity whose ownership of real property would constitute public ownership.¹²

The bill, for the public properties listed above, requires that the county auditor follow the same procedures as the Tax Commissioner to review and grant tax exemptions, for example, by notifying property owners that a treasurer's certificate was not provided to the county auditor or disallowing the filing of a real property tax exemption application that requests tax remission for more than three tax years.¹³ Likewise, appeals from final determinations of the county auditor concerning an application for a property tax exemption must be taken to the Board of Tax Appeals, which is the same procedure for appeals from the Tax Commissioner's final determinations.¹⁴

Deferred compensation plans or programs for township officers and employees

The bill authorizes boards of township trustees to offer deferred compensation plans or programs to all of the township's officers and employees. The bill requires that a plan or program present a reasonable number of options to the township's officers and employees for the investment of the deferred funds that will assure their desired tax treatment. Any income deferred under a plan or program must continue to be included as regular compensation for the purpose of computing the contributions to and benefits from each officer's or employee's retirement system, but is not to be included in the computation of any federal and state income taxes withheld on behalf of the officer or employee.¹⁵

A provision in the Deferred Compensation Law already recognizes that townships may have authority to provide a reasonable number of options for deferred

¹¹ R.C. 3345.17, not in the bill.

¹² R.C. 5713.081, not in the bill.

¹³ R.C. 5713.07, 5713.08, 5713.081, and 5713.082.

¹⁴ R.C. 5717.02.

¹⁵ R.C. 148.061.

compensation plans or programs separate from the Ohio Public Employees Deferred Compensation Program, but that provision does not explicitly authorize a township to offer those plans or programs.¹⁶ Under a former statute, townships had the explicit authority to offer up to two deferred compensation programs for all of its officers and employees, but in 2006, Am. Sub. H.B. 385 of the 126th General Assembly removed the limitation so that a township could offer more than two deferred compensation programs.¹⁷ However, H.B. 385 failed to explicitly authorize townships to provide deferred compensation.

Benefits for county officers and employees

In addition to the current benefits that may be offered under group insurance policies, the bill authorizes a board of county commissioners to contract and pay all or any part of the cost of (1) any "qualified benefit" available under a cafeteria plan, and (2) a health and wellness benefit program through which the county provides a benefit or incentive to county officers, employees, and their immediate dependents to maintain a healthy lifestyle, including programs to encourage healthy eating and nutrition, exercise and physical activity, weight control or the elimination of obesity, and cessation of smoking or alcohol use.¹⁸

Under continuing law, a board of county commissioners may contract for, purchase, or otherwise procure and pay all or any part of the cost of group insurance policies issued by an insurance company that provide health benefits to county officers and employees and their immediate dependents. The benefits may include hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs; sickness and accident insurance; group legal services; group life insurance; or a combination of any of the foregoing types of insurance or coverage.¹⁹ These group insurance policies are paid from the funds or budgets from which the county officers or employees are compensated for their services. Continuing law also authorizes a board of county commissioners that offers these benefits to a county officer or employee to do so through a cafeteria plan meeting the requirements of section 125 of the Internal Revenue Code, which generally defines a "cafeteria plan" as a written plan, excluding deferred compensation plans, under which all participants are employees and the participants choose among at least one taxable benefit, such as cash, and one nontaxable "qualified benefit." Under federal

¹⁶ R.C. 148.04(F), not in the bill.

¹⁷ R.C. 148.06, not in the bill.

¹⁸ R.C. 305.171.

¹⁹ R.C. 305.171(A).

law, a "qualified benefit" is any benefit, such as accident and health benefits, adoption assistance, dependent care assistance, group-term life insurance coverage, and health savings accounts, that is not includible in the gross income of an employee by reason of an express provision of the Internal Revenue Code.²⁰

All insurance policies, coverage, and new benefits, if provided, must be issued by an insurance company or administered by a board of county commissioners or a contractor.²¹

Benefits for township officers and employees

In addition to the existing benefits that may be offered to township officers and full-time township employees and their dependents, the bill authorizes a board of township trustees to offer a health and wellness benefit program. The program may offer the same type of benefit or incentive as counties may offer.²²

Boards of township trustees already have the authority to offer qualified benefits to officers and employees through a cafeteria plan that meets the requirements of section 125 of the Internal Revenue Code.²³ And under continuing law, a board of township trustees may procure and pay all or any part of the cost of insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, prescription drugs, or sickness and accident insurance, or a combination of any of the foregoing types of insurance for township officers and employees. If the board procures any insurance policies, the board must provide uniform coverage for township officers and full-time township employees and their immediate dependents, and may provide coverage for part-time township employees and their immediate dependents.²⁴ In addition, the board may procure and pay all or any part of the cost of group life insurance to insure the lives of officers and full-time employees of the township.²⁵

²⁰ 26 U.S.C.A. § 125(f).

²¹ R.C. 305.171(A).

²² R.C. 505.603(B).

²³ R.C. 505.603(A).

²⁴ R.C. 505.60 and 505.601, not in the bill.

²⁵ R.C. 505.602, not in the bill.

Payroll deduction for insurance, coverage, or benefits

The bill permits the county auditor, in the case of a county, and the township fiscal officer, in the case of a township, to deduct from a county or township employee's salary or wages the amount authorized to be paid by the employee for one or more qualified benefits available under a cafeteria plan and existing benefits, if the employee authorizes the county auditor or township fiscal officer, in writing, to deduct that amount from the employee's salary or wages, the benefit is offered to the employee on a group basis, and at least 10% of the county or township employees voluntarily elect to participate in the receipt of that benefit. The bill further allows the county auditor or township fiscal officer to issue warrants for amounts deducted to pay program administrators or other insurers for the benefits.²⁶

Regional council of governments' authority to operate a PSAP

The bill authorizes a regional council of governments to operate a public safety answering point (PSAP) as part of a countywide 9-1-1 system.²⁷ Regional councils of governments are composed of two or more counties, municipal corporations, townships, special districts, school districts, or other political subdivisions that enter into an agreement with each other, or with such entities of any other state to the extent that laws of the other state permit, to form a regional council consisting of those political subdivisions.²⁸

Continuing law defines a "public safety answering point" as a facility to which 9-1-1 system calls for a specific territory are initially routed for response, and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.²⁹ If a regional council of governments operates a PSAP, it must pay all of the costs associated with establishing, equipping, furnishing, operating, and maintaining that facility, and must allocate the costs among itself and the subdivisions served by the PSAP based on the allocation formula in a final plan required by continuing law that is prepared and adopted by the 9-1-1 planning committee to implement a countywide 9-1-1 system. The regional

²⁶ R.C. 505.603(C) and 3917.04(C).

²⁷ R.C. 167.03 and 4931.41.

²⁸ R.C. 167.01, not in the bill.

²⁹ R.C. 4931.40, not in the bill.

council of governments also may enter into a service agreement for providing wireless enhanced 9-1-1 under the bill.³⁰

After a countywide plan is adopted or amended, a regional council of governments included in the plan is subject to the plan's specific requirements and to existing law regulating 9-1-1 systems (R.C. 4931.40 to 4931.70).³¹ An amended final plan is required to permit a regional council of governments to operate a PSAP where a plan is already in place.³²

The bill applies existing law regulating 9-1-1 systems to a regional council of governments participating in the system in the same manner as that law applies to subdivisions participating in the system, as follows:

- ◆ The regional council and its officers, agents, employees, and independent contractors are not liable in damages in a civil action for injuries, death, or loss arising from adopting a final plan or operating the 9-1-1 system, except in instances of willful or wanton misconduct.³³

- ◆ The Attorney General may take action against the regional council to enforce compliance with the law regulating 9-1-1 systems.³⁴

- ◆ The regional council may use, as provided in the final plan, any other authorized revenue for purposes of providing basic or enhanced 9-1-1.³⁵

- ◆ The regional council must consider technical and operational standards established by the Ohio 9-1-1 Council before incurring certain PSAP costs, and may use disbursements from the Wireless 9-1-1 Government Assistance Fund, if any, to pay personnel costs of a PSAP providing countywide wireless enhanced 9-1-1.³⁶

³⁰ R.C. 4931.41, 4931.43, and 4931.64(D).

³¹ R.C. 4931.44.

³² R.C. 4931.45.

³³ R.C. 4931.49.

³⁴ R.C. 4931.50.

³⁵ R.C. 4931.64(E).

³⁶ R.C. 4931.65.

◆ A wireless service provider must provide a regional council operating a PSAP with the technical, service, and location information it requests for the purpose of providing wireless 9-1-1.³⁷

◆ The regional council must provide information that the Ohio 9-1-1 coordinator and the Ohio 9-1-1 Council requests for carrying out their duties.³⁸

◆ The regional council is prohibited from disclosing any information regarding a telephone company's customers, revenues, expenses, or network information.³⁹

Membership of the Ohio Business Gateway Steering Committee

The bill changes the membership of the Ohio Business Gateway Steering Committee. The bill increases the number of representatives of the business community that are members of the Committee, from not more than two to not more than four. Under continuing law, the Committee directs the development of the Ohio Business Gateway and oversees its operation.⁴⁰

The bill also makes it permissive for the Committee to hire professional, technical, and clerical staff. Under current law, the Committee was required to hire such staff.⁴¹

HISTORY

ACTION	DATE
Introduced	05-11-11
Reported, H. Local Gov't	---

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³⁷ R.C. 4931.66(A).

³⁸ R.C. 4931.66(A).

³⁹ R.C. 4931.66(B).

⁴⁰ R.C. 5703.57(C)(1).

⁴¹ R.C. 5703.57(G).