CORRECTED VERSION*

Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 64

131st General Assembly
(As Passed by the House)

Reps. R. Smith, Amstutz, Anielski, Baker, Blessing, Boose, Brown, Buchy, Burkley, Dovilla, Ginter, Green, Hackett, Hagan, Hambley, Hill, Kraus, Maag, McClain, Perales, Reineke, Romanchuk, Scherer, Sears, Sprague, Rosenberger

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DEPARTMENT OF ADMINISTRATIVE SERVICES

Public Employees Health Care Plan Program

- Requires the Department of Administrative Services (DAS) to study and release standards that may be considered best practices for certain public employer health care plans, instead of adopting and releasing a set of standards that must be considered best practices for those plans.

- Permits health care plans for certain public employees to consider best practices established by the former School Employees Health Care Board or identified by DAS.

- Removes a provision that permits a political subdivision, upon consulting with DAS, to adopt a delivery system of benefits that is not the best practices.

- Requires DAS to study instead of publish information regarding the health care plans offered by certain public employers and consortiums.

- Requires DAS to provide representative cost estimates of options for health care plans instead of assisting in the design of the plans for certain public employers.

- Removes a requirement that DAS prepare and release an annual report on health plan sponsors' compliance with best practices, reducing insurance premium increases, employee expenses, and improving health.

- Removes DAS' authority to adopt rules for the enforcement of health plan sponsors' compliance with best practices.

- Allows the Director of DAS to convene a Public Health Care Advisory Committee, and removes requirements that the Committee make recommendations to DAS relating to best practices; that there are certain appointees; and that members serve without compensation.

- Eliminates the Public Employees Health Care Fund, which DAS uses to carry out the provisions related to public employee health care plans.

- Authorizes DAS, in a reverse auction or competitive sealed bidding process, to deliver notice to a nonresponsive, nonresponsible low bidder by electronic means.

Veteran-Friendly Business Procurement Program

- Requires the Director of Administrative Services and the Director of Transportation to establish and maintain the Veteran-Friendly Business Procurement Program.

Job classification plans

- Authorizes the Director of DAS to assign and modify job classification plans, and to establish experimental classification plans, without adopting rules.

Pay for employee assigned to higher level

- Authorizes an appointing authority, whether or not a vacancy exists, to assign an exempt employee to work in a higher level position for a continuous period of more than two weeks but not more than two years.

- Specifies that such an employee's pay must be established at a rate that is approximately 4% above the employee's current base rate for the period of temporary assignment.

Fund closures

- Abolishes the Cost Savings Fund.

- Abolishes the Departmental MIS Fund and redirects the Fund's revenue to the Information Technology Fund.

State agency procurement procedures

Preference review

- Requires state agencies subject to DAS procurement policies to submit a purchase request to DAS when seeking to purchase supplies or services.

- Requires DAS to determine whether the purchase may be made from specified first or second requisite procurement programs that represent programs for which the law confers requisite preference status for state purchasing.

- Requires DAS to grant a requesting state agency a waiver when the purchase cannot be made from a first or second requisite procurement program, and a release and permit for a state agency to make the purchase directly except when the purchase is for telephone, other telecommunications, and computer services.

- Specifies that a release and permit for telephone, other telecommunications, and computer services must be provided in accordance with policies established by the Office of Information Technology within DAS.

- Authorizes DAS to adopt rules to provide for the manner of carrying out the functions and the powers and duties vested in and imposed upon the Director under the centralized procurement preference review authority.

Competitive selection threshold

- Eliminates certification authority for state agencies to purchase supplies or services costing between $25,000 and $50,000, and provides, instead, for a single competitive bidding threshold of $50,000.

- Confers rule-making authority on DAS for making purchases by competitive sealed bid.

- Applies the statutory notice provision to "competitive sealed bid" procedures only, instead of to all forms of "competitive selection."

- Eliminates notice by mail of proposed purchases, and provides that any form of electronic notice the director considers appropriate to sufficiently notify competing persons of the intended purchase is sufficient.

Competitive selection notification list

- Eliminates DAS' authority to divide the state into purchasing districts, and eliminates the ability for persons to be placed on or removed from the competitive selection notification list, which the bill also eliminates.

Supplies and services

- Reorganizes the State Procurement Law and clarifies that DAS must establish contracts for supplies and services (including telephone, telecommunications, and computer services) for the use of state agencies, and may do so for certain political subdivisions.

- Eliminates the specific authority of DAS to enter into a contract to purchase bulk long distance telephone services for members of the immediate family of deployed persons.

- Clarifies the state entities exempt from the State Procurement Law and DAS.

- Permits the exempt entities to request DAS assistance with procurement of supplies and services and, upon DAS's approval, to participate in contracts awarded by DAS.

Release and permit

- Requires DAS to grant a release and permit if DAS determines that it is not possible or advantageous for DAS to make a purchase.

- Requires DAS to adopt rules regarding circumstances and criteria for a state agency to obtain a release and permit.

- Permits DAS to grant a blanket release and permit for a state agency for specific purchases.

Purchasing agreements

- Permits DAS to enter into cooperative purchasing agreements with certain other state entities.

- Permits the federal government, other states, other purchasing consortia, or any interstate compact authority to purchase supplies or services from DAS contracts.

- Permits DAS to allow state institutions of higher education and governmental agencies to participate in DAS contracts.

- Requires DAS to include in its annual report an estimate of the purchases made by other entities from DAS contracts.

Financial assurance

- Permits DAS to require that all bids and proposals be accompanied by a performance bond or other financial assurance, instead of a performance bond or other cash surety.

Meat and poultry

- Specifies, for meat products and poultry products, who are eligible vendors.

- Repeals the requirement that DAS establish and maintain a list of approved meat and poultry vendors.

Produced or mined in U.S.

- Requires DAS and other state agencies first to consider bids that offer products that have been or that will be produced or mined in the U.S.

Exemptions removed

- Requires the Workers' Compensation Administrator to make purchases for supplies and services in accordance with the State Procurement Law.

- Eliminates the Administrator's authority to make contracts for and supervise the construction of any project or improvement, or the construction or repair of buildings, under the Bureau's control.

- Eliminates the Administrator's authority to transfer surplus computers and computer equipment directly to an accredited public school.

- Removes State Procurement Law exemptions for the Ohio Tuition Trust Authority, and instead states that Law does not apply to contracts approved under the Ohio Tuition Trust Authority Board's powers.

Transportation contracts

- Allows the Director of Transportation to permit a state agency to participate in contracts the Director has entered into for purchases of machinery, materials, supplies, or other articles.

Emergency procedures

- Repeals and reenacts continuing law authorizing DAS to suspend normal contracting requirements for the Emergency Management Agency or any other state agency involved in response and recovery activities during a declared emergency period.

- Provides that state agencies acting under this emergency authority are exempt from the requirement for Controlling Board approval to contract without competitive selection, but requires these agencies to file a report with the Board's President describing all such purchases made during the period of the declared emergency.

- Requires the Director of DAS to notify the Director of Budget and Management and the Controlling Board members of the Director's approval of a request for suspension during a declared emergency period, and precludes purchases under the suspension authority until after the notice is sent.

Purchase of recycled products

- Specifies that state entities and offices may purchase recycled products under rules adopted by the Director that establish guidelines and removes the specific requirements that the guidelines must include.

- Eliminates the specific authority for the Director to adopt rules establishing a maximum percentage by which the cost of purchased recycled products may exceed the cost of comparable products.

- Eliminates the requirement that DAS and the Environmental Protection Agency must annually prepare and submit a report that describes the value and types of recycled products that the various state entities and offices purchase with state moneys.

Excess and surplus supplies

- Requires state agencies to provide the Director with a list of its excess and surplus supplies, including the supplies' location and whether the agency has control of the supplies.

- Requires the Director to take immediate control of excess and surplus supplies and to make arrangements for their disposition, except for excess or surplus supplies that are part of an approved interagency transfer or that are donated food.

- Prohibits the Director from charging a fee for the collection or transportation of excess and surplus supplies.

- Requires the Director to post on a public website a list of the excess and surplus supplies available for acquisition.

- Removes the requirement that the Director dispose of excess and surplus supplies in a specific order of priority and instead permits the Director to dispose of excess and surplus supplies in any of the enumerated manners.

- Eliminates a prohibition that certain entities sell, lease, or transfer excess or surplus supplies acquired to private entities or the general public at a price greater than the price it originally paid for those supplies.

- Removes an exemption that allows the Department of Youth Services to transfer its excess or surplus supplies to community corrections facilities.

Funding of building operation and maintenance

- Modifies the manner in which DAS seeks reimbursement from state agencies for space occupied in state buildings and funds the maintenance and improvement of those buildings.

- Abolishes the Building Operation Fund.

- Expands the use of the Building Improvement Fund to any facility maintained by DAS.

Ohio Geographically Referenced Information Program Council

- Revises the membership of the Ohio Geographically Referenced Information Program Council by removing all members appointed by the Governor and replacing those members with specified officials and the executive directors of specified local government associations.

- Stipulates that Council members serve without compensation.

State printing and forms management

- Eliminates the Statewide Forms Management Program within DAS.
- Modifies the public printing responsibilities of DAS.
- Places public printing for the Bureau of Workers' Compensation under DAS's supervision.
- With respect to certain state publications, eliminates the requirement that each copy indicate the total number of copies produced and the cost of each copy.

Administration of 9-1-1 funding

- Gives the 9-1-1 Program Office oversight over the administration of three different funds related to 9-1-1 law, rather than administrative authority over one of those funds.
- Repeals a requirement that, although unclear under current law, appears to require the Statewide Emergency Services Internet Protocol Network Steering Committee to annually transfer excess funds remaining in the Wireless 9-1-1 Program Fund to the Next Generation 9-1-1 Fund.

Public safety answering point operational standards

- Requires the Statewide Emergency Services Internet Protocol Network Steering Committee to update the operational standards for public safety answering points to ensure that personnel prioritize life-saving questions when responding to 9-1-1 calls and have proper training to give emergency instructions.

Electronic record certificate of authenticity

- Eliminates a requirement that a state agency, if it alters the format of an electronic record, create a certificate of authenticity for each set of records that is altered.
- Eliminates a complementary requirement that DAS adopt rules to establish methods for creating certificates of authenticity.
- Removes a provision that allows DAS to permit a state agency to deviate from the rules adopted by DAS regarding electronic records and signatures.

Enterprise Information Technology Strategy

- Requires the Director to implement strategies that benefit enterprise information technology solutions by improving efficiency, reducing costs, or enhancing the capacity of information technology services.

Public Employees Health Care Plan Program

(R.C. 9.901, 9.833, and 9.90)

Under the bill, the Department of Administrative Services (DAS) is no longer required to adopt and release a set of standards of best practices for certain public employee health care plans. Correspondingly, the health care plans provided by public employers[1] are no longer required to provide health care plans that contain best practices established by DAS or the former School Employees Health Care Board.

Instead, the bill permits health care plans that provide benefits to those public employees, and all policies or contracts for health care benefits that are issued or renewed after the expiration of any applicable collective bargaining agreement, to consider best practices identified by DAS or established by the former School Employees Health Care Board. The bill removes a provision that permits a political subdivision, upon consulting with DAS, to adopt a delivery system of benefits that is not the best practices if DAS considers it to be most financially advantageous to the political subdivision.

The bill generally modifies DAS's duties related to public employee health care plans by:

--Requiring DAS to study instead of publish information regarding the health care plans offered by certain public employers and consortiums;

--Requiring DAS to provide representative cost estimates of options for health care plans instead of assisting in the design of the plans for certain public employers;

--Requiring DAS to study and release standards that may be considered best practices for certain public employer health care plans instead of adopting and releasing a set of standards that must be considered best practices for those plans;

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[1] As used in this provision, "public employer" means political subdivisions, public school districts, and state institutions of higher education.

--Removing a requirement that DAS prepare and release an annual report on the status of health plan sponsors' effectiveness in complying with best practices and in making progress to reduce the rate of insurance premium increases and employee out-of-pocket expenses, as well as progress in improving the health status of employees and their families; and

--Removing the authority of DAS to adopt rules for the enforcement of health plan sponsors' compliance with the best practices standards.

DAS continues to have duties under ongoing law relating to health care plans for public employers, including identifying strategies to manage health care costs.

The Director of DAS may convene a Public Health Care Advisory Committee to assist in studying the issues discussed in the law described here. The bill removes the following related to the Committee: that the Committee make recommendations to the Director of DAS or the Director's designee on the development and adoption of best practices; that the Committee consist of 15 members with five each appointed by the Speaker of the House, the Senate President, and the Governor; that appointees include representatives from state and local government employers and employees, insurance agents, health insurance companies, and joint purchasing arrangements; and that the members serve without compensation.

Finally, the bill eliminates the Public Employees Health Care Fund, which DAS uses to carry out the provisions relating to public employee health care plans and related administrative costs.

Notification to low bidder

(R.C. 9.312)

The bill authorizes DAS to provide notice by electronic means to a nonresponsive, nonresponsible low bidder in a reverse auction or competitive sealed bidding process. DAS can provide this notice alternatively by first class mail. Under prior law, first class mail was the only means authorized.

Veteran-Friendly Business Procurement Program

(R.C. 9.318)

The bill requires the Director of Administrative Services and the Director of Transportation to establish and maintain the Veteran-Friendly Business Procurement Program. The Director of Administrative Services must adopt rules to administer the program for all state agencies except the Department of Transportation, and the

Director of Transportation must adopt rules to administer the program for the Department of Transportation. The rules must be adopted under the Administrative Procedure Act. The rules, as adopted separately by but with the greatest degree of consistency possible between the two directors, must do all of the following:

(1) Establish criteria, based on the percentage of an applicant's employees who are veterans, that qualifies an applicant for certification as a veteran-friendly business enterprise;

(2) Establish procedures by which a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture may apply for certification as a veteran-friendly business enterprise;

(3) Establish procedures for certifying a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture as a veteran-friendly business enterprise;

(4) Establish standards for determining when a veteran-friendly business enterprise no longer qualifies for certification as a veteran-friendly business enterprise;

(5) Establish procedures, to be used by state agencies or the Department of Transportation, for the evaluation and ranking of proposals, which provide preference or bonus points to each certified veteran-friendly business enterprise that submits a bid or other proposal for a contract with the state or an agency of the state other than the Department of Transportation, for the rendering of services, or the supplying of materials, or for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, highway, or other improvement;

(6) Implement an outreach program to educate potential participants about the Veteran-Friendly Business Procurement Program; and

(7) Establish a process for monitoring overall performance of the Veteran-Friendly Business Procurement Program.

Because of the dual rule-making authority in the bill, the criteria, procedures, standards, programs, and processes that will apply to the Department of Transportation may not be the same as those that apply to the state and other state agencies.

Definitions

Under the bill, for purposes of the Veteran Friendly Business Procurement Program:

"Armed Forces" means (1) the Armed Forces of the United States, including the Army, Navy, Air Force, Marine Corps, Coast Guard, or any reserve component of those forces, (2) the national guard of any state, (3) the commissioned corps of the U.S. Public Health Service, (4) the merchant marine service during wartime, (5) such other service designated by Congress, and (6) the Ohio organized militia when engaged in full-time national guard duty for a period of more than 30 days.

"State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government. "State agency" does not include the nonprofit corporation formed as JobsOhio.

"Veteran" means any person who has completed service in the Armed Forces who has been honorably discharged or discharged under honorable conditions or who has been transferred to the reserve with evidence of satisfactory service.

"Veteran-friendly business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture that meets veteran employment standards established by the Director of Administrative Services and the Director of Transportation.

Job classification plans

(R.C. 124.14 and 124.15; Sections 690.10 (repealing Section 701.61 of H.B. 59 of the 130th GA) and 701.20)

The bill authorizes the Director of DAS to assign and modify job classification plans, and to establish experimental classification plans, without adopting rules. The Director currently may take these actions without adopting rules under temporary authority that expires July 1, 2015. The bill specifies that the Director may take these actions without adopting rules on a permanent basis.

Under current law that will resume when the temporary authority expires, when the Director proposes to modify a classification or the assignment of classes to pay ranges, the Director must send written notice of the proposed rule to the appointing authorities of the affected employees 30 days before a hearing on the proposed rule. The appointing authorities must notify the affected employees regarding the proposed rule. The Director also must send these appointing authorities notice of any final rule that is adopted within ten days after adoption.

The bill instead requires the Director to notify the appointing authorities of the affected employees before implementing a modification in a classification or in the assignment of classes to pay ranges. The notice must include the effective date of the

modification. The appointing authorities must notify the affected employees regarding the modification.

Pay for employee temporarily assigned to a higher level

(R.C. 124.181; Section 690.10 (repealing Section 701.10 of H.B. 59 of the 130th GA))

The bill authorizes an appointing authority, whether or not a vacancy exists, to assign an employee to work in a higher level position for a continuous period of more than two weeks but not more than two years. The bill requires the employee's pay to be established at a rate that is approximately 4% above the employee's current base rate for the period of temporary assignment.

Under current law, whenever an employee is assigned to work in a higher level position for a continuous period of more than two weeks but not more than two years because of a vacancy, the employee's pay may be established at a rate that is approximately 4% above the employee's current base rate for the period of temporary assignment. When a vacancy does not exist, an appointing authority, with an exempt employee's written consent, may assign the duties of a higher classification to the exempt employee for not more than two years, and the exempt employee is entitled to compensation at a rate commensurate with the duties of the higher classification.

Fund closures

(R.C. 124.392; Section 610.40 (amending Section 20.15 of H.B. 215 of the 122nd GA))

The bill abolishes the Cost Savings Fund, which consists of savings accrued through employee participation in the Mandatory Cost Savings Program and mandatory cost savings days. The Fund may be used to pay employees who participated in the Program and the costs savings days.

The bill also abolishes the Departmental MIS Fund. DAS is currently required to establish charges for recovering the costs of management information systems activities and deposit those charges to the credit of the Fund. Under the bill, the charges are to be deposited into the existing Information Technology Fund[2] instead.

[2] R.C. 125.15, not in the bill.

State agency procurement procedures

(R.C. 9.83, 113.07, 122.87, 125.02, 125.03, 125.035, 125.04, 125.041, 125.05, 125.061, 125.07, 125.08, 125.081, 125.10, 125.11, 125.45, 125.48, 125.52, 125.601, 125.607, 125.609, 918.41, 1349.04, 3334.08, 4121.03, 4121.121, 4123.322, 5147.07, 5162.11, and 5513.01; R.C. 125.021, 125.022, 125.023, 125.03, 125.051, 125.06, and 125.17 (all repealed))

Procurement preference review

The bill establishes a centralized procurement preference review process whereby state agencies that are subject to DAS procurement policies must submit a purchase request to DAS when seeking to purchase supplies or services. Under the preference review, DAS must ascertain whether the purchase can be made from Ohio Penal Industries or the Community-based Rehabilitation Program (referred to as the first requisite procurement programs) or specified "second requisite procurement programs."

DAS must direct the requesting agency to use one of the first requisite programs or provide the agency with a waiver from one of the first programs. DAS then must determine whether the purchase can be fulfilled by a second requisite procurement program. DAS must generally complete its determination within five business days after receipt of the agency request; if no program responds concerning its ability to fulfill the request, the requesting agency is authorized to use its direct purchasing authority to obtain the services or supplies, subject to the requirements of the release and permit and applicable competitive bidding thresholds.

The bill authorizes DAS to adopt rules under the Administrative Procedure Act to provide for the manner of carrying out the functions and the powers and duties contemplated by the procurement review process. It specifies that the procurement review process also applies to agency purchases *below* the competitive bid threshold.

Competitive selection threshold and notice

The bill eliminates current certification authority for state agencies to purchase supplies and services that cost more than $25,000 but less than $50,000, and instead adopts a single $50,000 threshold. So, state agencies may, without competitive selection, make purchases below $50,000 after complying with the new DAS preference review. For purchases of $50,000 or more, the agency must purchase through DAS unless a waiver or release and permit is granted in conjunction with the review.

The bill confers rule-making authority on DAS for making purchases by competitive sealed bid, but specifies that contracts are to be awarded as provided in continuing law to the lowest responsive and responsible bidder and according to the

criteria and procedures affording a preference for U.S. and Ohio products. The bill limits current laws' notice provision for "competitive selection" to competitive sealed bids. Under current law, "competitive selection" includes competitive sealed bidding, competitive sealed proposals, and reverse auctions. Current law requires DAS to adopt rules regarding notice for competitive sealed proposals but is silent about notice for reverse auctions; so, presumably, DAS may adopt rules under its current rule-making authority for reverse auctions but is not required to do so.

The bill eliminates the requirement for notice by mail and provides that the manner of providing notice of a purchase by DAS by competitive sealed bid may be in any electronic form the director considers appropriate to sufficiently notify competing persons of the intended purchases. The bill removes the requirement for DAS to make a public posting of notice on a bulletin board, and the complementary penalty of invalidating all proceedings and any contract entered into for a failure to post.

Competitive selection notification list

The bill eliminates DAS authority to divide the state into purchasing districts, and eliminates the ability for persons to be placed on or removed from the competitive selection notification list, which the bill also eliminates. Similarly, the bill removes authority for DAS to charge an annual registration fee of not more than $10 for the listing privilege.

The bill retains current authority for persons certified as a minority business enterprise to be placed on a special minority business enterprise notification list. Presumably, the requirements for maintaining this list may be provided in rules because the bill eliminates the current direction for the list to be maintained in similar fashion to the competitive selection notification list that the bill eliminates.

Contracts for supplies and services

Generally, the bill reorganizes the State Procurement Law and clarifies that DAS must establish contracts for supplies and services (including telephone, telecommunications, and computer services) for the use of state agencies, and may do so for certain political subdivisions. The bill eliminates the specific authority of DAS to enter into a contract to purchase bulk long distance telephone services for members of the immediate family of deployed persons. Therefore, the Attorney General is no longer charged with expediting cases or issues that relate to this telephone service for members of deployed persons' families.

The bill clarifies the state entities that are exempt from the requirement described above. The exempt entities are the Adjutant General for military supplies and services, the General Assembly, the judicial branch, state institutions of higher education, certain

state elected officials,[3] and the Capitol Square Review and Advisory Board. These are largely the same as current law, but the bill adds state elected officials into the exception and further clarifies the application of the exception to state institutions of higher education; current law applies to institutions administered by boards of trustees. However, the bill permits the exempt entities to request DAS assistance with procurement of supplies and services and, upon DAS's approval, to participate in contracts awarded by DAS. Additionally, the bill specifies that nothing in the provision exempting certain state elected officials from following certain State Procurement Law provisions prevents those officials from complying with or participating in any aspect of that Law through DAS.

Release and permit

An agency that has been granted a release and permit for a purchase may make the purchase without competitive selection, and DAS must grant a release and permit if DAS determines that it is not possible or advantageous for DAS to make the purchase. DAS must adopt rules regarding circumstances and criteria for a state agency to obtain a release and permit to make a purchase not under DAS. Upon request, DAS can grant a blanket release and permit for a state agency for specific purchases. A blanket release and permit runs for a fiscal year or for a biennium, as determined by the DAS Director.

Purchasing agreements and participation in DAS contracts

Under the bill, DAS can enter into cooperative purchasing agreements with certain other state entities.[4] Under continuing law, DAS also may enter into purchasing agreements with other states, the federal government, other purchasing consortia, and political subdivisions. Additionally, the bill permits the federal government, other states, other purchasing consortia, or any interstate compact authority to purchase supplies or services from contracts entered into by DAS.

The bill permits DAS to allow state institutions of higher education and governmental agencies[5] to participate in DAS contracts. Under ongoing law, DAS may charge an entity a reasonable fee to cover the administrative costs incurred because an entity participates in a DAS contract. An entity desiring to participate in a DAS contract must file certain documents with DAS. A governmental agency desiring to participate

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[3] The Attorney General, Auditor of State, Secretary of State, and Treasurer of State.

[4] The Adjutant General, the General Assembly, the judicial branch, state institutions of higher education, the Attorney General, Auditor of State, Secretary of State, and Treasurer of State.

[5] A political subdivision or special district in Ohio, or any combination of these entities; the federal government; other states or groups of states; other purchasing consortia; and any agency, commission, or authority established under an interstate compact or agreement.

in a DAS contract must file a written request for inclusion in the contract. A state institution of higher education desiring to participate in a DAS contract must file a certified copy of a resolution of the board of trustees or similar authorizing body. The resolution must request that the state institution of higher education be authorized to participate in the contracts.

DAS must include in its annual report an estimate of the purchases made by other entities from DAS contracts. Under current law, the annual report has to include an estimate of the cost DAS incurs by permitting other entities to participate in DAS contracts.

Financial assurance

The bill makes a slight change in that it permits DAS to require that all bids and proposals be accompanied by a performance bond or other financial assurance. Current law allows DAS to require that bids and proposals be accompanied by a performance bond or other cash surety.

Meat and poultry

The bill specifies, for meat products and poultry products, that only bids received from vendors under inspection by the U.S. Department of Agriculture or that are licensed by the Ohio Department of Agriculture are eligible for acceptance. Current law requires only those bids received from vendors offering products from establishments on the DAS's current list of meat and poultry vendors are eligible. However, the bill repeals the requirement that DAS establish and maintain a list of approved meat and poultry vendors.

Produced or mined in the U.S.

The bill requires DAS and other state agencies first to consider bids that offer products that have been or that will be produced or mined in the U.S. Contrarily, current law requires DAS and other state agencies first to remove bids that offer products that have not been or that will not be produced or mined in the U.S.

Exemptions removed

The bill requires the Workers' Compensation Administrator to make purchases for supplies and services in accordance with the State Procurement Law, and removes the Administrator's authority to purchase supplies and services, make contracts for telecommunications services, and perform office reproduction services; thereby requiring the Bureau to use DAS for these services. Further, the bill eliminates the Administrator's authority to make contracts for and supervise the construction of any project or improvement, or the construction or repair of buildings, under the Bureau's

control. The bill also eliminates the Administrator's authority to transfer surplus computers and computer equipment directly to an accredited public school.

The bill removes exemptions for the Ohio Tuition Trust Authority that state that the State Procurement Law does not apply to the Authority, and instead states that the Law does not apply to contracts approved under the Ohio Tuition Trust Authority Board's powers. The bill further eliminates the requirement that DAS, upon the Authority's request, act as the Authority's agency for the purchase of equipment, supplies, insurance, or services, or the performance of administrative services under the State Procurement Law.

Transportation contracts

Under the bill, the Director of Transportation, in addition to other entities under continuing law,[6] can permit a state agency to participate in contracts the Director has entered into for purchases of machinery, materials, supplies, or other articles. These purchases are exempt from competitive bidding requirements.

Emergency procurement procedures

The bill repeals but reenacts law that authorizes DAS to suspend normal contracting and purchasing requirements for the Emergency Management Agency and other state agencies engaged in response and recovery activities during the period of an emergency declared by the Governor or the President of the United States.[7] The bill specifies that purchases made under the emergency authority are exempt from the requirement for Controlling Board approval for an exemption from competitive selection, but requires state agencies making such purchases to make a report to the President of the Controlling Board describing all such purchases made during the emergency period. The report must be filed within 90 days after the declaration of emergency expires.

The bill provides that before any purchases may be made under the emergency authority, the Director of DAS must send notice of the Director's approval of the suspension to the Director of Budget and Management and to the members of the

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[6] The Ohio Turnpike and Infrastructure Commission, any political subdivision, and any state university or college.

[7] Continuing law specifies that the Director of Public Safety or the Executive Director of the Emergency Management Agency must request the suspension from DAS at the same time either requests the Governor or U.S. President to declare an emergency. The Governor must include, in any proclamation issued by the Governor declaring an emergency, language requesting the suspension during the emergency period.

Controlling Board. The notice must provide details of the request for suspension and a copy of the Director's approval.

Purchase of recycled products

(R.C. 125.082)

The bill specifies that state entities and offices[8] may purchase recycled products under rules adopted by the Director that establish guidelines. Further, the bill removes the specific requirements that the guidelines: (1) are consistent with and substantially equivalent to certain regulations adopted by the U.S. Environmental Protection Agency, (2) establish the minimum percentage of recycled materials the products must contain, and (3) incorporate specifications for recycled-content materials. The bill eliminates the specific authority for the Director to adopt rules establishing a maximum percentage by which the cost of purchased recycled products may exceed the cost of comparable products made of virgin materials.

Additionally, the bill eliminates the requirement that DAS and the Environmental Protection Agency must annually prepare and submit a report that describes the value and types of recycled products that are purchased with state moneys by the various state entities and offices.

Excess and surplus supplies

(R.C. 125.13 and 5139.03)

The bill requires state agencies to provide the Director with a list of its excess and surplus supplies, including the supplies' location and whether the agency has control of the supplies. Current law requires a state agency to provide a list of its excess and surplus supplies and an appraisal value upon the Director's request.

Upon receipt of notification and at no cost to the state agency, the Director must take immediate control of the excess and surplus supplies and make arrangements for their disposition. However, the Director must not take immediate control of excess or surplus supplies that are part of an approved interagency transfer or that are donated food. The bill allows excess and surplus supplies of food to be donated directly to nonprofit food pantries and institutions without notification to the Director.

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[8] The General Assembly, the offices of all elected state officers, all departments, boards, offices, commissions, agencies, institutions, including state institutions of higher education, and other Ohio instrumentalities, the Supreme Court, all courts of appeals, and all common pleas courts.

Also, the Director cannot charge a fee for the collection or transportation of excess and surplus supplies. The Director must post on a public website a list of the excess and surplus supplies available for acquisition.

The bill removes the requirement that the Director dispose of excess and surplus supplies in a specific order of priority and instead permits the Director to dispose of excess and surplus supplies in any of the following ongoing manners: (1) to state agencies, (2) to state-supported or state-assisted institutions of higher education, (3) to tax-supported agencies, municipal corporations, or other Ohio political subdivisions, private fire companies, or private, nonprofit emergency medical service organizations, (4) to nonpublic elementary and secondary schools chartered by the State Board of Education, (5) to the general public by auction, sealed bid, sale, or negotiation. In addition to ongoing manners of disposal, the bill permits the Director to dispose of excess and surplus supplies by interagency trade or to a 501(c)(3) nonprofit organization that also receives state funds or has a state contract.

The bill eliminates a current law prohibition that no state-supported or state-assisted institution of higher education, tax-supported agency, municipal corporation, or other Ohio political subdivision, private fire company, or private, nonprofit emergency medical service organization is to sell, lease, or transfer excess or surplus supplies acquired to private entities or the general public at a price greater than the price it originally paid for those supplies.

Finally, the bill removes an exemption that allows the Department of Youth Services to transfer its excess or surplus supplies to community corrections facilities, which remain the Department's property for five years and then become the facility's property. Presumably, the Department would be required to follow the normal procedures for disposition of these excess or surplus supplies.

Funding of building operation and maintenance

(R.C. 125.27 and 125.28)

The bill modifies the manner in which DAS seeks reimbursement from state agencies for space occupied in state buildings and funds the maintenance and improvement of those buildings, as follows:

--It removes the specific provisions detailing how state agencies funded in whole or in part by non-GRF money are to reimburse the state for the cost of occupying space in state facilities. It retains, however, the current requirement that the DAS Director determine the reimbursable cost of space in state-owned or state-leased facilities and collect reimbursements for that cost.

--It abolishes the Building Operation Fund; consequently, *all* money collected by DAS for operating expenses of facilities owned or maintained by DAS is to be deposited into the existing Building Management Fund.

--It removes the requirement that all money collected by DAS for debt service be deposited into the GRF.

--It eliminates the current funding source for the Building Improvement Fund and, instead, requires that money collected from state agencies for depreciation and related costs be deposited into the Fund *or* deposited into the Building Management Fund and then transferred to the Building Improvement Fund. Under the bill, the Building Improvement Fund is to be used for major maintenance or improvements required in any facility maintained by DAS, rather than just the Rhodes or Lausche state office towers, Toledo Government Center, Ocasek Government Office Building, and Vern Riffe Center for Government and the Arts, as provided under current law.

Ohio Geographically Referenced Information Program Council

(R.C. 125.901; Section 701.40)

The bill revises the membership of the Ohio Geographically Referenced Information Program Council in DAS by removing all members appointed by the Governor and replacing those members with all of the following or their designees:

(1) The Chancellor of the Board of Regents (whom the bill renames the Director of Higher Education);

(2) The Chief of the Division of Oil and Gas Resources Management in the Department of Natural Resources;

(3) The Director of Public Safety;

(4) The Executive Director of the County Auditors' Association;

(5) The Executive Director of the County Commissioners' Association;

(6) The Executive Director of the County Engineers' Association;

(7) The Executive Director of the Ohio Municipal League; and

(8) The Executive Director of the Ohio Townships Association.

Continuing law requires the Council to develop and annually update a real property management plan containing specified information and a real property

inventory, both regarding state-owned property. Excluded from the plan and inventory is property owned by the General Assembly and legislative agencies, any court or judicial agency, and the offices of the Secretary of State, Auditor of State, Treasurer of State, and Attorney General.

The bill retains as members of the Council the state chief information officer, the Directors of Natural Resources, Transportation, Environmental Protection, and Development Services, and the Treasurer of State or their designees. Currently, the members appointed by the Governor must represent county auditors, county commissioners, county engineers, regional councils, municipal corporations, regulated utilities, and a public university. The bill states that the Council as revised by the bill constitutes a continuation of the existing Council rather than a new council.

Finally, the bill stipulates that Council members serve without compensation.

State printing and forms management

Statewide Forms Management Program

(R.C. 125.91, 125.92, 125.93, 125.96, and 125.98 (all repealed))

The bill eliminates the State Forms Management Control Center under the supervision of DAS. The Center is tasked with developing and maintaining a Statewide Forms Management Program designed to simplify, consolidate, or eliminate, where possible, forms, surveys, and other documents used by state agencies.

Public printing

(R.C. 125.31, 125.36, 125.38, 125.39, 125.42, 125.43, 125.45, 125.49, 125.51, 125.58, 125.76, and 5709.67; R.C. 125.32, 125.37, 125.47, 125.48, 125.50, 125.52, 125.53, 125.54, 125.55, 125.56, 125.57, 125.68, and 149.13 (repealed))

The bill modifies the public printing responsibilities of DAS, as follows:

--It replaces the term "paper" with the term "printing goods and services" and updates other references with respect to the printing process.

--It provides for the use of requests for proposals in addition to invitations to bid on printing contracts.

--It places public printing for the Bureau of Workers' Compensation under DAS's supervision.

--It permits DAS to advertise an invitation to bid or request for proposal for the purchase of printing goods and services a second time, if the bids or proposals are rejected the first time as not being in the interest of the state.

--It eliminates the requirement that printing for the state be divided into four classes and separate contracts be entered into for each class.

--It eliminates specific duties of DAS with respect to the determination of paper to be used, provisions for the binding of publications, and the general preference for in-state printing.

Lastly, the bill removes the requirement that each copy of certain state publications indicate the total number of copies produced and the cost of each copy.

Administration of 9-1-1 funding laws

(R.C. 128.40 and 128.54(A)(5))

9-1-1 Program Office: fund administration

The bill requires the 9-1-1 Program Office to oversee the administration of three different funds related to 9-1-1 law, whereas current law requires the Office to "administer" only the Wireless 9-1-1 Government Assistance Fund. Under the bill, the Office must oversee the administration of not only the Wireless 9-1-1 Government Assistance Fund, but also the Wireless 9-1-1 Program Fund and the Next Generation 9-1-1 Fund. The 9-1-1 Program Office is not specifically authorized to make deposits into or transfers out of any of these funds.

Under continuing law, the Wireless 9-1-1 Government Assistance Fund is used by the Tax Commissioner to make monthly disbursements to county 9-1-1 systems. The fund is populated by a 25-cent monthly charge on Ohio wireless subscribers, as well as a charge of 0.5% of the sale price of prepaid wireless services.[9] Most of the charges collected go to the Wireless 9-1-1 Government Assistance Fund. Two per cent of the charges go to the Wireless 9-1-1 Program Fund, which is an administrative fund used by the Statewide Emergency Services Internet Protocol Network Steering Committee to defray the committee's costs in carrying out its duties. The Next Generation 9-1-1 Fund is funded by other sources, and goes toward costs associated with phase II wireless systems and a county's migration to next generation 9-1-1 systems and technology.[10]

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[9] R.C. 128.42, not in the bill.

[10] R.C. 128.022, not in the bill.

Transfers to the Next Generation 9-1-1 Fund

The bill repeals a requirement that, although unclear under current law, appears to require the Statewide Emergency Services Internet Protocol Network Steering Committee to annually transfer excess funds remaining in the Wireless 9-1-1 Program Fund to the Next Generation 9-1-1 Fund. The reason this requirement is unclear is because the Tax Commissioner and the Steering Committee, after paying administrative costs, are required under current law to transfer any excess remaining in "the administrative funds" to the Next Generation 9-1-1 Fund. This probably means that the Tax Commissioner and the Steering Committee must transfer the excess remaining in *each entity's respective administrative* fund – the Wireless 9-1-1 Administrative Fund (Tax Commissioner) and the Wireless 9-1-1 Program Fund (Steering Committee) – to the Next Generation 9-1-1 Fund. But because the names of these funds are not spelled out, the requirement is unclear.

Under the bill, the Tax Commissioner, and not the Steering Committee, is clearly required to annually transfer any excess remaining in the Wireless 9-1-1 Administrative Fund to the Next Generation 9-1-1 Fund. The only other source of funding for the Next Generation 9-1-1 Fund would be assessments for unpaid wireless charges.[11] If the Next Generation 9-1-1 Fund is currently funded by excess transfers from the Wireless 9-1-1 Program Fund, the bill would change that.

Public safety answering point operational standards

(R.C. 128.021)

The bill requires the Statewide Emergency Services Internet Protocol Network Steering Committee to assess the operational standards for public safety answering points (PSAPs). Under the bill, the Steering Committee also is required to revise the standards as necessary to ensure that they contain (1) policies to ensure that PSAP personnel prioritize life-saving questions when responding to each 9-1-1 call and (2) a requirement that all PSAP personnel complete proper training or provide proof of prior training to give instructions regarding emergency situations. The assessment and revision of the standards are to be done in accordance with Chapter 119. of the Administrative Procedure Act and not later than one year after this requirement takes effect.[12]

Under current law, a PSAP is a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where PSAP personnel respond to specific

[11] R.C. 128.46(E)(4), not in the bill.

[12] R.C. Chapter 119., not in the bill.

requests for emergency service by directly dispatching the appropriate emergency service provider, or relaying a message or transferring the call to the appropriate provider.[13]

Under current law, the Steering Committee is a ten-member committee responsible for administering the 9-1-1 law and advising the state on the implementation, operation, and maintenance of a statewide emergency services Internet protocol network to support the dispatch of emergency service providers and to support state and local government next-generation 9-1-1 service.[14] The Steering Committee also must adopt rules establishing technical and operational standards for PSAPs eligible to receive disbursements from the Wireless 9-1-1 Government Assistance Fund. The rules must incorporate industry standards and best practices for wireless 9-1-1 services.[15]

Electronic record certificate of authenticity

(R.C. 1306.20)

The bill removes provisions regarding a certificate of authenticity that must be created by a state agency when the state agency alters the format of an electronic record. Currently, a state agency that retains an electronic record may choose to retain it in a format that is different from the format in which the record was originally created, used, sent, or received. If a state agency alters the format, it must create a certificate of authenticity for each set of records that is altered. The bill removes this requirement. The bill also removes a complementary provision requiring DAS, in consultation with the State Archivist, to adopt rules that establish the methods for creating a certificate of authenticity.

Current law requires a state agency that creates, uses, or receives an electronic signature, or creates, uses, receives, or retains an electronic record, to do so in compliance with rules adopted by DAS, unless DAS has authorized noncompliance upon written request of the state agency. The bill removes the ability of a state agency to request, and DAS to authorize, noncompliance.

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[13] R.C. 128.01(P), not in the bill.

[14] R.C. 128.01(DD) and 128.02, not in the bill.

[15] R.C. 128.021(A).

Enterprise information technology strategy implementation

(Section 207.230)

The bill establishes a policy of modernizing the state's information technology (IT) management and investment practices by shifting away from a limited, agency-specific IT focus toward a statewide method supporting development of enterprise IT solutions.[16] In furtherance of this policy, the bill requires the Director to determine and implement strategies that will benefit the enterprise IT shift by improving efficiency, reducing costs, or enhancing the capacity of IT services.

These improvements and efficiencies may result in the consolidation and transfer of IT services. Notwithstanding any law to the contrary, as determined to be necessary for successful implementation of these enterprise IT shift improvements and efficiencies, the Director may request the Director of Budget and Management to consolidate or transfer IT-specific budget authority between agencies or within agencies as necessary to implement enterprise IT cost containment strategies and related efficiencies. When the Director of Budget and Management is satisfied that the proposed consolidations and transfers are cost advantageous to the enterprise IT shift, the Director may transfer appropriations, funds, and cash as needed to implement the enterprise IT shift. The establishment of any new fund or additional appropriation is subject to approval by the Controlling Board.

The Director of Budget and Management and Director of DAS may transfer any employees and any assets and liabilities, including, but not limited to, records, contracts, and agreements, in order to facilitate improvements required by the enterprise IT shift.

[16] Section 207.210 of the bill.

- Beginning July 1, 2016, increases to $350 (from $300) the fee charged to certain long-term care facilities for the Ohio Long-term Care Consumer Guide.
- Changes (from 90 days to a period specified in rules) the period for which an applicant for the Medicaid-funded component of the PASSPORT program may participate in the state-funded component of the PASSPORT program.
- Makes a corresponding change to the period for which an individual may participate in the state-funded component of the Assisted Living Program.
- Repeals a provision that grants eligibility for the state-funded component of the PASSPORT program to an individual no longer eligible for the Medicaid-funded component of the PASSPORT program.
- Requires that the Medicaid-funded and state-funded components of the PASSPORT program cover consultation and assessment services provided by registered nurses and that payment rate for the services not be less than the payment rate for the services under the Ohio Home Care waiver program.
- Permits an individual enrolled in the Medicaid-funded component of the Assisted Living Program to choose a single occupancy room or, subject to an approval process to be established in rules, a multiple occupancy room.
- Makes technical corrections to statutory cross-references in the law governing the state-funded component of the PASSPORT and Assisted Living Programs.

Long-term Care Consumer Guide fee increase

(R.C. 173.48)

Beginning July 1, 2016, the bill increases to $350 (from $300) the fee charged to long-term care facilities that are residential facilities for the Ohio Long-term Care Consumer Guide. The Guide is developed and published by the Department of Aging for individuals and their families to use in considering long-term care facility admission.[17]

[17] R.C. 173.46, not in the bill.

State-funded component of PASSPORT

(R.C. 173.522)

The bill changes the period of time for which an individual may participate in the state-funded component of the PASSPORT program, which provides home and community-based services as an alternative to nursing facility placement for eligible individuals who are aged and disabled. PASSPORT has both a Medicaid-funded component and a state-funded component.[18] Currently, an applicant for the Medicaid-funded component of PASSPORT may participate in the state-funded component for 90 days. The bill changes that period to a period to be specified by the Director of Aging in rules.

The bill also repeals a provision in current law that provides state-funded component eligibility to an individual who is no longer eligible for the Medicaid-funded component of PASSPORT but still needs home and community based services to protect the individual's health and safety.

PASSPORT coverage of certain nurse services

(R.C. 173.525)

The bill requires the Medicaid-funded and state-funded components of the PASSPORT program to cover consultation and assessment services provided by registered nurses. The payment rate for the services must not be less than the payment rate for the services under the Ohio Home Care program. The Ohio Home Care program is a Medicaid waiver program administered by the Department of Medicaid.

State-funded component of Assisted Living Program

(R.C. 173.543)

The bill changes the period of time for which an individual may participate in the state-funded component of the Assisted Living Program. Current law provides for an Assisted Living Program to deliver assisted living services to eligible individuals. The Program consists of a Medicaid-funded component and a state-funded component.[19] Eligible individuals may participate in the state-funded component for up to 90 days. The bill instead requires the Director to adopt rules specifying how long an individual may participate in the state-funded component.

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[18] R.C. 173.51, not in the bill.

[19] R.C. 173.51, not in the bill.

Medicaid-funded component of Assisted Living Program

(R.C. 173.548)

The bill permits an individual enrolled in the Medicaid-funded component of the Assisted Living Program to choose a single occupancy room or multiple occupancy room in the residential care facility in which the individual resides. The choice of a multiple occupancy room is to be subject to approval pursuant to a process that the bill requires the Director of Aging to establish in rules.

Technical correction

(R.C. 173.523, 173.544, and 173.545)

The bill makes technical corrections to statutory cross-references in the law governing the state-funded component of the PASSPORT and Assisted Living Programs.

DEPARTMENT OF AGRICULTURE

Agricultural Society Facilities Grant Program

- Creates the Agricultural Society Facilities Grant Program to provide grants in fiscal year 2017 to county and independent agricultural societies to support capital projects that enhance the use and enjoyment of agricultural society facilities.

- Requires the Director of Agriculture or the Director's designee to establish requirements and procedures for the Program, including procedures for reviewing applications and awarding grants.

- Restricts an agricultural society from receiving an award greater than twice the amount it obtains as a matching grant from an individual or other entity.

- Establishes deadlines for the submission of grant applications and their approval or disapproval.

Elimination of Agricultural Financing Commission

- Eliminates the Agricultural Financing Commission, which is required to make recommendations to and advise the Director of Agriculture concerning the Family Farm Loan Program, which was repealed in 2007.

Review compliance certificates

- Eliminates provisions governing review compliance certificates issued under the Concentrated Animal Feeding Facilities Law, the operation of which has expired.

County payment for injury or loss of animals by dogs

- Eliminates requirements and procedures in current law under which a board of county commissioners must reimburse the owner of an animal that has been killed or injured by a dog not belonging to the owner.

Wine tax diversion

- Extends through June 30, 2017, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund.

Exceptions to auctioneer licensure

- Does both of the following regarding exemptions from licensure under the Auctioneers Law:

--Adds an exemption for sales at an auction sponsored by a tax-exempt organization such as a business league, chamber of commerce, or board of trade when certain conditions apply; and

--Revises the existing exemption for a bid-calling contest conducted to advance or promote the auction profession in Ohio by allowing any type of compensation to be paid to the event's sponsor or participants.

Agricultural Society Facilities Grant Program

(Section 717.10)

The bill creates the Agricultural Society Facilities Grant Program to provide grants in fiscal year 2017 to county and independent agricultural societies to support capital projects that enhance the use and enjoyment of agricultural society facilities by individuals. Agricultural societies may apply to the Director of Agriculture for monetary assistance to acquire, construct, reconstruct, expand, improve, plan, and equip such facilities. Not later than 90 days after the provision's effective date, the Director or the Director's designee must establish requirements and procedures for administration of the Program, including an application form, procedures for reviewing applications and awarding grants, and any other requirements and procedures the Director or the designee determines necessary to administer the Program.

A grant cannot exceed twice the amount the agricultural society obtains as a matching grant from an individual or other entity. The matching grant may be any combination of funding, materials, and donated labor. Documentation of the matching grant must be submitted with the grant application. An agricultural society must submit the grant application and matching grant documentation to the Director or the Director's designee by July 1, 2016.

The Director or the Director's designee must approve or disapprove the application. The Director or the designee must award all grants by August 1, 2016, and must so notify each grant recipient.

Elimination of Agricultural Financing Commission

(R.C. 901.61, 901.62, 901.63, and 901.64 (repealed) and 902.01)

The bill eliminates the Agricultural Financing Commission, which is required to make recommendations to and advise the Director of Agriculture concerning the Family Farm Loan Program, which was repealed in 2007.

Review compliance certificates

(R.C. 903.01, 903.03, 903.07, 903.09, 903.10, 903.11, 903.12, 903.13, 903.16, 903.17, and 903.25; R.C. 903.04 (repealed))

The bill eliminates provisions governing review compliance certificates issued under the Concentrated Animal Feeding Facilities Law, the operation of which has expired. Sub. S.B. 141 of the 123rd General Assembly, which took effect March 15, 2001, transferred the regulation of animal waste disposal at concentrated animal feeding facilities (CAFFs) from the Environmental Protection Agency to the Department of Agriculture. The act required the Director of Agriculture to finalize a program under which the Director was given the authority to issue, in part, permits to install and permits to operate for CAFFs. The Director finalized the program in August, 2002. Prior to the finalization, the Director of Environmental Protection issued installation permits for the installation or modification of disposal systems for animal waste that involved 1,000 or more animal units or any parts of those disposal systems in compliance with the Federal Water Pollution Control Act.

Current law specifies that on and after the date that is two years after the date on which the Director of Agriculture finalized the program for the issuance of permits to install for CAFFs, which was in August, 2004, and until the issuance of a permit to operate, no person lawfully could operate a CAFF in existence prior to August, 2004, unless the person applied for a review compliance certificate issued by the Director. Upon the Director's review of specified information concerning a facility and inspection of the facility, the Director had to issue a review compliance certificate to the facility if the Director determined that it satisfied certain criteria. A permit to operate had to be obtained prior to expiration of the review compliance certificate, which was valid for five years. Because the above deadlines have passed, the statutes governing review compliance certificates are obsolete.

County payment for injury or loss of animals by dogs

(R.C. 955.29 (repealed), 955.12, 955.121, 955.14, 955.15, 955.20, 955.27, 955.30 (repealed), 955.32 (repealed), 955.35 (repealed), 955.351 (repealed), 955.36 (repealed), 955.37 (repealed), and 955.38 (repealed))

The bill eliminates requirements and procedures in current law under which a board of county commissioners must reimburse the owner of an animal that has been killed or injured by a dog not belonging to the owner. Accordingly, the bill repeals provisions:

--Allowing an owner of an animal that the owner believes has a fair market value of $10 or more to make a claim for the injury or loss of that animal and to submit

additional information demonstrating the animal's lines of breeding, age, and other matters;

--Requiring a board of county commissioners to hear a claim and, if the dog warden has determined that the claim is valid, pay the claim from the dog and kennel fund or from the county general fund;

--Requiring statements and testimony regarding the loss or injury of an animal to be on forms prepared by the Secretary of State;

--Allowing an owner of an animal that has been killed or injured by a dog to appeal a final allowance made by a board of county commissioners; and

--Requiring a probate court to hear an appeal by an owner of an animal that has been killed or injured by a dog and determine the fair market value of that animal and the limit on relief.

The bill also makes conforming changes in the Dogs Law.

Wine tax diversion to Ohio Grape Industries Fund

(R.C. 4301.43)

The bill extends through June 30, 2017, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund. Continuing law imposes a tax on the distribution of wine, vermouth, and sparkling and carbonated wine and champagne at rates ranging from 30¢ per gallon to $1.48 per gallon. From the taxes paid, a portion is credited to the fund for the encouragement of the state's grape and wine industry, and the remainder is credited to the GRF.

Under current law, the amount credited to the Ohio Grape Industries Fund is scheduled to decrease from 3¢ to 1¢ per gallon on July 1, 2015. The extra 2¢ earmark began in July 1995 and originally was scheduled to terminate in June 2001, but has been extended by two-year intervals since July 2001.

Exceptions to auctioneer licensure

(R.C. 4707.02)

The bill does both of the following regarding exemptions from the existing prohibition against acting as an auction firm, auctioneer, or apprentice auctioneer within Ohio without a license issued by the Department of Agriculture:

(1) Adds an exemption for sales at an auction that is (a) sponsored by an organization that is tax exempt under subsection 501(c)(6) of the Internal Revenue Code, e.g., a business league, chamber of commerce, or board of trade, and (b) a part of a national, regional, or state convention or conference that advances or promotes the auction profession in Ohio, when the property to be sold is donated to or is the property of the organization and the proceeds remain within the organization or are donated to a nonprofit charitable organization; and

(2) Revises the existing exemption for a bid-calling contest conducted to advance or promote the auction profession in Ohio by allowing any type of compensation to be paid to the event's sponsor or participants. Under current law, no compensation may be paid other than a prize or award for winning the contest.

- Provides for the Energy Strategy Development Program, to be monitored by the Ohio Air Quality Development Authority, to develop energy initiatives, projects, and policy that align with Ohio's energy policy.

Energy Strategy Development Program

(Section 213.20)

The bill requires the Energy Strategy Development Program to develop energy initiatives, projects, and policy that align with the energy policy of Ohio. Although the Revised Code and the bill do not expressly create this Program, apparently this requirement implicitly does. In addition, the bill requires the Ohio Air Quality Development Authority to be responsible for monitoring the Program.

The bill provides that the issues addressed by the Program are not to be limited to those provided for under Ohio law governing the Authority.[20] The bill also provides that the Program pays for costs associated with the administration of the outstanding loans (apparently those made by the Authority under R.C. 166.30 and 3706.27) and working with outside parties associated with the loans.

For purposes of funding the Program, the bill creates, by uncodified law, the Energy Strategy Development Fund in the state treasury. The Fund is to consist of money credited to it and *money obtained for advanced energy projects from federal or private grants, loans, or other sources* (with respect to the italicized language, the bill is not clear as to what this money is or where it comes from). The bill further provides for the transfer of cash to the Fund on July 1 of each fiscal year in the upcoming biennium from various other funds. The bill also provides that all cash credited to the Fund be transferred on July 1, 2017 to the GRF and that the Fund be abolished after the transfer.

[20] R.C. Chapter 3706., not in the bill.

ATTORNEY GENERAL

- Requires the Attorney General to adopt rules governing the training of peace officers on companion animal encounters and behavior and specifies what the rules must include.

- Requires the peace officer basic training program and the Ohio Peace Officer Training Academy to include training on companion animal encounters and behavior.

- With respect to entities that receive state economic development awards, requires the Attorney General to determine compliance with the terms of the award, including the performance metrics, at the end of the year by which the entity is required to meet one of those metrics, rather than annually, as required under current law.

- Requires the Attorney General to enter into an agreement with the U.S. Secretary of the Treasury to participate in the federal Treasury Offset Program for the collection of outstanding state income tax and unemployment debts.

Training of peace officers on companion animal encounters

(R.C. 109.747, 109.77, and 109.79)

The bill requires the Attorney General to adopt administrative rules governing the training of peace officers on companion animal encounters and behavior. The rules must include all of the following:

(1) A specified amount of training that is necessary for satisfactory completion of basic training programs at approved peace officer training schools, other than the Ohio Peace Officer Training Academy;

(2) The time within which a peace officer is required to receive that training, if the peace officer is appointed as a peace officer before receiving that training;

(3) A requirement that the training include training in all of the following:

- Handling companion animal-related calls or unplanned encounters with companion animals, with an emphasis on canine-related incidents and the use of nonlethal methods and tools in handling an encounter with a canine;

- Identifying and understanding companion animal behavior;
- State laws and municipal ordinances related to companion animals;
- Avoiding a companion animal attack;
- Using nonlethal methods to defend against a companion animal.

The bill also requires that the training provided in the peace officer basic training program and provided by the Ohio Peace Officer Training Academy include training on companion animal encounters and behavior.

Monitoring compliance with economic development awards

(R.C. 125.112)

Under current law, entities that receive a state award for economic development (such as a grant, loan, or other similar form of financial assistance or a contract, purchase order, or other similar transaction) must comply with certain terms and conditions, including performance metrics. The Attorney General is required to monitor the compliance of such entities with the terms and conditions of their awards and submit an annual report to the General Assembly regarding the level of compliance of each entity.

The bill would eliminate the requirement that compliance by such entities be monitored annually. Instead, the Attorney General must determine the extent to which an entity has complied with the terms and conditions of its award, including the performance metrics, *at the end of the calendar year by which the entity is required to meet a performance metric under the award* (referred to as the "closeout year.") Annually, the Attorney General would report on the compliance levels of only those entities.

Treasury Offset Program

(R.C. 131.025)

The bill requires the Attorney General to enter into an agreement with the U.S. Secretary of the Treasury to participate in the federal Treasury Offset Program for the collection of state income tax obligations and unemployment compensation debts that have been certified to the Attorney General for collection pursuant to continuing law.

Under the Treasury Offset Program, an individual's or an entity's federal tax refund can be reduced by the amount the individual or entity owes for specified

government debt, including unemployment compensation debt and state income tax obligations.[21]

[21] 26 U.S.C. 6402(e) and (f) and 31 Code of Federal Regulations (C.F.R.) 285.8.

AUDITOR OF STATE

- Authorizes the Auditor of State to conduct a performance audit of a municipal corporation, county, or township that is under a fiscal caution, a fiscal watch, or a fiscal emergency.
- Authorizes the Controlling Board to provide sufficient funds for purposes of such a performance audit.
- Requires the Auditor of State to declare that a fiscal emergency condition exists in a municipal corporation, county, or township that has not taken reasonable action to discontinue or correct its fiscal watch condition.
- Reduces the amount of time a municipal corporation, county, or township for which a fiscal watch has been declared is given to submit to the Auditor of State its financial recovery plan.
- Allows the Auditor of State to receive a share of the proceeds of property that is forfeited as part of a law enforcement investigation when the Auditor is substantially involved in the seizure of the property.
- Creates the Auditor of State Investigation and Forfeiture Trust Fund to receive those forfeiture proceeds and requires the Auditor to follow certain administrative procedures in managing and using the Fund.

Performance audits of local governments in fiscal distress

(R.C. 118.04 and 118.041)

The bill authorizes the Auditor of State, on the Auditor of State's initiative, to conduct a performance audit of a financially distressed municipal corporation, county, or township that is under a fiscal caution, a fiscal watch, or a fiscal emergency.

All expenses incurred by the Auditor of State relating to a determination or termination of one of these three conditions, including providing technical and support services, must be reimbursed from an appropriation for that purpose. The bill specifies that expenses incurred for conducting a performance audit also must be reimbursed from the appropriation.

Auditor of State to declare fiscal emergency condition

(R.C. 118.023)

The bill requires the Auditor of State to declare that a fiscal emergency condition exists in a municipal corporation, county, or township if the municipal corporation, county, or township in which a fiscal watch exists has not made reasonable proposals or otherwise taken action to discontinue or correct the fiscal practices or budgetary conditions that prompted the declaration of fiscal watch and the auditor determines a fiscal emergency declaration is necessary to prevent further decline.

The bill also reduces, from 120 to 90 days, the amount of time a municipal corporation, county, or township for which a fiscal watch has been declared is given to submit to the Auditor of State its financial recovery plan.

Forfeiture proceeds

(R.C. 117.54 and 2981.13)

The bill allows the Auditor of State to receive a share of the proceeds of property that is forfeited as part of a law enforcement investigation when the Auditor is substantially involved in the seizure of the property. Under continuing law, other law enforcement agencies may receive forfeiture proceeds in this manner.

The bill also creates the Auditor of State Investigation and Forfeiture Trust Fund to receive forfeiture proceeds. Under the bill, the Auditor must follow the same procedures in managing and using the Fund as other law enforcement agencies that receive forfeiture proceeds. The Auditor must adopt a written internal control policy to ensure that the proceeds are used only for law enforcement purposes. And, not later than January 31 of every year, the Auditor must file a report with the Attorney General to verify that the fund was used only for those purposes.

OFFICE OF BUDGET AND MANAGEMENT

- Permits a state agency to certify to the Office of Budget and Management (OBM) the amount due for a service subscription provided to a state agency for which an ongoing service was initiated but payment was not received.
- Authorizes the Director of OBM to transfer from the receiving agency to the providing agency the amount that should have been paid for the service subscription.
- Defines a service subscription as an ongoing service provided to a state agency by another state agency for which an estimated payment is made in advance and final payment due is determined based on actual use.
- Permits the Director, under certain circumstances, to transfer interest earned by any state fund to the GRF.
- Authorizes the Director, in each fiscal year, to transfer up to $60 million in cash to the GRF from non-GRF funds that are not constitutionally restricted to ensure that GRF receipts and balances are sufficient to support GRF appropriations.
- Permits the Director to issue guidelines to agencies applying for federal money made available to the state for fiscal stabilization and recovery purposes.
- Appropriates any money the Controlling Board approves for expenditure, or any increase in appropriation the Controlling Board approves, pursuant to existing law.
- Abolishes various uncodified funds.

State agency service subscription late payment transfer authorization

(R.C. 131.34)

The bill authorizes any state agency that has provided a service subscription to another state agency to certify to the Director of Budget and Management (1) that the service subscription has been initiated and (2) the amount due for the service subscription. The agency providing the service subscription may make a certification only if it does not receive payment from the agency receiving the service subscription within 30 days after the providing agency initiates the service subscription and submits an invoice requesting payment for it. After determining what part of the certified amount should have been paid by the receiving agency and that the receiving agency

has an unobligated balance in an appropriation for the payment, the Director may transfer the amount that should have been paid from the appropriate fund of the receiving agency to the appropriate fund of the providing agency. The transfer must be made on an intrastate transfer voucher.

Under the bill, a service subscription is an ongoing service provided to a state agency by another state agency for which an estimated payment is made in advance and the final payment due is determined based on actual use.

Under current law a providing agency that has provided goods and services to a receiving agency may follow a similar process to recover payment.

Transfers of interest to the GRF

(Section 512.10)

The bill permits the Director, through June 30, 2017, to transfer interest earned by any state fund to the GRF as long as the source of revenue of the fund is not restricted or protected under the Ohio Constitution or federal law.

Transfers of non-GRF funds to the GRF

(Section 512.20)

The bill authorizes the Director, in both fiscal year 2016 and 2017, to transfer up to $60 million in cash to the GRF from non-GRF funds that are not constitutionally restricted. These transfers are to be made to ensure that available GRF receipts and balances are sufficient to support GRF appropriations in each fiscal year.

Federal money for fiscal stabilization and recovery

(Section 521.60)

To ensure the level of accountability and transparency required by federal law, the bill permits the Director to issue guidelines to any agency applying for federal money made available to the state for fiscal stabilization and recovery purposes and to prescribe the process by which agencies are to comply with any reporting requirements established by the federal government.

Expenditures and appropriation increases approved by Controlling Board

(Section 503.100)

The bill states that any money the Controlling Board approves for expenditure, or any increase in appropriation the Controlling Board approves, as permitted under existing law[22] is hereby appropriated for the period ending June 30, 2017.

Various uncodified funds abolished

(Section 512.60)

The bill requires the OBM Director to abolish various uncodified funds pertaining to certain state agencies, as indicated in the bill, after (1) transferring their cash balances to other funds, and (2) cancelling and reestablishing encumbrances. The amendment or repeal of any Revised Code sections that create any of the abolished funds is addressed in other parts of this analysis.

[22] R.C. 127.14, 131.35, and 131.39, not in the bill.

OHIO STATE BOARD OF CAREER COLLEGES AND SCHOOLS

- Extends the permit period for an agent representing a career college or school, from one year to up to two years.

Career college agent permit

(R.C. 3332.10)

The bill extends the permit period for an agent representing a career college or school, from one year to up to two years. Such agents distribute literature and information on behalf of such institutions. They also solicit fee-based career college programs.

CASINO CONTROL COMMISSION

Appeals from Commission orders

- Requires an appeal from an Ohio Casino Control Commission order to be taken to the Franklin County Court of Common Pleas.
- Authorizes the court to suspend a Commission order, and to fix the terms of the suspension under certain circumstances.
- Specifies the maximum time for termination of any order issued by a court of common pleas or a court of appeals suspending the effect of a Commission order generally relating to an applicant, licensee, or person excluded or ejected from a casino facility.
- Requires the court of common pleas, or the court of appeals on appeal, to render judgment in the matter within six months after the filing date of the Commission's record.
- Prohibits a court of appeals from issuing an order suspending the effect of an order that extends beyond six months after the filing date of the Commission's record.
- Specifies that an appeal of the Commission's order must be set down for hearing at the earliest possible time and must be given precedence over all other actions.

Casino Law

- States that the Commission has jurisdiction over all persons conducting or participating in the conduct of skill-based amusement machine operations.
- Grants the Commission authority to adopt rules related to the operation of skill-based amusement machines.
- Expands the Commission's authority relating to gaming agents to include employing and assigning gaming agents to assist the Commission in carrying out its duties under the Gambling Law.
- Gives the Commission and gaming agents authority to detect, investigate, seize evidence, and apprehend and arrest persons allegedly committing violations of gambling offenses under the Gambling Law, and grants the Commission access to skill-based amusement machine facilities.
- Creates a criminal penalty under the Casino Law for a person who purposely or knowingly operates a skill-based amusement machine operation in a manner other

than the manner required under the Gambling Law, and states that such premises are a nuisance subject to abatement.

- Changes the mental state throughout the Casino Law penalty provisions that must accompany certain violations from knowingly or intentionally to purposely or knowingly.

- Removes a deadline by which the Commission must have adopted initial casino-related rules.

Commissioner salary

- Adjusts a Commissioner's salary on the effective date of the bill and on July 1, 2016, and July 1, 2017.

Appeals from Commission orders

(R.C. 119.12)

The bill requires an appeal from an order of the Ohio Casino Control Commission to be taken to the Court of Common Pleas of Franklin County. Under continuing law, generally, a party adversely affected by an order of an agency may appeal to the Court of Common Pleas of the county of residence. However, appeals from orders of certain state agencies, including the Liquor Control Commission, the State Medical Board, the State Chiropractic Board, and the Board of Nursing, also must be taken to the Court of Common Pleas of Franklin County.

The bill authorizes the court to suspend an order of the Commission, and to fix the terms of the suspension, if it appears to the court that (1) an unusual hardship to the appellant will result from execution of the order pending determination of the appeal and (2) the health, safety, and welfare of the public will not be threatened by suspension of the order. Continuing law includes the same authorization for a court with respect to an appeal from an order of the State Medical Board and the State Chiropractic Board.

The bill specifies that any order issued by a court of common pleas or a court of appeals suspending the effect of an order of the Commission that limits, conditions, restricts, suspends, revokes, denies, not renews, fines, or otherwise penalizes an applicant, licensee, or person excluded or ejected from a casino facility must terminate within six months after the date of the filing of the Commission's record with the clerk of the court of common pleas. The bill prohibits a court from extending such a suspension.

The bill also requires the court of common pleas, or the court of appeals on appeal, to render judgment in the matter within six months after the date the Commission's record is filed with the clerk of the court of common pleas. A court of appeals is prohibited from issuing an order suspending the effect of an order that extends beyond six months after the date on which the Commission's record is filed with the clerk of a court of common pleas.

Finally, the bill specifies that an appeal of the Commission's order is to be set down for hearing at the earliest possible time and is to be given precedence over all other actions. Continuing law gives precedence to hearings on appeals from orders of the Liquor Control Commission, the State Medical Board, and the State Chiropractic Board.

Casino Law

(R.C. 3772.03 and 3772.99)

Skill-based amusement machine operations

To ensure the integrity of skill-based amusement machine operations, the bill states that the Commission has jurisdiction over all persons conducting or participating in the conduct of skill-based amusement machine operations, including having the authority to license, regulate, investigate, and penalize those persons in a manner consistent with the Commission's authority to do the same for casino gaming. The bill grants the Commission the authority to adopt rules under the Administrative Procedure Act, including rules establishing fees and penalties, related to the operation of skill-based amusement machines.

The bill expands the Commission's authority related to gaming agents to include employing and assigning gaming agents to assist the Commission in carrying out its duties under the Gambling Law. Under continuing law, the Commission may employ and assign gaming agents to assist the Commission is carrying out its duties under the Casino Law. Additionally, the bill states that the Commission and its gaming agents have authority with regard to the detection and investigation of, the seizure of evidence allegedly relating to, and the apprehension and arrest of persons allegedly committing violations of the Casino Law, gambling offenses under the Gambling Law, or violations of any other Ohio law that may affect the integrity of casino gaming or the operation of skill-based amusement machines. The Commission may access casino facilities and skill-based amusement machine facilities to carry out the requirements of those laws.

The bill states that a person who purposely or knowingly operates a skill-based amusement machine operation in a manner other than the manner required under the Gambling Law commits a felony, and states that the premises used or occupied in such

a manner is a nuisance subject to abatement. (The felony is of the fifth degree on a first offense and of the fourth degree on subsequent offenses.)

Under current law, the Commission was to assume jurisdiction over and oversee the regulation of skill-based amusement machines under Ohio law beginning on July 1, 2011. Under continuing law, a skill-based amusement machine is a mechanical, video, digital, or electronic device that rewards players with merchandise prizes or with redeemable vouchers for merchandise prizes. Generally, a merchandise prize and a redeemable voucher awarded for any single play may not exceed a $10-value. The vouchers or prizes must be distributed at the site of the skill-based amusement machine at the time of play. The games are not to be determined by chance, but rather by achieving the object of the game.

Other Commission provisions

Throughout the Casino Law penalty provisions, the bill changes the mental state that must accompany certain violations from knowingly or intentionally to purposely or knowingly.

The bill also removes a deadline by which the Commission must have adopted initial casino-related rules within six months of September 10, 2010, that is, by March 10, 2011. Under the bill, the Commission must continue to adopt the rules on the enumerated topics.

Commissioner salary

(R.C. 3772.02)

The bill adjusts a Commissioner's salary as indicated in the following table:

Current law	As of provision's effective date	As of July 1, 2016	As of July 1, 2017
$30,000 per year	$50,000 per year	$40,000 per year	$30,000 per year

The bill also removes a provision requiring a Commissioner's salary to be paid in monthly installments. Under continuing law, each Commissioner also receives actual and necessary expenses incurred in the discharge of the Commissioner's official duties.

CAPITAL SQUARE REVIEW AND ADVISORY BOARD

- Alternates the chairperson of the Capitol Square Review and Advisory Board between the Senate and the House of Representatives members of the Board every other year.

- Provides that the Senate majority member is to serve as chairperson in odd-numbered years and the House majority member is to serve as chairperson in even-numbered years.

Chairperson of the Capitol Square Review and Advisory Board

(R.C. 105.41)

The bill alternates the chairperson of the Capitol Square Review and Advisory Board, every other year, between the Senate and the House of Representatives. The Senate majority member is required to serve as chairperson in odd-numbered years and the House majority member will do so in even-numbered years.

Under continuing law, four of the twelve members of the board are current General Assembly members, two from each house with each house having a majority and minority member appointment. Current law provides that at the board's first meeting, the board must adopt rules for the conduct of its business and the election of its officers, and must organize by selecting a chairperson and other officers as it considers necessary. The bill provides that it must select officers other than the chairperson and the chairperson position will alternate. Under the bill, the Governor's appointees, the clerks of each legislative house, and the former members of the General Assembly who are appointed members of the board are not eligible to serve as chairperson.

DEPARTMENT OF COMMERCE

U.S. savings bonds as unclaimed funds

- Creates a presumption that a U.S. savings bond constitutes unclaimed funds under the Unclaimed Funds Law.

Securities Law

- Exempts certain persons from the dealer license requirement.
- Modifies the definition of "institutional investor."

Small Government Fire Department Services Loan Program

- Creates the Small Government Fire Department Services Revolving Loan Fund.
- Permits the State Fire Marshal to loan money from the Fund for purposes of the existing Small Government Fire Department Services Revolving Loan Program.

State Liquor Regulatory Fund

- Generally requires all money collected under the Liquor Control Law to be credited to the existing State Liquor Regulatory Fund, rather than the Liquor Control Fund as required under current law.

Liquor permitting provisions

- Expands the affirmative defense for a violation of the law prohibiting the sale of alcohol to an underage person by allowing a liquor permit holder to claim the defense after acceptance of an out-of-state identification card or a U.S. or foreign passport.
- Alters the required population range of one type of municipal corporation where a D-5j liquor permit may be issued in a community entertainment district by specifying that the municipal corporation must have a population between 7,000 and 20,000, rather than between 10,000 and 20,000 as under current law.
- Requires the D-6 liquor permit (Sunday sales of beer and intoxicating liquor) to be issued to a D liquor permit holder that is a retail food establishment or food service operation and is located in a state park that has a working farm on its property.

Sale of tasting samples, growlers

- Allows the holder of both a C-1 and C-2 liquor permit, or the holder of a C-2x liquor permit, that is the owner of a retail store within a municipal corporation or township with a specified population to obtain a D-8 liquor permit for purposes of the sale of tasting samples of beer, wine, and mixed beverages and the sale of growlers of beer.

Pawnbrokers

- Provides for a "license plus" pawnbrokers license.
- Specifies that license plus holders must maintain liquid assets in a minimum amount of $100,000 during the duration of holding a license plus, as opposed to $50,000 for a standard license.
- Specifies interest rates and fees that a licensee plus can charge.
- Permits pledgors of a licensee plus to prepay interest and fee charges.
- Requires a licensee plus to waive interest and hold pawned property until the pledgor, or the pledgor's spouse or dependent, returns to the U.S. if the licensee plus receives specified documentation.
- Revises the requirements relating to records that a pawnbroker must keep.
- Permits licensees plus to report data to law enforcement agencies electronically and communicate default notices to pledgors electronically.
- Provides for the return of misappropriated property that has been pledged or sold to a licensee plus, including police and judicial hold orders.
- Makes a pledgor or seller liable to the licensee plus for the full amount that the pledgor or seller received from the licensee plus, all charges, and other costs if certain conditions are met.
- Modifies the continuing education requirements for pawnbrokers under current law and establishes different requirements for standard licensees and licensees plus.

Real estate licenses

- Increases, from $10,000 per year to $25,000 per fiscal year, the amount of loans the Real Estate Education and Research Fund may advance annually to applicants for salesperson licenses.

- Permits a licensed real estate broker or salesperson whose license is on deposit as an armed serviceperson to take up to the longer of 12 months after the licensee's first birthday after discharge or the amount of time the licensee spent on active duty to complete continuing education requirements.

- Permits a licensee who is the spouse of a member of the armed forces an extended time period to renew the license and to complete continuing education requirements.

- Specifies that "armed forces" in the context of the licensure of real estate brokers and salespersons includes the Ohio National Guard and any other state's national guard.

Real estate appraiser assistants

- Requires that, in accordance with federal law, real estate appraiser assistants complete 14 classroom hours of continuing education instruction annually, without existing law's two-year grace period.

- Exempts real estate appraisers who have obtained a temporary certification or license from existing law's continuing education requirements.

U.S. savings bonds as unclaimed funds

(R.C. 169.051)

The bill creates a presumption that a U.S. savings bond constitutes unclaimed funds under the Unclaimed Funds Law if all of the following apply:

(1) The bonds are held or owing in Ohio by any person, or issued or owed in the course of a holder's business, or by a governmental entity;

(2) The bond owner's last known address is in Ohio;

(3) The bond has remained unclaimed and unredeemed for three years after final maturity.

Bonds that are presumed abandoned and constitute unclaimed funds escheat to the state (that is, become property of the state) three years after becoming abandoned and unclaimed property. The Director of Commerce must commence a civil action for a determination that the bond escheats and for title to the bond. After that judicial determination, the Director must redeem the bonds. After paying the costs of collection, the remaining proceeds are disposed of in the same manner as other unclaimed funds.

The bill also creates a procedure by which persons claiming the escheated bond, or the proceeds from the bond, may seek payment. In the Director's discretion, the Director may pay the claim less expenses and costs the state incurred in securing full title to the bond.

Securities Law – "institutional investors" and dealer license exemption

(R.C. 1707.01 and 1707.14)

The bill exempts from the dealer license requirement persons who have no Ohio place of business, are federally registered, and effect transactions in Ohio only with institutional investors.

The bill also modifies the definition of "institutional investor" under the Ohio Securities Law to more specifically identify the types of entities included and, for many institutional investors, create an asset threshold of $10,000,000.

Under current law, "institutional investor" means:	Under the bill, "institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity:
A bank.	A bank or international banking institution.
An insurance company.	An insurance company. A separate account of an insurance company.
Pension fund or pension fund trust, employees' profit-sharing fund, or employees' profit-sharing trust.	An employee pension, profit-sharing, or benefit plan if the plan has total assets in excess of $10,000,000 or its investment decisions are made by certain types of fiduciaries. Certain plans established and maintained by a state or local government for the benefit of its employees, if the plan has total assets in excess of $10,000,000 or its investment decisions are made by a duly designated public official or by a certain type of fiduciary.
Any trust in respect of which a bank is trustee or cotrustee.	A trust, if it has total assets in excess of $10,000,000, its trustee is a bank, and its participants are exclusively plans of the types described in the cell above, regardless of the size of their assets, except a trust that includes as participants certain similar self-directed plans.

Under current law, "institutional investor" means:	Under the bill, "institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity:
Any association engaged, as a substantial part of its business or operations, in purchasing or holding securities.	An investment company as defined in the federal Investment Company Act.
	A federally registered broker-dealer or a state licensed dealer.
	A 501(c)(3) organization or specified type of business form with total assets in excess of $10,000,000.
	A licensed small business investment company with total assets in excess of $10,000,000.
	A private business development company with total assets in excess of $10,000,000.
	A federal covered investment adviser acting for its own account.
	A "qualified institutional buyer."
	A "major U.S. institutional investor."
A corporation. "Institutional investor" does not include any business entity formed for the primary purpose of evading the Ohio Securities Law.	Any other person, other than an individual, of institutional character with total assets in excess of $10,000,000 not organized for the specific purpose of evading the Ohio Securities Law.
	Any other person specified by rule adopted or order issued under the Ohio Securities Law.

Small Government Fire Department Services Revolving Loan Program

(R.C. 3737.17)

The bill creates the Small Government Fire Department Services Revolving Loan Fund and permits the State Fire Marshal to loan moneys from the Fund for the purposes of the Small Government Fire Department Services Revolving Loan Program. Under continuing law, the Program administers loans to qualifying small governments to expedite purchases of major equipment for fire fighting, ambulance, emergency medical, or rescue services, and to expedite projects for the construction or renovation of fire department buildings.

The Fund will consist of moneys from repaid loans under the Program, investment earnings on money in the Fund, and moneys appropriated to the Fund.

State Liquor Regulatory Fund

(R.C. 4301.12)

The bill generally requires all money collected under the Liquor Control Law to be credited to the existing State Liquor Regulatory Fund rather than the Liquor Control Fund as provided under current law. Finally, the bill removes a provision regarding the use of money in the Liquor Control Fund for paying the operating expenses of the Liquor Control Commission.

Affirmative defense to sale of alcohol to a minor

(R.C. 4301.61 and 4301.639)

The bill expands the affirmative defense to a violation of the Alcoholic Beverage Control Law for which age is an element of the offense. Under current law, no permit holder, agent or employee of a permit holder, or any other person may be found guilty of a violation of the Alcoholic Beverage Law for which age is an element of the offense if the Liquor Control Commission or a court finds all of the following:

(1) That the person buying the alcohol exhibited to the permit holder, the agent or employee of the permit holder, or the other person a driver's or commercial driver's license, an identification card issued by the Registrar of Motor Vehicles, or a military identification card issued by the U.S. Department of Defense that displays a picture of the individual for whom the license or card was issued and shows that the person buying was then at least 21 years of age if the person was buying beer or intoxicating liquor, or that the person was then at least 18 years of age if the person was buying any low-alcohol beverage;

(2) That the permit holder, the agent or employee of the permit holder, or the other person made a bona fide effort to ascertain the true age of the person buying the alcohol by checking the identification presented, at the time of the purchase, to ascertain that the description on the identification compared with the appearance of the buyer and that the identification presented had not been altered in any way; and

(3) That the permit holder, the agent or employee of the permit holder, or the other person had reason to believe that the person buying was of legal age.

The bill expands the types of identification that may be checked for purposes of claiming the affirmative defense above to include an identification card issued by another state and a U.S. or foreign passport.

D-5j liquor permit population requirements

(R.C. 4303.181)

The bill alters the population requirements for one type of municipal corporation in which a D-5j liquor permit may be issued. A D-5j liquor permit generally authorizes the permit holder to sell beer, wine, mixed beverages, and spirituous liquor by the individual glass or container for consumption on the permit premises and sell beer, wine, and mixed beverages for off-premises consumption. Under current law, the Division of Liquor Control may issue a D-5j liquor permit in certain municipal corporations or townships in which a community entertainment district has been established and that meet certain criteria. Under one set of criteria, a D-5j liquor permit may be issued in a municipal corporation to which all of the following apply:

(1) The municipal corporation has a population between 10,000 and 20,000;

(2) The municipal corporation was incorporated as a village prior to calendar year 1860 and currently has a historic downtown business district; and

(3) The municipal corporation is located in the same county as another municipal corporation with at least one community entertainment district.

The bill alters the population requirement by specifying that such a municipal corporation must have a population between 7,000 and 20,000.

D-6 liquor permit for certain state parks

(R.C. 4303.182)

The bill requires the Division of Liquor Control to issue a D-6 liquor permit to the holder of any D liquor permit for a premises that is:

(1) Licensed as a retail food establishment or food service operation; and

(2) Located in a state park that is established or dedicated under state law and has a working farm on its property.

Under the bill, the D-6 permit authorizes Sunday sales of beer or intoxicating liquor at the D liquor permit premises between 10 a.m. and midnight regardless of whether the sales have been authorized by a local option election.

Currently, the Division must issue a D-6 permit to certain A (manufacturers of beer, wine, mixed beverages, or spirituous liquor), C (retailers of beer or intoxicating liquor for off-premises consumption), and D liquor permit holders. Those liquor permit holders may sell beer, wine, mixed beverages, or spirituous liquor, as applicable, on Sunday under the D-6 permit. Sales must take place on Sunday between the hours of 10 a.m. to midnight or 11 a.m. to midnight depending on the local option held to authorize Sunday sales.

Sale of tasting samples, growlers

(R.C. 4303.184)

The bill allows the holder of both a C-1 and C-2 liquor permit, or the holder of a C-2x liquor permit, that is the owner of a retail store within a municipal corporation or township with a population of 15,000 or less to obtain a D-8 liquor permit. Thus, as the holder of a D-8 permit, the C-1 and C-2 permit holder or C-2x permit holder may sell both of the following:

(1) Tasting samples of beer, wine, and mixed beverages for on-premises consumption under specified circumstances; and

(2) Beer that is dispensed only in glass containers whose capacity does not exceed one gallon (growler) for off-premises consumption, provided the containers are sealed, marked, and transported in accordance with current law.

Under current law, the C-1 permit authorizes the sale of beer for off-premises consumption and the C-2 permit authorizes the sale of wine and mixed beverages for off-premises consumption. The C-2x permit allows the sale of beer, wine, and mixed beverages for off-premises consumption.

Pawnbrokers

Qualifications for license

(R.C. 1321.20, 4727.01, 4727.02, 4727.03, 4727.04, 4727.19, and 4727.20)

Current law requires a person acting as a pawnbroker to obtain a license from the Superintendent of Financial Institutions (Superintendent). The bill modifies this requirement to create two classifications of licenses: a "license plus" and a "standard license." The requirements for a standard licensee are similar to the requirements under current law, whereas the requirements for licensees plus are generally more stringent. The bill permits the Superintendent to grant a license to any person having experience and fitness in the capacity involved relating to the license being sought.

The bill requires a licensee plus to pay a nonrefundable initial investigation fee of $300, as opposed to $200 for a standard license, and requires the applicant to indicate on the application whether the applicant is seeking a standard license or a license plus.

The bill also increases the liquid assets and surety bonds a licensed pawnbroker must maintain and obtain in order to conduct business in Ohio. The bill requires licensee plus holders to maintain liquid assets in a minimum amount of $100,000 during the duration of holding a license plus, as opposed to $50,000 for a standard license and under current law. The bill also requires a licensee plus to obtain a surety bond issued by a bonding company or insurance company authorized to conduct business in Ohio in the penal sum of at least $200,000 and file a copy of the bond with the Superintendent. Standard licensees are required to obtain a bond in an amount of $25,000.

The bill removes the biennial license provisions under current law and instead establishes that all licenses issued or renewed on or after January 1, 2006, expire on June 30th of each year and must be renewed annually.

Rates and fees

(R.C. 4727.06 and 4727.061, conforming change in R.C. 4727.07)

Continuing law limits the amount of interest and other charges a pawnbroker may charge for a loan. The bill sets the maximum interest rates and fees for standard licensees at the same level as current law and sets lower levels for licensees plus. The bill prohibits a licensee plus from charging interest for any loan more than 3% per month or fraction of a month on unpaid principal. A licensee plus may receive a reasonable fee not to exceed 1/10 of the value of the loan per month or fraction of a month for (1) investigating title, (2) appraising pledged or purchased items, (3) storing and insuring property, (4) closing a loan, and (5) other incidental costs. Standard licensees may charge a maximum of 5% per month or fraction of a month and may charge (1) $4 per month or fraction of a month for all pledged articles held as security or stored for a loan, (2) $4 plus the actual cost of shipping, when the standard licensee is to deliver or forward the pledged article by express or parcel post to the pledgor, (3) $2 for the loss of the original statement issued to the pledgor by the standard licensee upon redemption of the pledged articles, and (4) $2 for the cost of notifying a pledgor by mail that the pledged articles may be forfeited.

The bill expressly prohibits a licensee plus from directly or indirectly charging, receiving, or contracting for any interest or fees greater than those described above for a licensee plus.

Prepayment of interest or storage charges

(R.C. 4727.06(D) and 4727.061(D))

The bill permits a pledgor of a licensee plus to pay a portion of the principal loan balance at any time, to prepay interest free of charge, and to redeem a pawn loan at any time beginning 72 hours after the pledge was made. The bill prohibits prepayment to standard licensees, except when the pledgor redeems the pledged property. This prohibition is the same as current law.

Military deployment exception

(R.C. 4727.062)

The bill requires a licensee plus to waive any unpaid interest charges under certain circumstances if a pledgor or a pledgor's immediate family member was or is to be deployed pursuant to military service after the pawn transaction began. Except in the case of misappropriated property, the bill requires a licensee plus to waive interest and hold pawned property until 60 days after the pledgor, or the pledgor's spouse or dependent, returns to the U.S. if the licensee plus receives documentation that (1) the pledgor, or the pledgor's spouse or dependent, is in the military and, (2) after the pawn transaction began, the pledgor, spouse, or dependent was or is to be deployed relating to a military conflict.

Records requirements

(R.C. 4727.07, 4727.08, and 4727.09)

Continuing law requires licensees to keep and use separate pawn forms and purchase forms approved by the Superintendent. The bill adds new information that must be provided on the forms. In addition to the information required under continuing law a standard licensee or licensee plus must include the licensee's name and the employee identification number of any other employee involved in the transaction.

The bill permits a standard licensee or licensee plus to have and maintain separate forms for all of the following:

- New loans;
- Loan redemptions;
- Loan extensions;
- Partial payments on loans;

- Forfeited loans;
- Merchandise purchase receipts;
- Merchandise sales receipts;
- Lost ticket affidavits;
- Requested police copies not picked up by appropriate law enforcement;
- Other circumstances the licensee encounters.

The bill allows a licensee to maintain the statements and all forms in numerical order by transaction number in separate files. Current law requires the statements and forms to be maintained in active and inactive files.

Daily report

(R.C. 4505.102, 4727.09, and 4727.11)

Continuing law requires a pawnbroker to furnish certain information to the chief of police of the municipal corporation or township in which the pawnbroker's place of business is located, or to the sheriff of the county in which the place of business is located if the place of business is not within a municipal corporation or township with a chief of police. The bill requires that the report additionally include the name of the licensee, and the employee identification number of any employee involved in the transaction.

Additionally, the bill consolidates oversight of this daily report with respect to licensees plus. The bill requires the Superintendent to approve a secure law enforcement database reporting system for licensees plus to transmit the required information. The bill specifies that the completed form may be submitted electronically or by digital media format (current law and the bill's provisions for standard licensees require a magnetic media format) and that a licensee plus, pledgor, or seller cannot be charged a fee for complying with these records requirements. If a licensee plus submits the required law enforcement information electronically, the bill permits the licensee plus to send a pending forfeiture notice to a pledgor who fails to pay interest on a pawn loan after one month from the date of the loan or the date on which the last interest payment was due instead of two months as required under current law and the bill's provisions for standard licensees.

The bill further specifies that, except for the description of all property pledged or sold by the licensee and the number of the corresponding pawn or purchase form contained in the daily report, all information furnished to law enforcement by a

standard licensee or licensee plus is confidential and is not a public record under Ohio's Public Records Law.

Duties of the Superintendent of Financial Institutions

(R.C. 4727.09(C) and 4727.13)

The bill requires the Superintendent to approve a secure law enforcement database reporting system for use by licensees plus to make the required daily records available to law enforcement officers. All information submitted to the database must be purged two years from the date of the transaction. The Superintendent may adopt rules that allow for remote examination of electronic data held by a licensee plus and rules describing the data to be used in the secure law enforcement database reporting system. The bill also requires the Superintendent to adopt rules implementing the issuing of new licensees plus and the transition of pawnbrokers holding standard licenses on the bill's effective date.

Information furnished to the Superintendent in accordance with rules the Superintendent adopts is confidential and is not a public record, except that the Superintendent may prepare a report containing aggregate numbers from all licensees, and, if prepared, the report is a public record.

Employment of certain felons

(R.C. 4727.02)

The bill prohibits a pawnbroker from employing an individual to write a pawn transaction, buy or sell merchandise, or supervise another employee who writes pawn transactions or buys or sells merchandise, that has been convicted of a felony involving dishonesty or breach of trust.

Biennial report

(R.C. 4713.13(G))

The bill allows the Superintendent to adopt rules that require a standard licensee or licensee plus to file a biennial report, which discloses all relevant pawn transaction activity occurring during the previous two calendar years, with the Superintendent before the first day of March of the filing year. All information submitted in the report is confidential and not a public record except that the Superintendent is allowed to furnish a report containing aggregate numbers from all licenses. The aggregate report is a public record.

If the Superintendent requires such a biennial report, the report must include all of the following:

- The number of pawn transactions made by the licensee during the previous calendar year and the aggregate amount financed on the pawn transactions;
- The number of pledged property items redeemed during the previous calendar year and the amount financed on the redeemed property;
- The number of items surrendered to law enforcement;
- The total dollar amount of pawn loans surrendered to law enforcement;
- The number of pawn loans that were not redeemed;
- The total dollar amount of pawn loans that were not redeemed;
- The total number of full-time equivalent employees at the pawnshop as of the last day of December of the preceding year.

Holding pawned or purchased items

(R.C. 4727.12)

The bill establishes separate requirements pursuant to which a standard licensee and a licensee plus must retain any goods purchased by the licensee. Under the bill, a licensee plus must retain any purchased goods or articles for 20 days after the purchase is made. A standard licensee must retain purchased goods for 15 days.

Reclaiming stolen property

The bill modifies the procedures for returning stolen property that has been purchased or pawned and sets different requirements for standard licensees and licensees plus.

Law enforcement hold order

(R.C. 4727.12)

The bill sets new procedures for returning stolen property that has been purchased or pawned and is being held by a licensee plus. Under the bill, if a law enforcement officer has reasonable suspicion to believe that property in the possession of a licensee plus has been misappropriated, the officer can issue a police hold order directing the licensee plus not to release or dispose of the property. The police hold

order must contain (1) the name of the licensee plus, (2) a complete description of the property being held, including any model or serial number, (3) the expiration date of the order, (4) the name, title, and identification number of the law enforcement officer issuing the order and the name and address of the law enforcement agency for which the officer is acting, and (5) the number, if any, assigned to the case by the law enforcement agency.

The police hold order takes effect when the licensee plus, or the licensee plus' designee, receives a copy of the hold order signed by the licensee plus or designee, or when the licensee plus or designee refuses to sign the hold order. The initial order terminates after 60 days; however, a law enforcement officer may extend the order for one additional successive 60-day period by giving written notification to the licensee plus before the end of the initial period. After the additional 60-day period, the bill prohibits a law enforcement officer from issuing a new police hold order for the same property. A police hold order is no longer effective when the order terminates or earlier with written release by the law enforcement officer, or when a court orders the release or disposal of the property.

Evidentiary hold order

(R.C. 4713.12)

When property in the possession of a licensee plus is needed as evidence in a pending criminal action, the bill permits a law enforcement agency to issue an evidentiary hold order that prohibits a licensee plus from release or disposing of the property. A licensee plus who receives an evidentiary hold order is required to hold the property until the court notifies the licensee in writing of the disposition of the criminal action. The bill requires the court to notify the licensee plus within 15 days of the disposition of the action.

The evidentiary hold order must contain (1) the name of the licensee plus, a complete description of the property being held, including any model and serial number, (2) the expiration date of the hold order, (3) the name and address of the law enforcement agency issuing the hold order, and (4) the number and caption of the court action. The hold order is no longer effective after it terminates or a court orders the release or disposal of the property.

Recovery by claimant

(R.C. 4727.23 and 4727.24)

Under the bill, a claimant seeking the restoration of the claimant's misappropriated property must notify the licensee plus of the claim in writing

including a complete and accurate description of the property and proof that the claimant owns the property. If the property was stolen, the claimant must also include a legible copy of a law enforcement agency report indicating that the property was misappropriated. The bill prohibits the licensee plus from disposing of the property for 30 days after receipt of the notice.

If the claimant and the licensee plus do not resolve the claim within ten days after the licensee plus receives written notice of the claim, the claimant can bring a legal action to require the licensee plus to return the property to the claimant. After the claimant notifies the licensee plus of the legal action, the licensee plus is prohibited from disposing of the property until the court disposes of the action, disposes of the property, or allows the licensee plus to dispose of the property.

In lieu of a legal action, the bill permits a claimant to pay the licensee plus the amount of money financed or paid by the licensee plus for the property. The licensee plus is then required to return the property to the claimant.

Leased property

(R.C. 4727.25)

If a person pledges or sells an item to a licensee plus that has been leased, and the property did not have any mark identifying it as a lessor's item, the licensee plus is required to return the item to the lessor if the lessor does both of the following:

- Provides the licensee plus with evidence that the item is the lessor's property and was leased to the pledgor or seller at the time the property was pledged or sold to the licensee plus;
- Pays the licensee plus one of the following:
    - The amount financed and the finance fee for the pawn transaction if the property was pledged to the licensee plus;
    - The amount the licensee plus paid the seller if the property was sold to the licensee plus.

The licensee plus is not liable to the pledgor or seller of an item that a lessor recovers for returning the property to the lessor.

Pledgor or seller liability

(R.C. 4727.26)

The bill specifies that a pledgor or seller of property is liable to a licensee plus for the full amount that the pledgor or seller received from the licensee plus, all charges owed by the pledgor for the licensee plus transaction, and attorney's fees and other costs as allowed by the Rules of Civil Procedure if all of the following conditions are met:

- The claimant files a police report and fully cooperates with the prosecution of an action against the pledgor or seller.
- The claimant brings a legal action against the licensee plus and both of the following apply:
    - The court determines that the pledgor or seller misappropriated the property from the claimant.
    - The court orders the licensee plus to return the property to the claimant.

Standard licensees

(R.C. 4727.12(B))

Under current law and the bill's provisions for standard licensees, if the chief of police or sheriff has probable cause to believe that a pawned or purchased article is stolen property, the chief or sheriff must notify the standard licensee in writing. The standard licensee must retain the article until the expiration of 30 days after the day on which the standard licensee is first required to provide information about the article in the daily report to law enforcement. If the chief or sheriff determines the true identity of the owner, the standard licensee may restore the property to the true owner and charge the person who pledged or sold the property the amount the standard licensee paid or loaned for the property, plus interest and storage charges. The true owner may recover the property in an action at law if the standard licensee fails to return the stolen property.

Continuing education

(R.C. 4727.19)

Current law requires pawnbrokers to meet certain continuing education requirements. The bill modifies these requirements and establishes different

requirements for standard licensees and licensees plus. Under the bill, licensees plus have a higher standard to meet and must complete 14 hours of continuing education instruction biennially. Standard licensees must complete 12 hours biennially, the same as the current law requirements.

Real estate licenses

Real Estate Education and Research Fund

(R.C. 4735.06)

The bill increases, from $10,000 per year to $25,000 per fiscal year, the overall limit of the amount of loans the Real Estate Education and Research Fund is permitted to lend to applicants for salesperson licenses. Under continuing law, these individual loans, not exceeding $2,000, may be used by applicants to complete education requirements for licensure.

Real estate broker and salesperson licenses – military

(R.C. 4735.13 and 4735.141)

The bill changes the time period within which a licensed real estate broker or salesperson who is a member of the armed forces must complete existing continuing education requirements. Specifically, the bill permits a broker or salesperson whose license is on deposit as an armed serviceperson to take up to the longer of 12 months after the broker's or salesperson's first birthday after discharge (continuing law) or the amount of time equal to the total number of months the licensee spent on active duty (added by the bill). The bill states that this extension must not exceed the total number of months that the licensee served in active duty. The broker or salesperson must submit proper documentation of active duty service and the length of that service to the Superintendent of the Division of Real Estate and Professional Licensing.

Similarly, the bill permits a licensee, who is the spouse of a member of the armed forces whose service results in the licensee's absence from Ohio (or in the case of a licensee who holds a license through a reciprocity agreement, the spouse's service results in the licensee's absence from the licensee's state of residence), to take up to the same amount of time as described in the paragraph above to complete continuing education requirements. The bill requires the licensee to submit proper documentation of the spouse's active duty service and the length of that service. The bill also extends the time period within which such a licensee must renew the license to the renewal date that follows the date of the spouse's discharge from the armed forces.

The bill specifies that "armed forces" means the U.S. armed forces, a reserve component of the U.S. armed forces, the Ohio National Guard, and the national guard of any other state.

Real estate appraiser assistants – continuing education

(R.C. 4763.01 and 4763.07)

The bill requires, in accordance with federal law, that each state-registered real estate appraiser assistant annually complete, and submit proof of successfully completing, a minimum of 14 classroom hours of continuing education instruction in courses or seminars approved by the Real Estate Appraiser Board. Current law exempts an appraiser assistant from these requirements for the first two years of being classified as an appraiser assistant. The bill removes this grace period.

Continuing law requires the completion of 14 hours of continuing education instruction for state-certified general real estate appraisers, state-certified residential real estate appraisers, and state-licensed residential real estate appraisers. The bill exempts appraisers with a certification or license from another state that is temporarily recognized in Ohio.

The bill removes "appraisal consulting" and "appraisal consulting service" from the Real Estate Appraiser Law, as these terms appear to no longer be used in the industry.

CONTROLLING BOARD

Authority regarding unanticipated revenue

- Prohibits the Controlling Board from authorizing expenditure of unanticipated revenue received by the state if the revenue exceeds the lesser of:

  --10% of the amount appropriated for the specific or related purpose or item for that fiscal year; or

  --$10 million.

- Prohibits the Controlling Board from creating additional funds to receive unanticipated revenue in an appropriation act for the biennium in which the new revenues are received if the revenue exceeds $10 million.

- Requires the General Assembly, as a consequence of these prohibitions, to take action regarding the unanticipated revenue.

Authority regarding unanticipated revenue

(R.C. 131.35)

Expenditure

The bill imposes limitations on the Controlling Board's authority to approve the expenditure of certain federal and nonfederal funds.

Federal funds

The federal funds to which this provision of the bill applies are those received into any state fund from which transfers may be made by the Controlling Board under existing law.

Currently:

(1) If the federal funds received are greater than the amount of such funds appropriated by the General Assembly for a specific purpose, the Board may authorize the expenditure of those excess funds.

(2) If the federal funds received are not anticipated in an appropriations act for the biennium in which the new revenues are received, the Board may create funds for

those revenues and authorize expenditures from those additional funds during that biennium.

The bill stipulates that the amount of any expenditure authorized under (1) or (2), above, for a specific or related purpose or item in any fiscal year cannot exceed 10% of the amount appropriated by the General Assembly for that specific or related purpose or item for that fiscal year, or $10 million, whichever amount is less.

Nonfederal funds

The nonfederal funds to which this provision of the bill applies are those received into any state fund from which transfers may be made by the Controlling Board under existing law, as well as the Waterways Safety Fund and the Wildlife Fund.

Currently:

(1) If the nonfederal funds received are greater than the amount of such funds appropriated, the Board may increase the appropriation and approve the expenditure of those excess funds.

(2) If the nonfederal funds received are not anticipated in an appropriations act for the biennium in which the new revenues are received, the Board may create funds to receive those revenues and authorize expenditures from those additional funds during that biennium.

The bill stipulates that the amount of any expenditure authorized by the Board under (1) or (2), above, for a specific or related purpose or item in any fiscal year cannot exceed 10% of the amount appropriated by the General Assembly for that specific or related purpose or item for that fiscal year, or $10 million, whichever amount is less.

Creation of new funds

The bill also prohibits the Controlling Board from creating any additional funds under its existing authority if the revenue received that was not anticipated in an appropriation act exceeds $10 million.

Action by the General Assembly

As a result of these limitations on the Controlling Board's authority, the General Assembly is required to take action regarding the unanticipated revenue.

DEVELOPMENT SERVICES AGENCY

Local Government Safety Capital Grant Program

- Establishes the Local Government Safety Capital Grant Program under which the Local Government Innovation Council is to award grants to political subdivisions to be used for the purchase of vehicles, equipment, facilities, or systems needed to enhance public safety.

- Specifies that the total grants awarded to an individual political subdivision cannot exceed $100,000.

Fund closures

- Abolishes the Motion Picture Tax Credit Program Operating Fund and redirects the Fund's revenue to the Business Assistance Fund.

- Abolishes the Industrial Site Improvements Fund and the Rural Industrial Park Loan Fund.

Report deadlines

- Changes, from August 1 to October 1, the due date of the annual report that must be prepared by the Development Services Agency (DSA) regarding its bond financed economic assistance programs.

- Moves from January 7 to August 1 of each year the date by which DSA must submit a report regarding the Career Exploration Internship Program to the Governor and General Assembly leaders.

Housing Trust Reserve Fund

- Creates the Housing Trust Reserve Fund in the state treasury.

- Provides that the Reserve Fund is to consist of specified housing trust fund fees received each year by the Treasurer of State.

- Permits the Director to request the Director of Budget and Management to transfer money from the Reserve Fund to the Low- and Moderate-Income Housing Trust Fund if money in the Fund falls below a certain level.

Entrepreneurial business incubators report

- Requires DSA to produce and post on its website by December 31, 2015 a report that maps and reviews entrepreneurial business incubators in Ohio.

Local Government Safety Capital Grant Program

(Section 767.10)

The bill establishes the Local Government Safety Capital Grant Program to be administered by the existing Local Government Innovation Council.[23] Under the Program, the Council may award grants to political subdivisions to be used for the purchase of vehicles, equipment, facilities, or systems needed to enhance public safety.

Applications are to be submitted to the Development Services Agency (DSA) on a form specified by the DSA Director. DSA is to forward the applications to the Council for evaluation and selection. The Council cannot award more than $100,000 in total grants to an individual political subdivision. Grants are to be made from the Local Government Safety Capital Fund, which is created by the bill in the state treasury. The Fund is to consist of money appropriated to it.

Fund closures

Motion Picture Tax Credit Program Operating Fund

(R.C. 122.174 and 122.85)

The bill abolishes the Motion Picture Tax Credit Program Operating Fund. The Fund consists of application fees paid by motion picture companies applying for certification of a motion picture as a tax credit-eligible production and all grants, gifts, fees, and contributions made to the Director of Development Services for marketing and promotion of the motion picture industry in Ohio. Money in the Fund is used to cover administrative costs of the Motion Picture Tax Credit Program and the Ohio Film Office.

Under the bill, the revenue currently required to be deposited into the Fund is to be deposited into the existing Business Assistance Fund instead. The Business Assistance Fund is used by the Director to pay expenses related to the administration of the Business Services Division of DSA.

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[23] See R.C. 189.03, not in the bill. The Council expires December 31, 2015; R.C. 189.10, not in the bill.

Industrial Site Improvements Fund

(R.C. 122.95 and 122.951; R.C. 122.952 (repealed))

Under current law, the Director may make grants from the Industrial Site Improvement Fund to eligible counties for the purpose of acquiring commercial or industrial land or buildings and making improvements to commercial or industrial areas within a county, if the grant would create new jobs or preserve existing jobs. The Fund consists of money appropriated to it by the General Assembly.

The bill abolishes the Fund, but retains the grant program.

Rural Industrial Park Loan Fund

(R.C. 122.26 (repealed))

The bill abolishes the Rural Industrial Park Loan Fund, which is currently used by the Director to provide financial assistance in the form of loans and loan guarantees for the development or improvement of industrial parks. The Rural Industrial Park Loan Program, however, is retained under the bill.

Report deadlines

Annual financial report regarding economic assistance programs

(R.C. 122.64)

The Director is currently required to make a report of the activities and operations of DSA's bond financed economic assistance programs for the preceding fiscal year and submit that report to the Governor and General Assembly by August 1 of each year. The bill changes the due date to October 1.

Career Exploration Internship Program report deadline

(R.C. 122.177)

The bill moves from January 7 to August 1 of each year, until 2017, the date by which DSA must submit a report regarding the Career Exploration Internship Program to the Governor and General Assembly leaders. Under current law, DSA administers the Program to award grants to businesses that employ a student intern in a career exploration internship.

Housing Trust Reserve Fund

(R.C. 174.02, 174.09, and 319.63)

The bill creates the Housing Trust Reserve Fund in the state treasury. It is to consist of specified housing trust fund fees collected by county recorders under existing law and paid to the Treasurer of State. Currently, the Treasurer of State deposits the first $50 million of those housing trust fund fees received each year in the Low- and Moderate-Income Housing Trust Fund and deposits any amounts in excess of $50 million into the GRF. Under the bill, any amounts received in excess of $50 million are to be deposited into the Reserve Fund *unless* the cash balance of the Reserve Fund is greater than $15 million. In that event, the Treasurer of State must deposit any amounts received in excess of $50 million into the GRF.

If, in the prior fiscal year, the Treasurer of State received less than $50 million of housing trust fund fees, the Director may request the Director of Budget and Management to transfer money from the Reserve Fund to the Low- and Moderate-Income Housing Trust Fund. Based on the information provided by the DSA Director regarding the transfer request, the OBM Director is to determine the amount to be transferred. However, the amount transferred, when combined with the housing trust fund fees received by the Treasurer of State in the prior fiscal year, cannot exceed $50 million.

Entrepreneurial business incubators report

(Section 257.90)

Under the bill, DSA must produce a report mapping and reviewing entrepreneurial business incubators (EBIs) in Ohio. An EBI is an entity supporting startup companies, offering a collaborative environment, and providing access to support services, technical expertise, and business assistance resources to help innovators grow their business ideas into independent job-creating companies. The report must be produced and made publicly available on the DSA website by December 31, 2015.

The report must:

- Identify locations and available support services, unmet service areas, and duplication of service at EBIs;
- Classify the industry of member entrepreneurs receiving services by the following categories: advanced manufacturing, aerospace and aviation, agribusiness, food processing, automotive supply chain, biohealth,

energy, information technology, polymers, chemicals, and additional industry sectors, as determined by DSA;

- Gather data on member entrepreneurs based on jobs, capital investment, and sales; and

- Describe characteristics of EBIs that successfully graduate companies to be independent job creators for Ohio.

DEPARTMENT OF DEVELOPMENTAL DISABILITIES

Closure of developmental centers

- Modifies the procedures to be followed by the Governor when announcing an intent to close a developmental center.
- Provides for the creation of a developmental center closure commission to make recommendations to the General Assembly regarding the closure.
- Repeals a requirement that the Legislative Service Commission prepare a report addressing issues related to the closure of a developmental center.

Medicaid services provided by sheltered workshops

- Requires a Medicaid waiver component administered by the Ohio Department of Disabilities (ODODD) that covers adult day services provided by sheltered workshops on the provision's effective date to continue covering the services.
- Requires that the Medicaid payment rates for adult day services provided by sheltered workshops during fiscal years 2016 and 2017 be no less than the June 30, 2015, Medicaid payment rates for those services.
- Prohibits a sheltered workshop with a Medicaid provider agreement to provide adult day services from decreasing the number of Medicaid recipients it is willing and able to serve.
- Specifies the General Assembly's intent that individuals currently being served through the existing array of adult day services be fully informed of any new home and community-based services and continue receiving services in a variety of settings.

Supported living certificates

- Provides that a person or government entity's authority to provide Medicaid-funded supported living under a supported living certificate is revoked automatically or is to be denied renewal if the person or government entity's Medicaid provider agreement to provide supported living is revoked or denied revalidation.
- Increases to five years (from one year) the period during which a person or government entity is prohibited from applying for a supported living certificate following an order refusing to issue or renew the certificate.

Residential facility licensure

- Repeals certain provisions related to the licensure of residential facilities by ODODD.
- Permits the ODODD Director to assign the responsibility for conducting surveys and inspections to the Ohio Department of Health (ODH).
- Authorizes the renewal of interim licenses for 180 (rather than 150) days.
- Requires a licensee to transfer records to the new licensee or management contractor when the identity of the licensee or contractor changes significantly.

Incentives to convert ICF/IID beds

- Permits the Director to forgive the outstanding balance a county board of developmental disabilities (CBDD) or nonprofit, private agency otherwise owes under an agreement regarding the construction, acquisition, or renovation of a residential facility if certain conditions are met.
- Permits the Director to change the terms of an agreement with a CBDD or private, nonprofit agency regarding the construction, acquisition, or renovation of a residential facility if certain conditions are met.

Consent for medical treatment

- Authorizes a guardian (or court in the absence of a guardian) of a resident of an institution for the mentally retarded who is physically or mentally unable to receive information or who has been adjudicated incompetent to give informed consent to an experimental procedure on the resident's behalf.
- Eliminates provisions requiring informed consent before a resident of an institution for the mentally retarded receives convulsive therapy, major aversive interventions, or unusual or hazardous treatment procedures.

ICF/IID's Medicaid rates for low resource utilization residents

- Specifies the Medicaid rate paid to an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) in peer group 1 for a Medicaid recipient who is admitted to the ICF/IID on or after July 1, 2015, and is placed in the chronic behaviors and typical adaptive needs classification or the typical adaptive needs and nonsignificant behaviors classification.

Efforts to reduce the number of ICF/IID beds

- Specifies interim benchmarks that ODODD must strive to achieve in converting ICF/IID to be used for home and community-based services (HCBS).

Admissions to ICFs/IID

- Prohibits, with certain exceptions, an ICF/IID with more than eight beds from admitting an individual as a resident unless specified conditions are met.

Enrolling ICF/IID residents

- Requires ODODD to develop and make available to all ICFs/IID a written pamphlet that describes the services that Medicaid covers under the ICF/IID benefit and the HCBS covered by ODODD-administered Medicaid waiver programs.

- Requires ICFs/IID to provide the pamphlet to residents and their guardians, to discuss the pamphlet with them at certain times, and to refer to CBDDs those residents who indicate interest in enrolling in an ODODD-administered Medicaid waiver program.

- Requires a CBDD to enroll the resident in an ODODD-administered Medicaid waiver program if specified conditions are met.

- Makes ODODD responsible for the nonfederal share of the Medicaid expenditures for the HCBS received by such an ICF/IID resident so enrolled in an ODODD-administered Medicaid waiver program.

ICF/IID sleeping room occupancy

- With certain exceptions, prohibits an ICF/IID from allowing more than two residents to share a sleeping room.

- Requires an ICF/IID in which more than two residents share a sleeping room to submit to ODODD a plan to come into compliance with the occupancy limit by June 30, 2025.

Medicaid rates for certain ICFs/IID

- Provides for certain modifications in an ICF/IID's Medicaid payment rate for a certain period following the ICF/IID (1) downsizing, (2) partially converting to a provider of home and community-based services, or (3) beginning to participate in Medicaid after obtaining beds from certain downsized ICFs/IID.

Service and support administrators

- Prohibits service and support administrators for county boards of developmental disabilities from providing programs or services to individuals with mental retardation or developmental disabilities through self-employment.

ICF/IID franchise permit fees

- Reduces the per bed per day franchise permit fee charged to ICFs/IID from $18.17 to $18.07 for fiscal year 2016 and to $18.02 for fiscal year 2017 and thereafter.

- Requires ODODD to notify, electronically or by U.S. Postal Service, ICFs/IID of (1) the amount of their franchise permit fees and (2) the date, time, and place of hearings to be held for appeals regarding the fees.

Conversion of beds

- Provides that the Medicaid Director is not required to conduct an adjudication when (1) terminating an ICF/IID's provider agreement due to the ICF/IID converting all of its beds to providing HCBS or (2) amending an ICF/IID's provider agreement to reflect its reduced capacity resulting from a conversion of some of its beds.

- Provides that the prohibition against making a Medicaid payment to an ICF/IID for the day a Medicaid recipient is discharged does not apply if the recipient is discharged because all of the beds in the ICF/IID are converted to providing HCBS.

- Revises the requirements and procedures for ODODD to terminate the franchise permit fee of an ICF/IID that converts its beds to providing HCBS.

Priority status for residents

- Specifies that a resident of a nursing facility or ICF/IID receives priority status on the waiting list for home and community-based services provided by a county board of developmental disabilities.

FY 2016 and 2017 Medicaid rates for ICF/IID services

- Modifies the formula to be used in determining the fiscal year 2016 Medicaid payment rates for ICFs/IID in peer groups 1 and 2.

- Provides for the fiscal year 2016 total Medicaid rate paid to an ICF/IID in peer group 1 for services provided to a low resource utilization resident admitted to the ICF/IID on or after July 1, 2015, to be the lesser of the rate determined with the modifications or a specified flat rate.

- Requires ODODD, if the fiscal year 2016 mean total per Medicaid day rate for ICFs/IID in peer groups 1 and 2 is other than $283.32, to adjust the total rate by a percentage that equals the percentage by which the mean rate is greater or less than that amount.

- Modifies the formula to be used in determining the fiscal year 2017 Medicaid payment rates for ICFs/IID in peer groups 1 and 2.

- Requires ODODD, if the fiscal year 2017 mean total per Medicaid day rate for ICFs/IID in peer groups 1 and 2 is other than $288.27 or a larger amount determined by ODODD, to adjust the total rate by a percentage that equals the percentage by which the mean rate is greater or less than that amount.

- Provides for an ICF/IID in peer group 3 that obtained an initial Medicaid provider agreement during fiscal year 2015 to continue to be paid, for services provided during fiscal year 2016, the ICF/IID's total per Medicaid day rate in effect on June 30, 2015.

ICF/IID Medicaid Rate Workgroup

- Requires the ICF/IID Medicaid Rate Workgroup to assist ODODD with its evaluation of revisions to the formula used to determine Medicaid payment rates for ICF/IID services during fiscal years 2016 and 2017.

Medicaid rate for Individual Options services

- Provides for the Medicaid rate for each 15 minutes of routine homemaker/personal care services provided to a qualifying enrollee of the Individual Options (IO) waiver program to be, for 12 months, 52¢ higher than the rate for such services provided to an IO enrollee who is not a qualifying enrollee.

ICF/IID payment methodology transformation

- Requires ODODD, not later than July 31, 2015, to issue a request for proposals for an entity to develop a plan to transform the Medicaid payment formula for ICF/IID services with a goal of beginning implementation of the transformation by July 1, 2017.

Quality Incentive Workgroup

- Requires the Director to create the ICF/IID Quality Incentive Workgroup to study the issue of establishing, as part of the Medicaid payment formula for ICF/IID services, accountability measures that act as quality incentives.

County board share of expenditures

- Requires the Director to establish a methodology to be used in fiscal years 2016 and 2017 to estimate the quarterly amount each CBDD is to pay of the nonfederal share of the Medicaid expenditures for which the CBDD is responsible.

Developmental centers

- Permits a developmental center to provide services to persons with mental retardation and developmental disabilities living in the community or to providers of services to these persons.

Innovative pilot projects

- Permits the Director to authorize, in fiscal years 2016 and 2017, innovative pilot projects that are likely to assist in promoting the objectives of state law governing ODODD and CBDDs.

Use of county subsidies

- Requires, under certain circumstances, that the Director pay the nonfederal share of a claim for ICF/IID services using subsidies otherwise allocated to CBDDs.

- Expands certain rights of persons with developmental disabilities concerning services they receive and adds additional rights.

Updating statute citations

- Provides that the Director is not required to amend any rule for the sole purpose of updating the citation in the Ohio Administrative Code to its authorizing statute to reflect that the bill renumbers the authorizing statute or relocates it to another Revised Code section.

Closure of developmental centers

(R.C. 5123.032)

The bill modifies the procedures for closing a developmental center run by the Ohio Department of Developmental Disabilities (DODD). It repeals a requirement that the Legislative Service Commission, when the Governor announces an intent to close a developmental center, conduct an independent study and prepare a report regarding

issues related to the closure of the developmental center. The bill also repeals existing procedures regarding the Governor's notice to the General Assembly of that intent.

Instead, under the bill, if the Governor determines that one or more developmental centers should be closed, the Governor must notify the General Assembly and DODD of that determination and its rationale. If the rationale for the closure is expenditure reductions or budget cuts, the notice must specify the anticipated savings to be obtained. Under the bill, "closure" is defined as a situation in which a developmental center ceases operations or DODD transfers control of a developmental center to a private entity.

Creation and duties of developmental center closure commission

Within seven days of the Governor's notice of the intended closure, a developmental center closure commission is to be created.

The commission must meet as often as necessary to make its determination, and may take testimony and consider all relevant information. Within 30 days after the Governor's notice, the commission must prepare and provide to the General Assembly, the Governor, and DODD a report containing its recommendations regarding the developmental center. In making its recommendations, the commission must consider the following:

(1) Whether there is a need to reduce the number of developmental centers;

(2) The availability of alternate facilities;

(3) The cost effectiveness of the developmental center;

(4) The opportunities for, and barriers to, transitioning staff to other appropriate employment;

(5) The geographic factors associated with the center and its proximity to other similar facilities;

(6) The utilization and maximization of resources;

(7) Continuity of the staff and the ability to serve the center's population;

(8) Continuing costs following closure of the center;

(9) The impact of the closure on the local economy;

(10) Alternatives and opportunities for consolidation with other centers or facilities;

(11) Any other factors the commission considers appropriate.

The commission may recommend closure for expenditure reductions or budget cuts only if the anticipated savings is approximately the same as the anticipated savings in the Governor's notice. If the Governor identifies more than one facility for closure, the Commission must list them in order of its preference for closure. Upon providing the report, the commission ceases to exist.

Action on receipt of report

Upon receipt of a report recommending closure, the Governor may close developmental centers that are identified in the commission's recommendation. The bill prohibits the Governor from closing any developmental center that is not listed in the recommendation, and from closing multiple centers in any order other than as specified by the commission. If the Governor determines that a significant change in circumstances makes the commission's recommendation infeasible, the Governor may call for a new commission regarding the developmental center. The new commission must be created and function in the same manner as the initial commission.

Membership

Appointments to a commission must be made within seven days after the Governor's notice, and the commission must meet as soon as possible after the appointments. Each commission consists of 13 members as follows: (1) three members of the House of Representatives, with two members of the House majority political party appointed by the Speaker of the House and one member of the House minority political party appointed by the House Minority Leader, (2) three members of the Senate, with two members of the Senate majority political party appointed by the Senate President and one member of the Senate minority political party appointed by the Senate Minority Leader, (3) the Director of Budget and Management, (4) the Director of Developmental Disabilities, (5) four members with experience in the work of DODD, with one being appointed by the Speaker of the House, one being appointed by the House Minority Leader, one being appointed by the Senate President, and one being appointed by the Senate Minority Leader, (6) one representative of the employees' association representing the largest number of DODD employees, as certified by the Director, appointed by the president of that association.

The commission members serve without compensation. At the commission's first meeting, the members must organize and appoint a chairperson and vice-chairperson.

Medicaid services provided by sheltered workshops

(R.C. 5123.621 and 5166.24; Section 259.290)

The bill requires Medicaid programs administered by the Ohio Department of Developmental Disabilities (DODD) to continue covering adult day services provided by sheltered workshops if the program covers those services on the provision's effective date. Additionally, the Medicaid payment rates for adult day services provided by sheltered workshops from July 1, 2015 through June 30, 2017, are required to be no less than the payment rates for those services on June 30, 2015.

The bill prohibits a sheltered workshop with an agreement to provide adult day services from decreasing the number of Medicaid recipients it is willing and able to serve.

The bill specifies the General Assembly's intent that individuals currently being served through the existing array of adult day services (including those delivered in sheltered workshops) (1) be fully informed of any new home and community-based services and their option to receive those services and (2) continue receiving services in a variety of settings if those settings offer opportunities for community integration.

Supported living certificates

(R.C. 5123.1610 (primary), 5123.033, 5123.16, 5123.161, 5123.162, 5123.163, 5123.164, 5123.166, 5123.167, 5123.169, and 5123.1611)

Continuing law prohibits a person or government entity from providing supported living without a valid supported living certificate issued by the Ohio Department of Developmental Disabilities (ODODD) Director. Supported living providers also may have a Medicaid provider agreement with the Ohio Department of Medicaid (ODM) to provide supported living under the Medicaid program.

Automatic suspensions and revocations

The bill provides that both of the following apply if ODM terminates or refuses to revalidate a Medicaid provider agreement that authorizes a person or government entity to provide supported living under the Medicaid program:

(1) In the case of a terminated provider agreement, the person or government entity's authority to provide Medicaid-funded supported living under a supported living certificate is automatically revoked on the date that the provider agreement is terminated.

(2) In the case of a provider agreement that expires because ODM refuses to revalidate it, the person or government entity's authority to provide Medicaid-funded supported living under a supported living certificate is automatically revoked on the date that the provider agreement expires, unless the expiration date of the provider agreement is the same as the expiration date of the supported living certificate, in which case the ODODD Director must refuse to renew the person or government entity's authority to provide Medicaid-funded supported living under the certificate.

The bill provides that the ODODD Director is not required to issue an adjudication order in accordance with the Administrative Procedure Act (R.C. Chapter 119.) to do either of the following pursuant to this provision of the bill:

(1) Revoke a person or government entity's authority to provide Medicaid-funded supported living;

(2) Refuse to renew a person or government entity's authority to provide Medicaid-funded supported living.

The bill provides that this provision does not affect a person or government entity's authority to provide non-Medicaid funded supported living under a supported living certificate.

Reapplication period for supported living certificate

The bill increases to five years the period during which a person or government entity, and a related party of the person or government entity, is prohibited from applying for a supported living certificate following an adjudication order issued by the ODODD Director in which the Director refused to issue or renew a supported living certificate. The bill makes this provision consistent with an existing provision that applies when a supported living certificate is revoked. Under current law, a person or government entity, and a related party of the person or government entity, cannot apply for a supported living certificate for a one-year period following the Director's refusal to issue or renew the certificate.

The bill also provides that, if a person or government entity's authority to provide Medicaid-funded supported living is revoked or renewal of the authority is refused, neither the person or government entity nor a related party of the person or government entity may apply for authority to provide Medicaid-funded supported living within five years after the date the authority is revoked or expired.

Residential facility licensure

(R.C. 5123.19, 5123.196, and 5123.198)

The bill makes several changes to the law governing the licensure of residential facilities by ODODD. The bill repeals provisions that require ODODD to do all of the following:

(1) Establish procedures for public notice of certain actions taken by the Director;

(2) Adopt rules establishing certification procedures for licensees and management contractors and requirements for the training of facility personnel;

(3) Perform surveys when multiple facilities that are owned or operated by the same person or entity are not in compliance with the law;

(4) Establish procedures to notify interested parties regarding facilities that are closing or losing their license.

The bill permits the Director to assign the responsibility for conducting residential facility surveys and inspections to the Ohio Department of Health (ODH). Current law allows the Director to assign the responsibility to county boards of developmental disabilities only.

The bill prohibits a person or government entity and related parties whose application for a license has been denied from applying for a license within five years of the denial. Current law prohibits application within one year of the denial.

The bill requires a licensee to transfer records to the new licensee or management contractor when the identity of the licensee or management contractor changes significantly.

Incentives to convert ICF/IID beds

(R.C. 5123.376)

Continuing law authorizes ODODD to assist with construction projects regarding services to individuals with developmental disabilities. The assistance is provided in accordance with an agreement between the ODODD Director and a county board of developmental disabilities (CBDD) or private, nonprofit agency incorporated

to provide developmental disability services. Generally, the agreement may provide for ODODD to pay 90% of the total project cost where circumstances warrant.[24]

The bill authorizes the ODODD Director to make changes to the terms of an agreement regarding the construction, acquisition, or renovation of a residential facility for individuals with developmental disabilities if certain conditions are met, including all of the following conditions:

(1) The agreement must have been entered into during the period beginning January 1, 1975, and ending December 31, 1984.

(2) The agreement must require the CBDD or private, nonprofit agency to use the residential facility as a residential facility for at least 40 years.

(3) The agreement must concern a residential facility that is an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) with a Medicaid-certified capacity of at least 16.

(4) The CBDD or private, nonprofit agency must apply to the ODODD Director for the change in the agreement's terms.

The ODODD Director may authorize a CBDD or private, nonprofit agency not to repay the amount of an outstanding balance otherwise owed pursuant to the agreement if the CBDD or agency meets the following additional condition: the residential facility must have converted all of its ICF/IID beds to beds that provide home and community-based services under an ODODD-administered Medicaid waiver program. The ODODD may change other terms in the agreement, including terms regarding the length of time the residential facility must be used as a residential facility, if the CBDD or private, nonprofit agency meets the following additional condition: the residential facility must have converted at least 50% of its ICF/IID beds to beds that provide home and community-based services under an ODODD-administered Medicaid waiver program.

Consent for medical treatment

(R.C. 5123.86)

Current law authorizes the guardian of a resident of an institution for the mentally retarded who is physically or mentally unable to receive information or who has been adjudicated incompetent to receive information on and consent to surgery on the resident's behalf. If the resident lacks a guardian, current law authorizes a court to

[24] R.C. 5123.36, not in the bill.

receive the information and give the consent. If a court consents, it must notify the Ohio protection and advocacy system and the resident of the right to consult with legal counsel and the right to contest the recommendation of the institution's chief medical officer.

The bill extends a guardian's or court's authority to give consent on a resident's behalf, under the conditions described above, to those procedures that are experimental in nature. Under current law, only the resident may consent to experimental procedures.

The bill also eliminates provisions requiring informed consent before a resident receives convulsive therapy, major aversive interventions, or unusual or hazardous treatment procedures. According to ODODD staff, those therapies, interventions, and procedures are no longer available to residents.[25]

Finally, the bill eliminates a provision prohibiting an Ohio Department of Mental Health and Addiction Services (ODMHAS) or ODODD employee or official who serves as a resident's guardian from giving consent to a resident's surgery.

ICF/IIDs' Medicaid rates for low resource utilization residents

(R.C. 5124.155 (primary) and 5124.15)

The bill establishes a potentially lower Medicaid payment rate for ICF/IID services provided by an ICF/IID in peer group 1 to a Medicaid recipient who is admitted to the ICF/IID on or after July 1, 2015, and is placed in the chronic behaviors and typical adaptive needs classification or the typical adaptive needs and nonsignificant behaviors classification established for the grouper methodology that is used in determining ICF/IIDs' rates for direct care costs. The Medicaid payment rate for ICF/IID services provided by an ICF/IID in peer group 1 to such a recipient is to be the lesser of the regular rate for ICF/IID services determined in accordance with statutory formula or the following flat rate:

(1) $206.90 in the case of ICF/IID services the ICF/IID provides to a recipient in the chronic behaviors and typical adaptive needs classification;

(2) $174.88 in the case of ICF/IID services the ICF/IID provides to a recipient in the typical adaptive needs and nonsignificant behaviors classification.

[25] Telephone interview with Ohio Department of Developmental Disabilities staff (January 28, 2015).

Efforts to reduce the number of ICF/IID beds

(R.C. 5124.67; Section 803.05)

Continuing law requires ODODD to strive to achieve, not later than July 1, 2018, the following statewide reductions in ICF/IID beds:

(1) At least 500 beds in ICFs/IID that, before downsizing, have 16 or more beds;

(2) At least 500 beds in ICFs/IID with any number of beds that convert some or all of their beds from providing ICF/IID services to providing home and community-based services (HCBS) under an ODODD-administered Medicaid waiver program.

The bill requires ODODD to strive to achieve the reductions in beds through the conversion process in accordance with the following interim time frames:

(1) At least 250 ICF/IID beds converted by June 30, 2016;

(2) At least 125 additional ICF/IID beds converted by June 30, 2107 (for a total of at least 350 beds converted by that date).

Admissions to ICFs/IID in peer group 1

(R.C. 5124.68)

Prohibition

The bill prohibits, with certain exceptions, an ICF/IID with a Medicaid-certified capacity exceeding eight (i.e., an ICF/IID in peer group 1) from admitting an individual as a resident unless all of the following apply:

(1) The ICF/IID provides written notice about the individual's potential admission, and all information about the individual in the ICF/IID's possession, to the CBDD serving the county in which the individual resides at the time the notice is provided.

(2) The CBDD has provided to the individual and ODODD a copy of the findings about the individual that the bill requires the CBDD to make.

(3) Not later than seven business days after the ICF/IID provides the CBDD notice about the individual's potential admission, ODODD determines that the individual chooses to receive ICF/IID services from the ICF/IID after being fully informed of all available alternatives.

The bill permits an ICF/IID to provide a CBDD written notices about multiple individuals' potential admissions at the same time.

CBDD evaluations and findings

A CBDD must do both of the following not later than five business days after receiving notice about an individual's potential admission to an ICF/IID in peer group 1:

(1) Using information included in the notification and additional information, if any, ODODD is authorized to specify, evaluate the individual and counsel the individual about the nature, extent, and timing of the services that the individual needs and the least restrictive environment in which the individual could receive the needed services.

(2) Using a form ODODD is required to prescribe, make findings about the individual based on the evaluation and counseling and provide a copy of the findings to the individual and ODODD.

Exceptions

The bill provides that the prohibition regarding admissions to ICFs/IID in peer group 1 does not apply under the following circumstances:

(1) When the individual seeking admission is a Medicaid recipient receiving ICF/IID services on the date immediately preceding the date the individual is admitted to the ICF/IID.

(2) When the individual seeking admission is a Medicaid recipient returning to the ICF/IID following a temporary absence for which the ICF/IID, pursuant to continuing law, is paid to reserve a bed for the individual or during which the individual received rehabilitation services in another health care setting.

(3) When ODODD, despite receiving the CBDD's findings about the individual within the required time, fails to meet the deadline for making a determination of whether the individual seeking admission chooses to receive ICF/IID services from the ICF/IID after being fully informed of all available alternatives.

Enrolling ICF/IID residents in ODODD Medicaid waiver programs

(R.C. 5124.69 and 5126.0510)

The bill requires ODODD to develop and make available to all ICFs/IID a written pamphlet that describes all of the items and services covered by Medicaid as ICF/IID services and as HCBS available under ODODD-administered Medicaid waiver

programs. ODODD must develop the pamphlet in consultation with persons and organizations interested in matters pertaining to individuals eligible for ICF/IID services and HCBS.

Each ICF/IID is required to provide the pamphlet to its residents who receive ICF/IID services and the guardians of such residents. An ICF/IID must discuss the items and services described in the pamphlet with those residents and their guardians (1) at least annually, (2) any time the resident or guardian requests to receive the pamphlet and to discuss the items and services described in it, and (3) any time the resident or guardian expresses to the ICF/IID an interest in HCBS.

If an ICF/IID resident who receives ICF/IID services, or the resident's guardian, indicates to an ICF/IID an interest in enrolling the resident in an ODODD-administered Medicaid waiver program that covers HCBS, the ICF/IID is required by the bill to refer the resident or guardian to the CBDD serving the county in which the resident would reside while enrolled in the Medicaid waiver program. The CBDD, not later than 30 days after being contacted by the resident or guardian and notwithstanding its waiting list for the Medicaid waiver program, must enroll the resident in the program if all of the following apply:

(1) The resident is eligible and chooses to enroll in the program;

(2) The program has an available slot;

(3) The ODODD Director determines that ODODD has the funds necessary to pay the nonfederal share of the Medicaid expenditures for the HCBS provided to the resident under the program.

A CBDD is required, under certain circumstances, to pay the nonfederal share of Medicaid expenditures for HCBS provided under an ODODD-administered Medicaid waiver program to an individual the CBDD determines is eligible for CBDD services. The circumstances include when the CBDD provides the HCBS and when the HCBS are provided by another provider to an individual for whom there is in effect an agreement between the CBDD and ODODD for the CBDD to pay the nonfederal share. The bill provides that a CBDD is not required to pay the nonfederal share when the HCBS are provided to an individual who enrolls in the Medicaid waiver program pursuant to a referral made under this provision of the bill. Under continuing law, ODODD is to be responsible for the nonfederal share instead.[26]

[26] R.C. 5123.047, not in the bill.

ICF/IID sleeping room occupancy

(R.C. 5124.70)

The bill prohibits, with limited exceptions, an ICF/IID from allowing more than two residents to share a sleeping room. The bill specifically exempts those ICFs/IID that, by January 1, 2015, reduced their Medicaid-certified capacities by 20% by becoming either a downsized ICF/IID or a partially converted ICF/IID. An ICF/IID's sleeping room is also exempt if (1) all of the sleeping room's residents are under age 18 and (2) the parents or guardians of the residents consent to the residents sharing a sleeping room with two or more other residents.

If more than two ICF/IID residents share a sleeping room on the effective date of the occupancy limit, the ICF/IID may continue to allow the residents to share the sleeping room until January 1, 2016. To permit the residents to continue sharing a sleeping room on and after that date, the ICF/IID must submit, by December 31, 2015, a plan to ODODD detailing how the ICF/IID will come into compliance with the limit by June 30, 2025. The residents may continue to share a sleeping room until June 30, 2025, if ODODD has not yet decided whether to approve the plan or ODODD has approved the plan and the ICF/IID is complying with it. After June 30, 2025, the ICF/IID may permit more than two residents to continue sharing a sleeping room if ODODD waives the occupancy limit. ODODD must waive the limit if (1) more than two residents share the sleeping room on June 30, 2025, (2) the same residents have continuously resided in the sleeping room since the effective date of this provision of the bill, and (3) ODODD determines that at least three of the residents want to continue to share the same sleeping room.

An ICF/IID's plan to come into compliance with the occupancy limit must include the following:

(1) Detailed descriptions of the actions that will be taken to come into compliance, including a plan to reduce the ICF/IID's Medicaid-certified capacity either by downsizing its capacity or converting some of its beds to providing HCBS under the Individual Options (IO) waiver;

(2) A discharge planning process that provides residents with information regarding HCBS;

(3) The ICF/IID's projected Medicaid-certified capacity for each year covered by the plan, which must demonstrate that the ICF/IID will make regular progress toward coming into compliance;

(4) Additional interim steps the ICF/IID will take to demonstrate the ICF/IID is making regular progress toward coming into compliance;

(5) The date by which the plan is to be completed, which is to be no later than June 30, 2025.

The plan cannot include the creation of a new ICF/IID that has a Medicaid-certified capacity that is greater than six unless ODODD determines that a new ICF/IID would need a larger Medicaid-certified capacity to be financially viable. Such a new ICF/IID cannot have a Medicaid-certified capacity that is greater than eight.

The bill requires ODODD to review each plan it receives from an ICF/IID. In deciding whether to approve a plan, ODODD is to consider whether the plan includes the required information and whether the plan's successful implementation is feasible. If ODODD approves an ICF/IID's plan, the ICF/IID must submit to ODODD annual reports regarding the plan's implementation.

The bill permits ODODD to issue a written order to an ICF/IID suspending new admissions to the ICF/IID if ODODD has approved the ICF/IID's plan and the ICF/IID fails to (1) submit an annual report or (2) meet, to ODODD's satisfaction, the projected Medicaid-certified capacity for the ICF/IID for a year as specified in the plan and the failure is due to factors within the ICF/IID's control.

Medicaid rates for downsized, partially converted, and new ICFs/IID

(R.C. 5124.101 and 5124.15)

Continuing law establishes conditions under which an ICF/IID in peer group 1 or peer group 2 that, on or after July 1, 2013, becomes a downsized ICF/IID, partially converted ICF/IID, or new ICF/IID may file with ODODD a Medicaid cost report sooner than it otherwise would. A downsized ICF/IID is an ICF/IID that permanently reduced its Medicaid-certified capacity pursuant to a plan approved by ODODD. A partially converted ICF/IID is an ICF/IID that converted some, but not all, of its beds to home and community-based services beds under the Individual Options Medicaid waiver program. Peer group 1 consists of ICFs/IID with more than eight beds. Peer group 2 consists of ICFs/IID with no more than eight beds, other than ICFs/IID in peer group 3. Peer group 3 consists of ICFs/IID (1) that are first certified after July 1, 2014, (2) that have a Medicaid-certified capacity not exceeding six, (3) that have contracts with ODODD that are for 15 years and include a provision for ODODD to approve all admissions to, and discharges from, the ICF/IID, and (4) whose residents are admitted directly from a developmental center or have been determined by ODODD to be at risk of admission to a developmental center.

For a downsized or partially converted ICF/IID to be allowed to file a Medicaid cost report sooner than it otherwise would, the ICF/IID must have, as of the day it downsizes or partially converts, (1) a Medicaid certified capacity that is at least 10% less than its Medicaid-certified capacity on the day immediately before the day it downsizes or partially converts or (2) at least five fewer ICF/IID beds than it had on the day immediately before the day it downsizes or partially converts. For a new ICF/IID to be allowed to file a Medicaid cost report sooner than it otherwise would, the ICF/IID's beds must be from a downsized ICF/IID that has, as of the day it downsizes or partially converts, (1) a Medicaid-certified capacity that is at least 10% less than its Medicaid-certified capacity on the day immediately before the day it downsizes or (2) at least five fewer ICF/IID beds than it had on the day immediately before the day it downsizes.

The bill requires ODODD to make certain modifications to the formula used to determine an ICF/IID's Medicaid payment rate when it accepts from the ICF/IID a Medicaid cost report that the ICF/IID is allowed to file sooner than it otherwise would be allowed to file. The modifications apply to the direct care and capital costs components of the formula.

The modification with respect to direct care costs concerns the case mix score that is a factor in determining an ICF/IID's payment rate for direct care cost. In place of the annual average case mix score that would otherwise be used, an ICF/IID's case mix score in effect on the last day of the calendar quarter that ends during the period the Medicaid cost report covers (or, if more than one calendar quarter ends during that period, the last of those calendar quarters) is to be used.

The modification with respect to capital costs is to be made only for downsized and partially converted ICFs/IID (not for new ICFs/IID) and concerns limits on costs of ownership, capitalized costs of nonextensive renovations, and efficiency incentives. A downsized or partially converted ICF/IID is not to be subject to the limit on the costs of ownership per diem payment rate or the limit on the payment rate for per diem capitalized costs of nonextensive renovations that otherwise would apply. However, the ICF/IID, regardless of whether it is in peer group 1 or peer group 2, is to be subject to the limit on the total payment rate for costs of ownership, capitalized costs of nonextensive renovations, and efficiency incentive that applies only to ICFs/IID in peer group 2 under current law.

The modifications to the payment formula are to be used to determine the Medicaid rates to be paid for ICF/IID services provided during the period that begins and ends as follows:

(1) In the case of a downsized or partially converted ICF/IID:

(a) The beginning date is the day that the ICF/IID downsizes or partially converts if that day is the first day of the month or, if not, the first day of the month immediately following the month that the ICF/IID downsizes or partially converts;

(b) The ending date is the last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID is to file its first regular Medicaid cost report after downsizing or partially converting.

(2) In the case of a new ICF/IID:

(a) The beginning date is the day that the ICF/IID's Medicaid provider agreement takes effect.

(b) The ending date is the last day of the fiscal year that immediately precedes the fiscal year for which the ICF/IID is to file its first regular Medicaid cost report.

Service and support administrators – county boards

(R.C. 5126.15 and 5126.202)

Under continuing law not modified by the bill, county boards of developmental disabilities are authorized, and in certain instances required, to provide service and support administration to individuals with mental retardation or developmental disabilities (MR/DD). Service and support administrators are required to assist individuals in receiving services, including assessing individual needs for services, establishing an individual's eligibility for services, and ensuring that services are effectively coordinated. They are prohibited from being employed by or serving in a decision-making or policy-making capacity for any other entity that provides programs or services to individuals with MR/DD. The bill also prohibits service and support administrators from providing programs or services to individuals with MR/DD through self-employment.

ICF/IID franchise permit fees

Permit fee rate

(R.C. 5168.60)

Continuing law imposes an annual assessment on ICFs/IID. The assessment is termed a "franchise permit fee." Revenue raised by the franchise permit fee is to be used for the expenses of the programs ODODD administers and ODODD's administrative expenses.[27]

[27] R.C. 5168.69, not in the bill.

The bill reduces the rate at which the ICF/IID franchise permit fee is assessed. Under current law, the rate is $18.17 per bed per day. Under the bill, the rate is $18.07 for fiscal year 2016 and $18.02 for fiscal year 2017 and thereafter.

Notice of fees

(R.C. 5168.63 and 5168.67)

Under current law, ODODD is required to mail each ICF/IID notice of the amount of its franchise permit fee not later than the first day of each September. If an ICF/IID requests an appeal regarding its franchise permit fee, ODODD must mail a notice of the date, time, and place of the hearing to the ICF/IID.

The bill requires that these notices be provided electronically or by the U.S. Postal Service.

Conversion of ICF/IID beds to HCBS beds

(R.C. 5124.60, 5124.61, 5164.38, and 5168.64)

Continuing law includes provisions aimed at increasing the number of slots for HCBS that are available under ODODD-administered Medicaid waiver programs. An ICF/IID is permitted to convert some or all of its beds from providing ICF/IID services to providing HCBS if a number of requirements are met. For example, the ICF/IID must provide its residents certain notices, provide the ODH Director and ODODD Director at least 90 days' notice of the intent to convert the beds, and receive the ODODD Director's approval. An individual who acquires, through a request for proposals issued by the ODODD Director, an ICF/IID for which a residential facility license was previously surrendered or revoked also may convert all or some of its beds if similar requirements are met.

ODM adjudication not required

Continuing law requires the ODH Director, when an ICF/IID converts some or all its beds under the provisions discussed above, to (1) terminate the ICF/IID's Medicaid certification if all of the ICF/IID's beds are converted or (2) reduce the ICF/IID's Medicaid certified-capacity by the number of beds converted if some but not all of the ICF/IID's beds are converted. The ODH Director is required to notify the Medicaid Director when terminating an ICF/IID's Medicaid certification or reducing an ICF/IID's Medicaid certified-capacity. On receipt of the ODH Director's notice, the Medicaid Director must (1) terminate the ICF/IID's Medicaid provider agreement if the ODH Director terminated the ICF/IID's Medicaid certification or (2) amend the

ICF/IID's provider agreement to reflect the ICF/IID's reduced Medicaid-certified capacity if the ODH Director reduces the ICF/IID's capacity.

Current law provides that an ICF/IID is not entitled to notice or a hearing under the Administrative Procedure Act (R.C. Chapter 119.) before the Medicaid Director terminates the ICF/IID's Medicaid provider agreement following the ICF/IID's total conversion. Current law also provides, in the case of an ICF/IID that is acquired through a request for proposals issued by the ODODD Director following the surrender or revocation of the ICF/IID's residential facility license, that the ICF/IID is not entitled to notice or a hearing before the Medicaid Director amends the ICF/IID's provider agreement to reflect its reduced Medicaid-certified capacity resulting from the ICF/IID's partial conversion. The bill provides instead that the Medicaid Director is not required to conduct an adjudication in accordance with the Administrative Procedure Act when terminating an ICF/IID's provider agreement following the ICF/IID's total conversion or when amending an ICF/IID's provider agreement to reflect its reduced Medicaid-certified capacity resulting from a partial conversion. This is to apply regardless of whether the ICF/IID was acquired through a request for proposals issued by the ODODD Director following the surrender or revocation of the ICF/IID's residential facility license.

Medicaid payment to an ICF/IID for day of discharge

Current law prohibits a Medicaid payment from being made to an ICF/IID for the day a Medicaid recipient is discharged from the ICF/IID. The bill provides that this prohibition does not apply if the Medicaid recipient is discharged because all of the ICF/IID's beds are converted to providing HCBS under the provisions discussed above.

Termination or redetermination of fee after a conversion

The bill revises the law governing the termination or redetermination of an ICF/IID's franchise permit fee when it converts to providing HCBS. Under current law, ODODD is required to terminate or redetermine an ICF/IID's franchise permit fee if it converts one or more of its beds to providing HCBS during the period beginning on the first day of May of a calendar year and ending on the first day of January of the immediately following calendar year. ODODD must terminate the ICF/IID's franchise permit fee if the ICF/IID's Medicaid certification is terminated because of the conversion. The termination is to take effect on the first day of the quarter immediately following the quarter in which ODODD receives ODH's notice of the conversion. ODODD must redetermine the ICF/IID's franchise permit fee if the ICF/IID's Medicaid certified capacity is reduced because of the conversion. The redetermination applies for the second half of the fiscal year for which the franchise permit fee is assessed.

ODODD is required by the bill to terminate an ICF/IID's franchise permit fee if all of the ICF/IID's beds are converted to providing HCBS and its Medicaid provider agreement is terminated as a consequence. ODODD must terminate the franchise permit fee regardless of when the conversion takes place. The termination is to take effect on the first day of the quarter immediately following the quarter in which the conversion takes place.

Under current law, the requirement to terminate or redetermine an ICF/IID's franchise permit fee because of a conversion does not apply when the conversion occurs under the statute regarding an ICF/IID that was acquired, through a request for proposals issued by the ODODD Director, after the ICF/IID's residential facility license was previously surrendered or revoked. The bill makes the termination and redetermination requirement also apply when the conversion occurs under that statute.

Priority status for residents of ICFs/IID and nursing facilities

(R.C. 5126.042)

Current law requires that a CBDD establish a waiting list for home and community-based services if it determines that available resources are insufficient to meet the needs of all individuals who request those services. Under existing law, the following individuals receive priority status on the waiting list: (1) an individual who has an emergency status, (2) an individual who is receiving supported living, family support services, or adult services for which no federal financial participation is received under the Medicaid program, (3) an individual whose primary caregiver is at least 60 years of age, and (4) an individual who has intensive needs as determined by the ODODD. The bill provides that an individual who resides in a nursing facility or an ICF/IID also receive priority status on the waiting list.

FY 2016 and 2017 Medicaid rates for ICF/IID services

(Sections 259.160, 259.170, and 259.180)

ICFs/IID are placed in three different peer groups for the purpose of Medicaid payment rates. Peer group 1 consists of ICFs/IID with a Medicaid-certified capacity exceeding eight. Peer group 2 consists of ICFs/IID with a Medicaid-certified capacity not exceeding eight, other than ICFs/IID in peer group 3. Peer group 3 consists of ICFs/IID (1) that are first certified after July 1, 2014, (2) that have a Medicaid-certified capacity not exceeding six, (3) that have contracts with ODODD that are for 15 years and include a provision for ODODD to approve all admissions and discharges, and (4) whose residents are admitted directly from a developmental center or have been determined by ODODD to be at risk of admission to a developmental center.

Fiscal year 2016 Medicaid rates for ICFs/IID in peer groups 1 and 2

The bill includes provisions governing the fiscal year 2016 Medicaid payment rates for ICFs/IID in peer groups 1 and 2. The provisions make modifications to the statutory formula used to determine the rates, provide for the rates for ICF/IID services provided to low resource utilization residents not to exceed certain amounts, require ODODD to adjust rates if the mean rate for the ICFs/IID is other than a certain amount, and requires ODODD to reduce the rates if CMS requires the ICF/IID franchise permit fee to be reduced or eliminated.

Modifications to rate formula

The bill requires ODODD to modify the formula used in determining the fiscal year 2016 Medicaid payment rates for ICFs/IID in peer groups 1 and 2. One set of modifications applies to existing ICFs/IID (i.e., ICFs/IID that have valid Medicaid provider agreements on June 30, 2015 and during fiscal year 2016 and ICFs/IID that undergo a change of operator that takes effect during fiscal year 2016, for which the exiting operators have valid provider agreements on the day immediately preceding the effective date of the change of operator, and for which the entering operators have valid provider agreements during fiscal year 2016). Another set of modifications applies to new ICFs/IID for which initial provider agreements are obtained during fiscal year 2016.

An existing ICF/IID's rate is to be adjusted as follows:

(1) The efficiency incentive for capital costs is to be reduced by 50%.

(2) In place of the maximum cost per case-mix unit established for its peer group, the maximum costs per case-mix unit is to be an amount ODODD is to determine. In making this determination, ODODD is required to strive to the greatest extent possible to avoid rate reductions under the bill's provision regarding rate adjustments (see "**Adjustment to rates if mean is other than a certain amount for fiscal year 2016**," below) and to have the amount so determined result in payment of all desk-reviewed, actual, allowable direct care costs for the same percentage of Medicaid days for ICFs/IID in peer group 1 as for ICFs/IID in peer group 2 as of July 1, 2015, based on May 2015 Medicaid days.

(3) In the place of the inflation adjustment otherwise calculated in determining its rate for direct care costs, an inflation adjustment of 1.014 is to be used.

(4) In place of the efficiency incentive otherwise calculated in determining its rate for indirect care costs, its efficiency incentive is to be $3.69 if it is in peer group 1 and $3.19 if it is in peer group 2.

(5) In place of the maximum rate for indirect care costs established for its peer group, the maximum rate is to be $68.98 if it is in peer group 1 and $59.60 if it is in peer group 2.

(6) In place of the inflation adjustment otherwise calculated in determining its rate for indirect care costs, an inflation adjustment of 1.014 is to be used.

(7) In place of the inflation adjustment otherwise made in determining its rate for other protected costs, its other protected costs (excluding the franchise permit fee component of those costs) from calendar year 2014 are to be multiplied by 1.014.

A new ICF/IID's rate is to be adjusted as follows:

(1) In place of the initial rate for direct care costs otherwise determined for it when there is no cost or resident assessment data for it, its initial rate for direct care costs is to be determined as follows:

(a) The median of the costs per case-mix units is to be determined for each peer group.

(b) The median determined above for its peer group is to be multiplied by the median annual average case-mix score for its peer group for calendar year 2014.

(c) The product determined above is to be multiplied by 1.014.

(2) In place of the initial rate for indirect care costs otherwise determined for it, its initial rate for indirect care costs is to be $68.98 if it is in peer group 1 or $59.60 if it is in peer group 2.

(3) In place of the initial rate for other protected costs otherwise determined for it, its initial rate for other protected costs is to be 115% of the median fiscal year 2016 rate determined for existing ICFs/IID.

The bill provides that a new ICF/IID's initial rate for fiscal year 2016 is to be adjusted in accordance with continuing law governing the adjustment of initial rates. If the adjustment affects the new ICF/IID's fiscal year 2016 rate, the modifications made under the bill to the rates of existing ICFs/IID are to apply to the new ICF/IID's adjusted rate.

Low resource utilization residents

Under the bill, the total per Medicaid day rate for ICF/IID services an ICF/IID in peer group 1 provides in fiscal year 2016 to a low resource utilization resident admitted to the ICF/IID on or after July 1, 2015, is to be the lesser of the rate determined with the

modifications discussed above or a certain flat rate. A low resource utilization resident is a resident who is placed in the chronic behaviors and typical adaptive needs classification or the typical adaptive needs and nonsignificant behaviors classification established for the grouper methodology used in determining rates for direct care costs. The following are the flat rates:

(1) $206.90 for ICF/IID services the ICF/IID provides to a Medicaid recipient in the chronic behaviors and typical adaptive needs classification;

(2) $174.88 for ICF/IID services the ICF/IID provides to a Medicaid recipient in the typical adaptive needs and nonsignificant behaviors classification.

Adjustment to rates if mean is other than a certain amount for fiscal year 2016

If the mean total per Medicaid day rate for all ICFs/IID in peer groups 1 and 2, weighted by May 2015 Medicaid days and determined in accordance with the modifications and limits discussed above as of July 1, 2015, is other than $283.32, ODODD must adjust, for fiscal year 2016, the total per Medicaid day rate for each ICF/IID in peer group 1 or 2 by a percentage that is equal to the percentage by which the mean total per Medicaid day rate is greater or less than $283.32.

Rate reduction if franchise permit fee is reduced or eliminated

The bill requires ODODD, if CMS requires that the ICF/IID franchise permit fee be reduced or eliminated, to reduce the amount it pays ICFs/IID in peer groups 1 and 2 for fiscal year 2016 as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

Fiscal year 2017 Medicaid rates for ICFs/IID in peer groups 1 and 2

The bill includes provisions governing the fiscal year 2017 Medicaid payment rates for ICFs/IID in peer groups 1 and 2. The provisions make modifications to the statutory formula used to determine the rates, require ODODD to adjust rates if the mean rate for the ICFs/IID is other than a certain amount, and require ODODD to reduce the rates if CMS requires the ICF/IID franchise permit fee to be reduced or eliminated.

Modifications to rate formula

The bill requires ODODD to modify the formula used in determining the fiscal year 2017 Medicaid payment rates for ICFs/IID in peer groups 1 and 2. One set of modifications applies to existing ICFs/IID (i.e., ICFs/IID that have valid Medicaid provider agreements on June 30, 2016 and during fiscal year 2017 and ICFs/IID that undergo a change of operator that takes effect during fiscal year 2017, for which the

exiting operators have valid provider agreements on the day immediately preceding the effective date of the change of operator, and for which the entering operators have valid provider agreements during fiscal year 2017). Another set of modifications applies to new ICFs/IID for which initial provider agreements are obtained during fiscal year 2017.

An existing ICF/IID's rate is to be adjusted as follows:

(1) The efficiency incentive for capital costs is to be reduced by 50%.

(2) In place of the maximum cost per case-mix unit established for its peer group, the maximum costs per case-mix unit is to be the maximum amount ODODD determines for the ICF/IID's peer group for fiscal year 2016. (See "**Fiscal year 2016 Medicaid rates for ICFs/IID in peer groups 1 and 2**," above.)

(3) In the place of the inflation adjustment otherwise calculated in determining its rate for direct care costs, an inflation adjustment of 1.014 is to be used.

(4) In place of the efficiency incentive otherwise calculated in determining its rate for indirect care costs, its efficiency incentive is to be $3.69 if it is in peer group 1 and $3.19 if it is in peer group 2.

(5) In place of the maximum rate for indirect care costs established for its peer group, the maximum rate is to be $68.98 if it is in peer group 1 and $59.60 if it is in peer group 2.

(6) In place of the inflation adjustment otherwise calculated in determining its rate for indirect care costs, an inflation adjustment of 1.014 is to be used.

(7) In place of the inflation adjustment otherwise made in determining its rate for other protected costs, its other protected costs (excluding the franchise permit fee component of those costs) from calendar year 2015 are to be multiplied by 1.014.

(8) After all of the modifications specified above have been made, its total per Medicaid day rate is to be increased by the direct support personnel payment. The direct support personnel payment is to be a percentage, as determined by ODODD, of the ICF/IID's direct care costs. In determining the percentage, ODODD must, to the greatest extent possible, avoid rate reductions under the bill's provision regarding rate adjustments (see "**Adjustments to rates if mean is other than a certain amount for fiscal year 2017**," below) and use the same percentage for all ICFs/IID in peer groups 1 and 2.

A new ICF/IID's rate is to be adjusted as follows:

(1) In place of the initial rate for direct care costs otherwise determined for it when there is no cost or resident assessment data for it, its initial rate for direct care costs is to be determined as follows:

(a) The median of the costs per case-mix units is to be determined for each peer group.

(b) The median determined above for its peer group is to be multiplied by the median annual average case-mix score for its peer group for calendar year 2015.

(c) The product determined above is to be multiplied by 1.014.

(2) In place of the initial rate for indirect care costs otherwise determined for it, its initial rate for indirect care costs is to be $68.98 if it is in peer group 1 or $59.60 if it is in peer group 2.

(3) In place of the initial rate for other protected costs otherwise determined for it, its initial rate for other protected costs is to be 115% of the median fiscal year 2017 rate determined for existing ICFs/IID.

(4) After all of the modifications specified above have been made, its initial total per Medicaid day rate is to be increased by the median direct support personnel payment for all ICFs/IID in peer groups 1 and 2. (See (8) above in the discussion of how an existing ICF/IID's rate is to be adjusted for fiscal year 2017.)

The bill provides that a new ICF/IID's initial rate for fiscal year 2017 is to be adjusted in accordance with continuing law governing the adjustment of initial rates. If the adjustment affects the new ICF/IID's fiscal year 2017 rate, the modifications made under the bill to the rates of existing ICFs/IID are to apply to the new ICF/IID's adjusted rate.

Adjustment to rates if mean is other than a certain amount for fiscal year 2017

If the mean total per Medicaid day rate for all ICFs/IID in peer groups 1 and 2, weighted by May 2016 Medicaid days and determined in accordance with the modifications discussed above as of July 1, 2016, is other than $288.27 or a larger amount that ODODD, in its sole discretion, decides to use for this purpose, ODODD must adjust, for fiscal year 2017, the total per Medicaid day rate for each ICF/IID in peer group 1 or 2 by a percentage that is equal to the percentage by which the mean total per Medicaid day rate is greater or less than $288.27 or the larger amount ODODD may use. In determining whether to use an amount larger than $288.27, ODODD may consider any of the following:

(1) The reduction in the total Medicaid-certified capacity of all ICFs/IID that occurs in fiscal year 2016, and the reduction that is projected to occur in fiscal year 2017, as a result of ICFs/IID downsizing or ICFs/IID converting beds to providing HCBS under the IO Medicaid waiver program;

(2) The increase in Medicaid payments made for ICF/IID services provided during fiscal year 2016, and the increase that is projected to occur in fiscal year 2017, as a result of the modifications of the payment rates made under the bill's provision discussed above under the heading "**Medicaid rates for downsized, partially converted, and new ICFs/IID**";

(3) The total reduction in the number of ICF/IID beds that occurs pursuant to continuing law that requires ODODD to strive to achieve statewide reductions in ICF/IID beds (see "**Efforts to reduce the number of ICF/IID beds**," above);

(4) Other factors ODODD determines to be relevant.

Rate reduction if franchise permit fee is reduced or eliminated

The bill requires ODODD, if CMS requires that the ICF/IID franchise permit fee be reduced or eliminated, to reduce the amount it pays ICFs/IID in peer groups 1 and 2 for fiscal year 2017 as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

Fiscal year 2016 Medicaid rates for ICFs/IID in peer group 3

The bill provides for ICFs/IID in peer group 3 that obtained initial Medicaid provider agreements during fiscal year 2015 to continue to be paid, for services provided during fiscal year 2016, their total per Medicaid day rates in effect on June 30, 2015. However, if CMS requires that the ICF/IID franchise permit fee be reduced or eliminated, ODODD is required to reduce the amount it pays such ICFs/IID for fiscal year 2016 as necessary to reflect the loss to the state of the revenue and federal financial participation generated from the franchise permit fee.

ICF/IID Medicaid Rate Workgroup

(Section 259.200)

For fiscal years 2016 and 2017, the bill retains the previously created ICF/IID Medicaid Rate Workgroup to assist ODODD with its evaluation of revisions to the formula used to determine Medicaid payment rates for ICF/IID services. ICF/IID services include items and services furnished in an intermediate care facility for

individuals with intellectual disabilities if certain conditions specified in federal law are met.[28]

The bill requires ODODD and the Workgroup to (1) focus on serving individuals with complex challenges that ICFs/IID are eligible to meet and pursue, and (2) try to reduce the Medicaid-certified capacity of individual ICFs/IID and the total number of ICF/IID beds in the state in order to increase service choices and community integration of individuals eligible for ICF/IID services. The Workgroup is no longer required to consider the impact of exception reviews conducted under Ohio law on ICFs/IID's case-mix scores.

Medicaid rate for certain Individual Options services

(Section 259.220)

The bill requires that the total Medicaid payment rate for each 15 minutes of routine homemaker/personal care services that a Medicaid provider provides to a qualifying enrollee of the Individual Options (IO) Medicaid waiver program to be, for 12 months, 52¢ higher than the rate for services that a Medicaid provider provides to an IO enrollee who is not a qualifying enrollee. The higher rate is to be paid for the first 12 months, consecutive or otherwise, that the provider provides the services to the qualifying IO enrollee during the period beginning July 1, 2015, and ending June 30, 2017.

An IO enrollee is a qualified IO enrollee for the purpose of this provision of the bill if all of the following apply:

(1) The enrollee resided in a developmental center, converted ICF/IID,[29] or public hospital immediately before enrolling in the IO Medicaid waiver program.

(2) The enrollee did not receive before July 1, 2011, routine homemaker/personal care services from the Medicaid provider that is to receive the higher Medicaid rate.

(3) The ODODD Director has determined that the enrollee's special circumstances (including the enrollee's diagnosis, service needs, or length of stay at the developmental center, converted ICF/IID, or public hospital) warrants paying the higher Medicaid rate.

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[28] R.C. 5124.01(Y) and 42 Code of Federal Regulations 440.150, not in the bill.

[29] A converted ICF/IID is an ICF/IID, or former ICF/IID, that converted some or all of its beds to providing HCBS under the IO Medicaid waiver program.

ICF/IID payment methodology transformation

(Section 259.260)

The bill requires ODODD to issue a request for proposals (RFP) for an entity, pursuant to a contract with ODODD, to develop a plan to transform the formula used to determine Medicaid payment rates for ICFs/IID services. The RFP must be issued not later than July 31, 2015. Any contract ODODD enters into under the RFP is to require all of the following:

(1) That the plan include quality incentive measures, have payments be based on health outcomes, promote ICF/IID services that are provided in the most integrated setting appropriate to the needs of each Medicaid recipient receiving the services, and include recommendations for specific changes to the resident assessment instrument and the grouper methodology which are used in determining Medicaid payment rates for the direct care costs of ICFs/IID;

(2) That the entity developing the plan consider the recommendations of the ICF/IID Medicaid Rate Workgroup[30] and the ICF/IID Quality Incentive Workgroup (see "**ICF/IID Quality Incentive Workgroup**," below);

(3) That the plan be developed with the goal of beginning implementation of the transformation on July 1, 2017.

ICF/IID Quality Incentive Workgroup

(Section 259.270)

The bill requires the ODODD Director to create the ICF/IID Quality Incentive Workgroup to study the issue of establishing, as part of the Medicaid payment formula for ICF/IID services, accountability measures that act as quality incentives for ICFs/IID. The Director, or the Director's designee, is to be the Workgroup's chairperson. The Director is permitted to appoint one or more ODODD staff members to also serve on the Workgroup and is required to appoint to the Workgroup one or more persons with developmental disabilities who advocate for such persons and representatives of the following:

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[30] The ICF/IID Medicaid Rate Workgroup was created to assist with a study of ICF/IID issues mandated by H.B. 153 of the 129th General Assembly. H.B. 59 of the 130th General Assembly required ODODD to retain the workgroup for the purpose of a study of the Medicaid program's rate formula for ICF/IID services.

(1) The Ohio Centers for Intellectual Disabilities formed by the Ohio Health Care Association;

(2) The Values and Faith Foundation;

(3) The Ohio Association of County Boards Serving People with Developmental Disabilities;

(4) The Ohio SIBS;

(5) The Arc of Ohio;

(6) The Ohio Provider Resource Association.

Members of the Workgroup are to serve without compensation or reimbursement, except to the extent that serving on the Workgroup is considered part of their usual job duties.

The bill requires the Workgroup to complete its study, and complete a report with recommendations regarding accountability measures for ICFs/IID, not later than November 4, 2015. The Workgroup must submit copies of the report to the Governor and General Assembly.

County board share of nonfederal Medicaid expenditures

(R.C. 5126.0510; Section 259.60)

The bill requires the ODODD Director to establish a methodology to be used in fiscal years 2016 and 2017 to estimate the quarterly amount each CBDD is to pay of the nonfederal share of the Medicaid expenditures for which the CBDD is responsible. With certain exceptions, continuing law requires the CBDD to pay this share for home and community-based services provided to an individual who the CBDD determines is eligible for CBDD services. ODODD was similarly required to establish the methodology for fiscal years 2014 and 2015 under H.B. 59 of the 130th General Assembly.

Each quarter, the Director must submit to the CBDD written notice of the amount for which the CBDD is responsible. The notice must specify when the payment is due.

Developmental center services

(Section 259.130)

The bill permits an ODODD-operated residential center for persons with mental retardation and developmental disabilities (i.e., a developmental center) to provide services to persons with mental retardation and developmental disabilities living in the community or to providers of services to these persons. ODODD is permitted to develop a method for recovery of all costs associated with the provision of the services. A similar provision was included in H.B. 59 of the 130th General Assembly.

Innovative pilot projects

(Section 259.150)

For fiscal years 2016 and 2017, the bill permits the ODODD Director to authorize the continuation or implementation of innovative pilot projects that are likely to assist in promoting the objectives of state law governing ODODD and CBDDs. Under the bill, a pilot project may be implemented in a manner inconsistent with the laws or rules governing ODODD and CBDDs; however, the Director cannot authorize a pilot project to be implemented in a manner that would cause Ohio to be out of compliance with any requirements for a program funded in whole or in part with federal funds. Before authorizing a pilot project, the Director must consult with entities interested in the issue of developmental disabilities, including the Ohio Provider Resource Association, Ohio Association of County Boards of Developmental Disabilities, Ohio Health Care Association Ohio Centers for Intellectual Disabilities, the Values and Faith Alliance, and ARC of Ohio. A similar provision was included in H.B. 59 of the 130th General Assembly.

Use of county subsidies to pay nonfederal share of ICF/IID services

(Section 259.210)

The bill requires the ODODD Director to pay the nonfederal share of a claim for ICF/IID services using funds otherwise appropriated for subsidies to CBDDs if (1) Medicaid covers the ICF/IID services, (2) the ICF/IID services are provided to a Medicaid recipient who is eligible for the ICF/IID services and the recipient does not occupy a bed in the ICF/IID that used to be included in the Medicaid-certified capacity of another ICF/IID certified by the Director of Health before June 1, 2003, (3) the ICF/IID services are provided by an ICF/IID whose Medicaid certification by the Director of Health was initiated or supported by a CBDD, and (4) the provider of the ICF/IID services has a valid Medicaid provider agreement for the services for the time that the

services are provided. A similar provision was included in H.B. 59 of the 130th General Assembly.

Rights of persons with developmental disabilities

(R.C. 5123.62)

The bill expands certain rights specified in the Revised Code of persons with developmental disabilities and adds additional rights. The bill provides that all of these are rights to exercise choices, by or with the aid of family members or other guardians, among residential or employment accommodations.

Existing law requires service providers to establish policies to ensure that staff members observe the rights in their contacts with persons who are developmentally disabled. A person who believes his or her rights have been violated may do any of the following: (1) bring the violation to the provider's attention for resolution, (2) report the violation to the Department of Developmental Disabilities, the Ohio Protection and Advocacy System, or the appropriate county board of developmental disabilities, or (3) take any other appropriate action, including filing legal action to enforce the rights or recover damages.[31]

The bill expands rights specified in existing law by providing the following:

- That the existing right to receive appropriate care and treatment in the least intrusive manner is as appropriate to the person and includes adequate health care, personal care, and other therapeutically necessary services.

- That the existing right to participate in decisions that affect their lives is to be without government coercion.

- That the existing right to be free from unnecessary chemical or physical restraints includes the right to have such restraints used only when ordered by a physician or as necessary to protect the lives and safety of themselves or others and never to have them used for discipline or the convenience of service providers or other caregivers.

The additional rights specified in the bill are:

[31] R.C. 5123.64, not in the bill.

- The right to choose to live, or to decline to live, in a large or small intermediate care facility for individuals with intellectual disabilities, a home, or another facility or community setting.

- The right to have access to and participate in activities of a social, religious, or other nature in association with other persons who share their interests and in accordance with individual choice.

- The right to associate with persons of their choice in any reasonable manner they choose.

- The right, with their parents or guardians, to choose the settings in which they wish to work or engage in day programs and services, whether in disability-specific facility-based workshops and programs regardless of size or location or in community settings.

- The right to be free from neglect and indignity.

- The right, with their parents and guardians, to be informed in writing of rights and policies governing any residential, work, or other setting provided as an accommodation by the state or a local government entity.

- The right, with their parents or guardians, to speak on their own behalf before agencies of the state and local government.

- The right, with their consent or that of their parents or guardians, to be included or be free from being included as litigants or class members in threatened or actual litigation asserting claims on their behalf or affecting their rights.

Updating authorizing statute citations

(Section 259.230)

The bill provides that the ODODD Director is not required to amend any rule for the sole purpose of updating the citation in the Ohio Administrative Code to the statute that authorizes the rule to reflect that the bill renumbers the authorizing statute or relocates it to another Revised Code section. The citations must be updated as the Director amends the rules for other purposes.

DEPARTMENT OF EDUCATION

I. School Financing

- Specifies a formula amount of $5,900, for fiscal year 2016, and $6,000, for fiscal year 2017.

- Changes the computation of a city, local, or exempted village school district's opportunity grant to a formula that subtracts a charge-off of 20 mills times the district's average valuation times the district's income factor from the product of the formula amount and the district's student count.

- Specifies that "average valuation" for the calculation of a city, local, or exempted village school district's opportunity grant is the average of a district's total taxable value for three specified tax years, or, if more than 20% of the district's total taxable real property in tax year 2014 is agricultural property, the average of a district's total taxable value for six specified tax years.

- Specifies that a district's opportunity grant must be at least 5% of the product of the formula amount and the district's student count.

- Specifies that "average valuation" for the calculation of a joint vocational school district's opportunity grant is the average of a district's total taxable value for three specified tax years.

- Specifies a "state share percentage" for each city, local, and exempted village school district that is equal to the district's opportunity grant divided by the product of the formula amount and the district's student count.

- Revises the calculation of targeted assistance funding by (1) renaming the "wealth index" factor of the computation to "capacity measure" and (2) using the "average valuation" that is used to calculate the opportunity grant.

- Revises the calculation of targeted assistance supplemental funding by basing the "three-year average tax valuation" on the average of a district's tax valuation for tax years rather than fiscal years.

- Requires the Department to make an additional payment of "capacity aid" funds to city, local, and exempted village school districts based on how much 1 mill of taxation will raise in revenue.

- Revises the dollar amounts for each category of special education services.

- Revises the dollar amounts for the calculation of kindergarten through third-grade literacy funds.

- Maintains the dollar amount for economically disadvantaged funds from fiscal year 2015 for both years of the biennium, and revises the calculation of the "economically disadvantaged index for a school district" that is used as a factor in the computation of economically disadvantaged funds.

- Maintains the dollar amounts for each category of limited English proficient students from fiscal year 2015 for both years of the biennium.

- Maintains the dollar amount for gifted identification funds and for each gifted unit from fiscal year 2015 for both years of the biennium.

- Revises the dollar amounts for each category of career-technical education programs and career-technical associated services.

- Changes the transportation funding formula by using "total ridership" (average number of students enrolled in regular education in grades kindergarten through 12 provided bus service during the first full week of October) rather than "qualifying ridership" (students who live more than one mile from school).

- Specifies that a school district's transportation funding be calculated using a multiplier that is the greater of 50% (rather than 60% as under current law) or the district's state share percentage (as calculated under the bill's provisions).

- Removes the requirement that each city, local, and exempted village school district report all data used to calculate funding for transportation through the Education Management Information System (EMIS).

- Removes the requirement that a community school governing authority that enters into an agreement to transport students or accepts responsibility to transport students must provide or arrange transportation free of charge for each of its enrolled students who would otherwise be transported by the students' school districts under those districts' transportation policies.

- Clarifies that payments made to a community school for transporting students must be calculated on a "per rider basis."

- Specifies that a city, local, or exempted village school district's aggregate amount of core foundation funding and pupil transportation funding may not increase to more than 7.5% of the previous year's state aid in each fiscal year of the biennium.

- Specifies that a joint vocational school district's aggregate amount of core foundation funding may not increase to more than 7.5% of the previous year's state aid in each fiscal year of the biennium.

- Guarantees that all districts receive at least the same amount of state aid in each fiscal year of the biennium as in fiscal year 2015.

- Guarantees that all districts receive in total per-pupil state operating funding at least half of 20% of the formula amount in each year of the biennium.

- Extends the Straight A Program to fiscal years 2016 and 2017, and (1) permits governmental entities partnering with educational entities to apply for grants, (2) requires the Straight A governing board to issue a "timely decision" on a grant rather than within 90 days, and (3) eliminates the committee that annually reviewed the program.

- Specifies that the amount a school district or community school must pay to a joint vocational school district providing special education and related services to a student of the district or school for costs that exceed the amount the joint vocational district receives under the funding formula must be calculated using a formula approved by the Department.

- Specifies that a city, local, or exempted village school district may enroll under its interdistrict open enrollment policy an adjacent or other district student who is a preschool child with a disability.

- Requires the Department of Education to pay to a district that enrolls under its open enrollment policy an adjacent or other district student who is a preschool child with a disability, and to deduct from the state education aid of the student's resident district, $4,000 for that student.

- Specifies that, if a preschool child with a disability who is a resident of one district receives special education from another district under an agreement between the districts, the district providing the education may require the child's district of residence to pay the full amount (rather than half) of the tuition of the district providing the education, as calculated in accordance with existing law.

- Modifies the permitted uses of Auxiliary Services Funds.

- Specifies that if the appropriation for nonpublic school administrative cost reimbursement is sufficient, the Department may pay up to $420 per pupil for each school year, rather ($360 per pupil as under current law).

II. Community Schools

- Requires the Department of Education, not later than July 1, 2016, to submit and present to the House and Senate Education Committees a plan that proposes the expansion of the Department's authority to directly authorize community schools and recommendations for a rating rubric for community school sponsor evaluations.

- Requires an educational service center sponsoring a conversion school to be approved as a sponsor by the Department of Education.

- Changes the definition of "Internet- or computer-based community school" to assure inclusion of a school that offers career-technical education, even if that instruction provides some classroom-based instruction.

- Permits a community school that satisfies specified requirements to be licensed by the Department of Education to operate a preschool program and to admit individuals who are general education preschool students (preschool students who are not receiving special education) to that program.

- Requires a community school that operates a preschool program that is licensed by the Department to comply with the same licensing and operational standards that apply to preschool programs operated by school districts, eligible nonpublic schools, and county DD boards under current law.

- Specifies that a community school that operates a preschool program that is licensed by the Department may not receive state community school operating funding for students enrolled in that program, but authorizes the program to apply for early childhood education funding.

- Requires the Department of Education, in conjunction with an Ohio education service center (ESC) association and an Ohio gifted children association, to submit to the House and Senate education and finance committees, and subcommittees, a feasibility analysis of the establishment of 16 regional community schools for gifted children.

- Prohibits community schools and college-preparatory boarding schools from selling any property purchased from a school district by way of mandatory sale within five years of purchasing that property, unless the sale is to another community school or college-preparatory boarding school located in the district.

- Temporarily permits a city school district to offer for purchase district property to a professional sports museum located in the same municipal corporation, instead of

offering a right of first refusal to community schools or college-preparatory boarding schools and sale by auction.

III. State Testing and Report Cards

State assessments

- Prohibits funds appropriated from the General Revenue Fund from being used to purchase an assessment developed by the Partnership for Assessment of Readiness for College and Careers (PARCC) for use as the state elementary and secondary achievement assessments.

- Prohibits federal Race to the Top program funds from being used for any purpose related to the state elementary and secondary achievement assessments.

- Requires the state elementary and secondary achievement assessments to be "nationally normed, standardized assessments."

- Makes eligible for high school graduation an individual who entered ninth grade for the first time *prior* to the 2014-2015 school year, if that person completes one of the three graduation pathways otherwise required for high school students who began ninth grade after that date.

- Makes eligible for high school graduation a person who entered ninth grade for the first time *prior* to the 2014-2015 school year, and who has not passed all areas of the Ohio Graduation Tests (OGT), if the person meets a graduation requirement (established by rules adopted by the State Board of Education) that combines partial passage of the OGT and completion of a graduation pathway.

- Exempts students enrolled in a chartered nonpublic school that is accredited through the Independent School Association of the Central States (ISACS) from (1) the requirement to complete one of three prescribed pathways for high school graduation, and (2) the requirement to take the high school end-of-course examinations.

- Removes a current law provision that delays a separate conditional exemption for chartered nonpublic schools until October 1, 2015, unless the General Assembly does not enact different requirements regarding end-of-course examinations for chartered nonpublic schools that are effective by that date, thus setting into effect that exemption for non-ISACS chartered nonpublic schools on the bill's effective date.

- Adds an administration deadline for the reading skills assessment for purposes of the Third-Grade Reading Guarantee of September 30 for students in grades one to three, and November 1 for students in kindergarten.

- Allows the reading skills assessments used to determine a student's reading level to be administered electronically using live audio and video connections whereby the teacher administering the assessment may be in a separate location from the student.

State report cards

- Requires the State Board of Education to establish proficiency percentages to meet each report card indicator that is based on a state assessment and sets deadlines by which the proficiency percentages must be established.

- Makes permissive, rather than mandatory as under current law, the development of the high school student academic progress measure as a part of the state report card by the State Board of Education.

- Specifies that the grade for the high school student academic progress measure, if developed by the State Board, not be reported sooner than the 2017-2018 school year.

- Specifies that the high school academic progress measure not be included in determining a district or school's overall report card grade.

- Changes the school year by which overall letter grades on the state report card must be first issued from the 2015-2016 school year, as under current law, to the 2017-2018 school year.

- Extends through the 2016-2017 school year the safe harbor provisions related to achievement assessment score results and report card ratings, for students, public school districts and schools, and teachers.

- Extends the deadline for the 2014-2015 state report card from September 15, 2015, to January 15, 2016.

- Extends until January 31, 2016, the deadline for the Department of Education's reports regarding students with disabilities for the 2014-2015 school year.

- Prohibits, for the 2014-2015 school year only, the Department from ranking school districts, community schools, and STEM schools according to academic performance measures.

- Sets a deadline of January 31, 2016, for the Department to rank districts, community schools, and STEM schools according to expenditures for the 2014-2015 school year.

IV. Educator Licensing

- Modifies the required components of the Ohio Teacher Residency Program to specify that mentoring must be provided by any teacher (rather than a lead professional educator) during only the first two years of the program and that the district or school must determine if counseling is necessary.

- Specifies that one of the required measures of progression through the Ohio Teacher Residency Program must be the performance-based assessment required by the State Board for resident educators in the third year of the program.

- Permits career-technical educators to forgo the first two years of the Ohio Teacher Residency Program.

- Requires the State Board, by July 1, 2016, to adopt rules that exempt consistently high-performing teachers from (1) the requirement to complete additional coursework to renew an educator license and (2) any related requirement prescribed by the district's or school's local professional development committee.

- Modifies the duration for which a pupil-activity program permit is valid (three years under current law) by specifying that, if the applicant holds an educator license, the permit is instead valid for the same number of years as the individual's educator license.

- Prohibits the State Board of Education from requiring any fee to be paid for a license, certificate, or permit issued for the purpose of teaching in a Junior ROTC program.

- Requires the State Board of Education to issue an alternative principal license or an alternative administrator license to an individual who (1) successfully completes the Bright New Leaders for Ohio Schools Program and (2) satisfies rules adopted by the State Board.

V. Exemptions and Waivers

Exemptions for high-performing school districts

- Repeals the current provision regarding exemptions for high-performing school districts and, instead, creates a new exemption provision for high-performing school districts effective with the 2016-2017 school year.

- Permits the Superintendent of Public Instruction to waive additional requirements upon application from high-performing school districts.

Conditional waivers for innovative programs

- Authorizes community schools, in addition to school districts and STEM schools under current law, to request from the Superintendent of Public Instruction a waiver for up to five school years from (1) administering the state-required achievement assessments, (2) teacher evaluations, and (3) reporting of student achievement data for report card ratings.

- Specifies that school districts, community schools, and STEM schools may submit a request for a waiver during the 2015-2016 school year only.

- Limits, to ten, the total number of school districts, community schools, and STEM schools that may be granted a waiver, based on requests for a waiver received during the 2015-2016 school year.

- Removes a provision requiring a school district to be a member of the Ohio Innovation Lab Network in order to be eligible to submit a request for a waiver.

- Removes STEM schools' current presumptive eligibility for being granted a waiver.

- Removes a provision specifying that a district's or school's waiver application that includes an overview of the district's or school's alternative assessment system must include "links to state-accepted and nationally accepted metrics, assessments, and evaluations."

- Revises the timing of the decision by the state Superintendent on whether to approve or deny a waiver or to request additional information from "not later than 30 days after receiving a request for a waiver" to "upon receipt of a waiver."

- Defines "innovative educational program or strategy," for purposes of a waiver, as a program or strategy that uses a new idea or method aimed at increasing student engagement and preparing students to be college or career ready.

VI. Other Education Provisions

Scholarship programs

- Increases maximum amount of an Ed Choice scholarship that may be awarded to a high school student from $5,000 to $5,700.

- Changes the basis for the Ed Choice scholarship according to performance index score ranking of a student's assigned district building, from a ranking based on the performance index scores of all public schools to a ranking based on the performance index scores of all buildings operated by school districts.

- Qualifies for participation in the Cleveland Scholarship Program, a private high school (grades 9-12) located in a school district that is (1) located in a municipal corporation with a population of at least 15,000 (instead of at least 50,000 under current law) and (2) located within five miles of the pilot project (Cleveland) school district's border (rather than adjacent to the pilot project school district as under current law).

College Credit Plus program

- Requires all public and participating private and out-of-state colleges to offer an associate degree pathway under the College Credit Plus (CCP) program that (1) requires at least 60, but not more than 72, credit hours to complete and (2) enables participants to earn an associate degree upon completion of the pathway.

- Appropriates $4.9 million in FY 2016 and $5.0 million in FY 2017 for supplemental CCP payments to school districts and specifies a method to calculate such payments.

- Specifically prohibits any requirement of the CCP program, or any rule adopted by the Director of Higher Education or the State Board for purposes of the CCP program, to apply to a chartered nonpublic secondary school that chooses not to participate in the program.

- Removes the end date of July 1, 2016, with regard to the exemption from the CCP program for career-technical education programs that grant articulated credit to students.

- Specifies that career-technical education programs that grant transcripted credit to students must be governed by the CCP program.

- Requires the CCP program to be the sole mechanism by which state funds are paid to colleges for students to earn "transcripted" credit, rather than "college-level" credit, while enrolled in high school and college.

- Requires the Director and the Superintendent of Public Instruction to include, in each biennial report on the CCP program, an analysis of quality assurance measures related to the program.

Mathematics curriculum requirement

- Permits students who enter the ninth grade for the first time on or after July 1, 2015, who are pursuing a "career-technical instructional track" to take a career-based pathway mathematics course as an alternative to Algebra II, which is currently required for most students in order to receive a high school diploma.

Credit based on subject area competency

- Requires the State Board of Education, not later than December 31, 2015, to update its statewide plan regarding methods for students to earn high school credit based on subject area competency to also include methods for students enrolled in 7th and 8th grade to meet curriculum requirements based on such competency.

- Requires school districts and community schools, beginning with the 2017-2018 school year, to comply with the updated plan and to permit students enrolled in 7th and 8th grade to meet curriculum requirements accordingly.

- Requires the Department of Education to provide assistance to the State Board for purposes of updating the statewide plan on subject competency, including credit by exam, and to, upon completion of the plan, inform students, parents, and schools of the updated plan.

Competency-Based Education Pilot Program

- Establishes the Competency-Based Education Pilot Program to provide grants to school districts, community schools, STEM schools, and consortia of one or more districts or schools led by one or more educational service centers for designing and implementing competency-based models of education for their students during the 2016-2017, 2017-2018, and 2018-2019 school years.

- Requires districts, schools, or consortia that wish to participate in the pilot program to submit an application to the Department of Education not later than November 1, 2015.

- Requires the Department to select, not later than March 1, 2016, not more than ten applicants to participate in the pilot program, and requires the Department to award each district, school, or consortium selected to participate in the pilot program a grant of up to $250,000 for each fiscal year of the biennium.

- Requires each district, school, or consortium selected to participate in the pilot program to satisfy specified requirements for the competency-based education offered by the district, school, or consortium and agree to an annual performance review conducted by the Department.

- Specifies that a district, school, or consortium selected to participate in the pilot program remains subject to all accountability requirements in state and federal law that otherwise apply to it.

- Specifies that a student enrolled in a district or school that is selected to participate in the pilot program, either by itself or as part of a consortium, who is participating in competency-based education must be considered to be a full-time equivalent student while participating in competency-based education for purposes of state funding for that district or school, as determined by the Department.

- Requires the Department to post two reports on its website (the first not later than January 31, 2017, and the second not later than December 31, 2018) regarding the pilot program.

Education and business partnerships

- Specifically permits the Superintendent of Public Instruction to form partnerships with Ohio's business community to implement initiatives that connect students with the business community to increase student engagement and job readiness.

Eligibility to take the GED tests

- Specifies that a person who is at least 19 years old (rather than 18 as under current law) may take the tests of general educational development (GED) without additional administrative requirements, if the person is officially withdrawn from school and has not received a high school diploma.

- Permits a person who is at least 16 but less than 19 years old (rather than less than 18 as under current law) to apply to the Department of Education to take the GED tests, but requires additional application materials.

- Requires a person who is under 18 years old and who is approved to take the GED tests to remain enrolled in school and maintain at least a 75% attendance rate until (1) the person passes all required sections of the GED, or (2) the person reaches 18 years of age.

- Specifies that, for the purpose of calculating graduation rates for districts and schools on the state report cards, the Department must include any person who withdraws from school to take the GED tests (rather than any person who obtains approval to take the GED tests as under current law) as a dropout from the school.

Education of older students

- Changes the name of the Adult Career Opportunity Pilot Program to the Adult Diploma Pilot Program and makes changes in the administration of the program.

- Modifies separate provisions of current law that permit an individual age 22 and above who has not received a high school diploma or equivalence certificate to

enroll in certain types of public schools and public two-year colleges for the purpose of earning a high school diploma.

Student health services

- Specifically permits the board of education or governing authority of a school district, educational service center, community school, STEM school, or college-preparatory boarding school to enter into a contract with a hospital or an appropriately licensed health care provider to provide health services to students.

- Specifies that the hospital's or provider's employees who are providing the services of a nurse under the contract are not required to obtain a school nurse license or school nurse wellness coordinator license, but must hold a credential equivalent to being licensed as a registered nurse or licensed practical nurse.

Site-based management councils

- Repeals a provision of current law requiring each school district with a total student count of 5,000 or more to designate one school building to be operated by a site-based management council, unless the district received a specified grade on the most recent report card or the district filed an alternative management structure with the Department.

Student transportation

- Specifies that a school district board of education is not required to transport students to and from a nonpublic or community school on weekends absent an agreement to do so that was entered into before July 1 of the school year in which the agreement takes effect.

- Clarifies that a community school that takes over responsibility to transport a school district's resident students to and from the community school may determine that it is impractical to transport a student using the same procedures, requirements, and payment structure that a school district uses to determine impracticality.

- Removes a provision requiring a district board to submit a resolution declaring impracticality of transportation to the educational service center (ESC) that contains the district's territory and specifying the ESC's required actions upon receiving the resolution.

- Creates the School Transportation Joint Task Force to study transportation of students to public and nonpublic schools and requires it to make recommendations to the General Assembly by February 1, 2016.

School district competitive bidding

- Increases the competitive bidding threshold for school building, improvement, and repair contracts for school districts from $25,000 to $50,000.

Other provisions

- Changes the term of office of a joint vocational school district board member to one year, if that member is appointed on a rotating basis by members of the board when there is an even number of member districts under a plan on file with the Department of Education.

- Permits the administrator of a district, school, or other educational entity, as part of the school's existing comprehensive emergency management plan, to (1) approve the installation of security devices, including devices that prevent both entrance and exit through a door, in buildings under the administrator's control, and (2) incorporate protocols for specified emergency events.

- Modifies a provision permitting school districts to contract with public and private entities to provide academic remediation and intervention services to students in grades 1-6 outside of regular school hours by expanding eligibility to students in any grade.

- Permits the State Board of Education to establish an annual Teacher of the Year program, and allows, under the Ethics Law, a teacher recognized as a Teacher of the Year to receive a gift or privilege as part of the program and a person or entity to make a voluntary contribution to the program.

I. School Financing

(R.C. 3313.981, 3314.08, 3314.091, 3317.01, 3317.013, 3317.014, 3317.016, 3317.019, 3317.02, 3317.022, 3317.0212, 3317.0213, 3317.0214, 3317.0217, 3317.0218, 3317.051, 3317.16, 3317.20, 3317.26, 3319.57, 3323.13, and 3326.33; Sections 263.220, 263.230, 263.240, and 263.350)[32]

H.B. 59 of the 130th General Assembly (the general operating budget act for the 2013-2015 biennium) enacted a new system of financing for school districts and other

[32] R.C. 3317.017 and 3317.018 specify the computation of a district's "capacity measure" for purposes of the phase-out of tangible personal property tax reimbursements. These sections are not used to calculate a district's foundation funding under R.C. Chapter 3317.

public entities that provide primary and secondary education. This system specifies a per-pupil formula amount and then uses that amount, along with a district's "state share index" (which depends on valuation and, for districts with relatively low median income, on median income), to calculate a district's base payment (called the "opportunity grant"). The bill eliminates the state share index in favor of a state share percentage as used in prior funding formulas. The system also includes payments for targeted assistance (based on a district's property value and income) and supplemental targeted assistance (based on a district's percentage of agricultural property), as well as categorical payments (which include special education funds, kindergarten through third grade literacy funds, economically disadvantaged funds, limited English proficiency funds, gifted funds, career-technical education funds, and student transportation funds).

The bill makes changes to the current funding system as described below and applies these changes to the core foundation funding formulas for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools. For a more detailed description of the bill's school funding system, see the LSC Redbook for the Department of Education and the LSC Comparison Document for the bill. Click on "Budget Bills and Related Documents," then on "Main Operating," and then on "Redbooks" or "Comparison Document."

Note, as used below, "ADM" means average daily membership. Current law, not affected by the bill, provides that the Department of Education use the student enrollment that a district is required to report three times during a school year (at the end of October, March, and June) to calculate a district's average daily membership for the specific purposes or categories required for the school funding system, including a district's "formula ADM" and "total ADM."[33] The bill clarifies that, in any given fiscal year, prior to school districts submitting the first required student enrollment report for that year (at the end of October), enrollment for the districts must be calculated based on the third report submitted by the districts for the previous fiscal year (at the end of June).

Formula amount

(R.C. 3317.02)

The bill specifies a formula amount of $5,900, for fiscal year 2016, and $6,000, for fiscal year 2017. That amount is incorporated in the school funding system to calculate a district's base payment (the "opportunity grant") and is used in the computation of

[33] R.C. 3317.03, not in the bill.

various other payments. (The formula amount for fiscal year 2015, prescribed by H.B. 59 of the 130th General Assembly, is $5,800.)

Opportunity grant for city, local, and exempted village school districts

(R.C. 3317.022)

The bill replaces the computation of the opportunity grant for city, local, and exempted village school districts under current law with a formula that subtracts a charge-off from the product of the formula amount and the sum of the district's formula ADM and preschool scholarship ADM[34] (student count). A district's charge-off (local contribution) is equal to 20 mills times the district's average valuation times the district's income factor.

Additionally, the bill specifies that no district's opportunity grant may be less than 5% of its aggregate base cost amount.

Average valuation

(R.C. 3317.02 and 3317.022)

For purposes of the calculation of a district's opportunity grant, "average valuation" means the following:

--For fiscal year 2016, the average of a district's total taxable value for tax years 2012, 2013, and 2014 or, if for tax year 2014 more than 20% of the total taxable real property in a district is agricultural property, the average of a district's total taxable value for tax years 2009, 2010, 2011, 2012, 2013, and 2014;

--For fiscal year 2017, the average of a district's total taxable value for tax years 2013, 2014, and 2015 or, if for tax year 2015 more than 20% of the total taxable real property in a district is agricultural property, the average of a district's total taxable value for tax years 2010, 2011, 2012, 2013, 2014, and 2015.

If 30% or more of the potential value of a school district (the average valuation of the district plus the tax-exempt value of the district for the most recent tax year for which data is available) is exempt from taxation, the Department must adjust the district's average valuation by subtracting the district's average valuation from the difference between the district's tax-exempt value and 30% of the district's potential value.

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[34] A district's "preschool scholarship ADM" is the number of preschool children receiving a scholarship to attend an alternative provider under the Autism Scholarship Program.

Income factor

(R.C. 3317.019)

A district's "income factor" is calculated using a district's "median income index" (the ratio of a district's median Ohio adjusted gross income to the median of the median Ohio adjusted gross income of all districts statewide), as follows:

Median Income Index	Income Factor
Less than or equal to 1.0	Equal to the median income index
Greater than 1.0 but less than 1.5	For fiscal year 2016, a scaled value between 1.0 and 1.1575 For fiscal year 2017, a scaled value between 1.0 and 1.189
Greater than or equal to 1.5	For fiscal year 2016, 1.1575 For fiscal year 2017, 1.189

Opportunity grant for joint vocational school districts

(R.C. 3317.16)

The bill does not change the calculation of the opportunity grant for joint vocational school districts. However, it specifies that the "average valuation" for purposes of that calculation is as follows:

--For fiscal year 2016, the average of a district's total taxable value for tax years 2012, 2013, and 2014;

--For fiscal year 2017, the average of a district's total taxable value for tax years 2013, 2014, and 2015.

State share percentage for city, local, and exempted village school districts

(R.C. 3317.02)

The bill specifies a "state share percentage" for each city, local, and exempted village school district that is equal to the district's opportunity grant (after the charge-off is subtracted) divided by the product of the formula amount and the district's

aggregate student count.[35] Essentially, it is the percentage of the total opportunity grant amount supplied by the state.

This factor is used instead of the "state share index" (as under current law) in the calculation of the opportunity grant, special education funds, catastrophic cost for special education students, kindergarten through third grade literacy funds, limited English proficiency funds, career-technical education funds, and career-technical education associated services funds for city, local, and exempted village school districts. It is also a factor in the calculation of additional state aid for preschool special education children that is paid to city, local, and exempted village school districts and institutions (the departments of Mental Health and Addiction Services, Developmental Disabilities, Youth Services, and Rehabilitation and Correction), the calculation of payments to county DD boards that provide special education and related services to children with disabilities, and the criteria for a city, local, exempted village, or joint vocational school district to qualify for a grant program for innovators.[36]

Targeted assistance

(R.C. 3317.0217)

The bill revises the calculation of targeted assistance funding, which is based on a district's value and income, by (1) renaming the "wealth index" factor of the computation to "capacity measure" and (2) using the "average valuation" that is used to calculate the opportunity grant. Targeted assistance is paid to city, local, and exempted village school districts, and community schools and STEM schools are paid 25% of the per-pupil amount of targeted assistance funding for each student's resident school district (unless the community school is an Internet- or computer-based community school (e-school)).

The bill also revises the calculation of targeted assistance supplemental funding, which is based on a district's percentage of agricultural property, by basing the "three-year average tax valuation" on the average of a district's tax valuation for tax years rather than fiscal years. Targeted assistance supplemental funding is paid to city, local, and exempted village school districts.

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[35] This is comparable to the "state share percentage" calculated for joint vocational school districts under current law, which is not changed by the bill (R.C. 3317.16).

[36] Previous funding formulas also used a "state share percentage" for similar purposes.

Capacity aid

(R.C. 3317.0218)

The bill requires the Department to make an additional payment of "capacity aid" funds to school districts based on how much 1 mill of taxation will raise in revenue for the district.

Special education funding

(R.C. 3317.013)

The bill specifies the following dollar amounts for the six categories of special education services, as described in the table below. These amounts are used in the calculation of special education funding for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools. These amounts are increased from the ones specified for fiscal years 2014 and 2015.

Category	Disability	Dollar amount for fiscal year 2016	Dollar amount for fiscal year 2017
1	Speech and language disability	$1,547	$1,578
2	Specific learning disabled; developmentally disabled; other health-impairment minor; preschool child who is developmentally delayed	$3,926	$4,005
3	Hearing disabled; severe behavior disabled	$9,433	$9,622
4	Vision impaired; other health-impairment major	$12,589	$12,841
5	Orthopedically disabled; multiple disabilities	$17,049	$17,390
6	Autistic; traumatic brain injuries; both visually and hearing impaired	$25,134	$25,637

Kindergarten through third grade literacy funds

(R.C. 3314.08(C)(1)(d), 3317.022(A)(4), and 3326.33(D))

The bill revises the dollar amounts for the calculation of kindergarten through third grade literacy funds for city, local, and exempted village school districts and the payment of these funds to community schools and STEM schools.

Economically disadvantaged funds

(R.C. 3314.08(C)(1)(e), 3317.022(A)(5), 3317.16(A)(3), and 3326.33(E))

The bill revises the dollar amounts for the calculation of economically disadvantaged funds for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools.

It also revises the "economically disadvantaged index for a school district" that is used in the factor for the calculation of economically disadvantaged funds as follows:

(1) For a city, local, or exempted village school district, the bill uses the percentage of students in the sum of the total ADM of all city, local, and exempted village school districts who are identified as economically disadvantaged as part of the computation of the index;

(2) For a joint vocational school district, the bill uses the percentage of students in the sum of the formula ADM of all joint vocational school districts who are identified as economically disadvantaged as part of the computation of the index.

Funding for limited English proficient students

(R.C. 3317.016)

The bill specifies the following dollar amounts for categories of limited English proficient students, as described in the table below. These amounts are used in the calculation of funding for limited English proficient students for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools. The amounts are the same as those currently specified for fiscal year 2015.

Category	Type of student under current law	Dollar amount for fiscal year 2016 and for fiscal year 2017
1	A student who has been enrolled in schools in the U.S. for 180 school days or less and was not previously exempted from taking the spring administration of either of the state's English language arts assessments (reading or writing)	$1,515
2	A student who has been enrolled in schools in the U.S. for more than 180 school days or was previously exempted from taking the spring administration of either of the state's English language arts assessments (reading or writing)	$1,136

Category	Type of student under current law	Dollar amount for fiscal year 2016 and for fiscal year 2017
3	A student who does not qualify for inclusion in categories 1 or 2 and is in a trial-mainstream period, as defined by the Department	$758

Gifted funding

(R.C. 3317.022(A)(7) and 3317.051)

Gifted identification funding

The bill maintains the dollar amount for gifted identification funding ($5.05) from fiscal year 2015 for both fiscal years of the biennium. This funding is paid to city, local, and exempted village school districts.

Gifted unit funding

The bill also maintains the dollar amount for each gifted unit ($37,370) from fiscal year 2015 for both fiscal years of the biennium. The Department must pay gifted unit funding to a district in an amount equal to the dollar amount for each gifted unit times the number of units allocated to a district. Under current law, the Department must allocate funding units to a city, local, or exempted village school district for services to identified gifted students as follows:

(1) One gifted coordinator unit for every 3,300 students in a district's gifted unit ADM (which is the district's formula ADM minus the number of its resident students enrolled in community schools and STEM schools), with a minimum of 0.5 units and a maximum of 8 units for any district.

(2) One gifted intervention specialist unit for every 1,100 students in a district's gifted unit ADM, with a minimum of 0.3 units allocated for any district.

Career-technical education funding

(R.C. 3317.014)

The bill specifies the following dollar amounts for the five categories of career-technical education programs, as described in the table below. These amounts are used in the calculation of career-technical education funding for city, local, and exempted village school districts, joint vocational school districts, community schools, and STEM schools. These amounts are increased from the ones specified for fiscal years 2014 and 2015.

Category	Career-technical education programs[37]	Dollar amount for fiscal year 2016	Dollar amount for fiscal year 2017
1	Workforce development programs in agricultural and environmental systems, construction technologies, engineering and science technologies, finance, health science, information technology, and manufacturing technologies	$4,992	$5,192
2	Workforce development programs in business and administration, hospitality and tourism, human services, law and public safety, transportation systems, and arts and communication	$4,732	$4,921
3	Career-based intervention programs	$1,726	$1,795
4	Workforce development programs in education and training, marketing, workforce development academics, public administration, and career development	$1,466	$1,525
5	Family and consumer science programs	$1,258	$1,308

Associated services funding

(R.C. 3317.014)

The bill specifies the following amount for career-technical education associated services: $236, in fiscal year 2016, or $245, in fiscal year 2017. These amounts are multiplied by a district's total career-technical ADM and a district's state share percentage in order to calculate the district's career-technical education associated services funding. These amounts, too, are increased from those for fiscal years 2014 and 2015.

Transportation funding

(R.C. 3317.0212)

The bill changes the calculation of the statewide transportation cost per student that is used in the transportation funding formula by using "total ridership" rather than

[37] Continuing law specifies that each career-technical education program must be defined by the Department in consultation with the Governor's Office of Workforce Transformation (R.C. 3317.014).

"qualifying ridership." A district's "total ridership" is the average number of resident students enrolled in regular education in grades kindergarten through 12 who are provided school bus service by a district during the first full week of October, whereas a district's "qualifying ridership" only includes those students who live more than one mile from the school they attend.

The bill also specifies that a school district's transportation funding be calculated using a multiplier that is the greater of 50% (rather than 60% as under current law) or the district's state share percentage (as calculated under the bill's provisions).

Finally, the bill removes the requirement that each city, local, and exempted village school district report all data used to calculate funding for transportation through the Education Management Information System (EMIS).

Transportation payments to community schools

(R.C. 3314.091)

The bill removes the requirement that a community school governing authority that enters into an agreement to transport students or accepts responsibility to transport students must provide or arrange transportation free of charge for each of its enrolled students who would otherwise be transported by the students' school districts under those districts' transportation policies. However, the bill retains this requirement for the enrolled students who are required to be transported under current law.

The bill also clarifies that payments made to a community school for transporting students must be calculated "on a per rider basis."

Payments prior to bill's 90-day effective date

(Section 263.220)

The bill requires the Superintendent of Public Instruction, prior to the effective date of the bill's school funding provisions (90 days after the bill is filed with the Secretary of State), to make operating payments in amounts "substantially equal" to those made in the prior year, "or otherwise," at the Superintendent's discretion.

Payment caps and guarantees

(R.C. 3317.26; Sections 263.230 and 263.240)

The bill adjusts a city, local, or exempted village school district's aggregate amount of core foundation funding and pupil transportation funding by imposing a cap that restricts the increase in the aggregate amount of funding over the previous year's

state aid to no more than 7.5% of the previous year's state aid in each fiscal year of the biennium. This capped funding is further adjusted by guaranteeing that all districts receive at least the same amount of state aid in each fiscal year of the biennium as in fiscal year 2015.

Similarly, joint vocational school districts are guaranteed to receive at least the same amount of state aid in each fiscal year of the biennium as in fiscal year 2015 but are also subject to a cap that limits the increase in state aid to no more than 7.5% of the previous year's state aid in each fiscal year of the biennium.

The bill also requires the Department to adjust, as necessary, the transitional aid guarantee base of school districts that participate in the establishment of a joint vocational school district that first begins receiving core foundation funding in fiscal years 2016 or 2017 and to establish, as necessary, the guarantee base of the new joint vocational school district as an amount equal to the absolute value of the sum of the associated adjustments for the participant school districts.

The bill further guarantees that all districts receive in total per-pupil state operating funding at least half of 20% of the formula amount for each year of the biennium.

Straight A Program

(Section 263.350)

The bill extends the Straight A Program to fiscal years 2016 and 2017. This program was created in uncodified law by H.B. 59 of the 130th General Assembly to provide grants for fiscal years 2014 and 2015 to school districts, educational service centers (ESCs), community schools, STEM schools, college-preparatory boarding schools, individual school buildings, education consortia, institutions of higher education, and private entities partnering with one or more of those educational entities. The purpose of those grants is to fund projects aiming to achieve significant advancement in one or more of the following goals: (1) student achievement, (2) spending reduction in the five-year fiscal forecast, (3) utilization of a greater share of resources in the classroom, and (4) use a shared services delivery model.

The bill largely retains the provisions of the Straight A Program, as enacted in H.B. 59 and as subsequently amended in H.B. 342 of the 130th General Assembly. It does, however, change these provisions in the following ways:

(1) Permits governmental entities partnering with one or more educational entities to apply for grants;

(2) Removes the requirement that the Straight A governing board issue a decision on a grant application within 90 days of receiving the application and instead requires the board to issue a "timely decision"; and

(3) Eliminates the advisory committee that annually reviewed the grant program and provided strategic advice to the governing board and the Director of the Governor's Office of 21st Century Education.

Payment of excess cost for special education services

(R.C. 3317.16)

Law not changed by the bill requires a city, local, or exempted village school district or community school to pay a joint vocational school district providing special education and related services to a student of the district or school for the costs that exceed the amount the joint vocational school district receives under the formula for providing those services. Under the bill, the amount of this payment must be calculated using a formula approved by the Department. This replaces the requirement in current law that this amount be calculated by subtracting the formula amount, the amount for the student's special education category, and any additional state aid attributable to the student's special education category from the actual cost to provide special education and related services to the student.

Open enrollment for preschool children with disabilities

(R.C. 3313.981)

The bill permits a city, local, or exempted village school district to enroll under its interdistrict open enrollment policy an adjacent or other district student who is a preschool child with a disability. For each of these students, the Department of Education must pay $4,000 to the district that enrolls the student and deduct that amount from the state education aid of the student's resident district.

Special education provided by another district for preschool children

(R.C. 3323.13)

If a preschool child with a disability who is a resident of one district receives special education from another district under an agreement between the districts, the bill specifies that the district providing the education may require the child's district to pay the tuition of the district providing the education as calculated in accordance with existing law, rather than half of that amount as provided under current law.

Auxiliary Services funds

(R.C. 3317.06)

The bill modifies the permitted uses of Auxiliary Services funds by: (1) specifying that "instructional materials" may include media content that a student accesses through a computer or other electronic devise, (2) permitting the purchase of any mobile application for less than $20 (instead of $10 as under current law), and (3) adding to the definition of "computer hardware and related equipment," that may be purchased or leased, to include any equipment designed to make accessible the environment of a classroom to a student who is physically unable to attend classroom activities by allowing real-time interaction with other students both one-on-one and in group discussion.

School districts receive state Auxiliary Services funds to purchase goods and services for students who attend chartered nonpublic schools located within their territories. Those moneys may be used to purchase, for loan to students of chartered nonpublic schools, such things as textbooks, digital texts, workbooks, instructional equipment including computers, and library materials, or to provide health or special education services.

Nonpublic school administrative cost reimbursement

(Section 263.190)

Each chartered nonpublic school may be reimbursed for administrative and clerical costs incurred as a result of complying with state and federal recordkeeping and reporting requirements. Current permanent law prescribes $360 as the maximum amount per pupil that may be reimbursed to a school each year.[38] The bill specifies in an uncodified provision that if the appropriation for this reimbursement is sufficient, the Department may pay up to $420 per pupil for each school year.

II. Community Schools

Community schools (often called "charter schools") are public schools that operate independently from any school district under a contract with a sponsoring entity. A conversion community school, created by converting an existing school, may be located in and sponsored by any school district or educational service center in the state. On the other hand, a new "start-up" community school may be located only in a "challenged school district." A challenged school district is any of the following: (1) a "Big-Eight" school district (Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton,

[38] R.C. 3317.063, not in the bill.

Toledo, or Youngstown), (2) a poorly performing school district as determined by the school's performance index, value-added progress dimension, or overall score ratings on the state report card, or (3) a school district in the original community school pilot project area (Lucas County).[39]

The sponsor of a start-up community school may be any of the following:

(1) The school district in which the school is located;

(2) A school district located in the same county as the district in which the school is located has a major portion of its territory;

(3) A joint vocational school district serving the same county as the district in which the school is located has a major portion of its territory;

(4) An educational service center;

(5) The board of trustees of a state university (or the board's designee) under certain specified conditions;

(6) A federally tax-exempt entity under certain specified conditions; or

(7) The mayor of Columbus for new community schools in the Columbus City School District under specified conditions. However, it does not appear that those conditions have been triggered.[40]

Many community school governing authorities contract with an operator to run the day-to-day operations of the school. The school's contract with the operator is separate from the school's contract with its sponsor. Operators may be either for-profit or nonprofit entities.

Study on direct authorization and sponsor evaluations

(Section 263.580)

Under continuing law, the Department of Education's Office of Ohio School Sponsorship is permitted to directly authorize the operation of a limited number of both new and existing community schools, rather than those schools being subject to the oversight of other public or private sponsors. The office is also authorized to assume the

[39] R.C. 3314.02(A)(3).

[40] R.C. 3314.02(C)(1)(a) through (g).

sponsorship of a community school whose contract has been voided due to its sponsor being prohibited from sponsoring additional schools.

The bill requires the Department of Education, not later than July 1, 2016, to submit and present to the standing committees on education of the House of Representatives and the Senate both of the following:

(1) A plan that proposes the expansion of the Department's authority to directly authorize community schools;[41] and

(2) Recommendations for a ratings rubric for evaluating sponsors.[42] The recommendations must include research-based evidence that demonstrates that the rubric will result in improved academic results.

Educational service center sponsorship of conversion schools

(R.C. 3314.02(B)(2))

Under current law, an educational service center (ESC) may sponsor a conversion community school located within its service territory or in a contiguous county without approval from the Department of Education and without entering into an agreement with the Department regarding the manner in which the ESC will conduct its sponsorship. The bill removes this provision and, instead, requires that any ESC that sponsors a conversion community school must be approved by and enter into an agreement with the Department under the same terms and conditions as all other sponsors.

Definition of Internet- or computer-based community schools ("e-schools")

(R.C. 3314.02(A)(7))

The bill revises the definition of "Internet- or computer-based community school" ("e-school") to assure inclusion of an e-school that offers career-technical education,[43] even if that instruction provides some classroom-based instruction. The bill specifies that such a community school that operates mainly as an e-school but provides some classroom-based instruction is still an Internet- or computer-based community school, so long as it provides instruction electronically under the current definition of an e-school.

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[41] R.C. 3314.029, not in the bill.

[42] R.C. 3314.016, not in the bill.

[43] R.C. 3314.086, not in the bill.

Current law defines an e-school as a community school in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an Internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include Internet-based, other computer-based, and noncomputer-based learning opportunities.

Preschool programs operated by community schools

(R.C. 3301.52, 3301.53, 3301.541, 3301.55, 3301.56, 3301.57, 3301.58, 3314.03, 3314.06, and 3314.08; Section 263.20)

Preschool program requirements

The bill permits a community school that satisfies any of the following requirements to be licensed by the Department of Education to operate a preschool program for children age three or older:

(1) The school is sponsored by an entity that is rated "exemplary" by the Department;

(2) The school offers any of grade levels four through twelve and has received, on the most recent report card, a grade of "C" or better for the overall value-added progress dimension and for the performance index score;

(3) The school does not offer a grade level higher than three and has received, on the most recent report card, a grade of "C" or better for making progress in improving literacy in grades kindergarten through three.

This program must comply with the same licensing and operational standards that apply to preschool programs operated by school districts, eligible nonpublic schools, and county DD boards under current law.

If a community school operates a preschool program that is licensed by the Department, the bill permits the school to admit individuals who are younger than five years of age to that program. Otherwise, except for early enrollment of a kindergarten student who is shown to be ready for school by evaluation or under an acceleration policy or for enrollment of a preschool student in a Montessori preschool program, a community school may not enroll students who are under five years old.

Student count

The bill requires the governing authority of a community school to annually report the number of students enrolled in a preschool program operated by the school

that is licensed by the Department who are not receiving special education and related services pursuant to an individualized education program (IEP).

Funding

The bill specifies that community schools that operate preschool programs that are licensed by the Department may not receive state community school operating funding for students enrolled in those programs. However, the bill does authorize those programs to apply for early childhood education funding (per pupil funds that the Department may pay to certain qualified preschool providers for students from families with incomes of not more than 200% of the federal poverty guidelines).[44]

Gifted community school feasibility analysis

(Section 263.590)

The bill requires the Department of Education, in conjunction with an association of education service centers (ESC) in the state and an association that advocates for gifted children in the state, to complete a feasibility analysis of the establishment of a start-up community school that serves primarily gifted students in each of the 16 regions of the Educational Regional Service System. The Department must submit the analysis to the chairpersons of the education committees, finance committees, and finance subcommittees on education of the House of Representatives and the Senate not later than July 1, 2016.

The Education Regional Service System supports state and regional education initiatives and efforts to improve school effectiveness and student achievement, including special education and related services.[45] The system operates through an advisory council in each of 16 regions throughout the state.[46]

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[44] Previous budget acts also enacted similar early childhood education funding provisions. The bill also specifically permits community schools operating a Montessori program in a municipal school district (Cleveland) to apply for early childhood funding for fiscal years 2016 and 2017. Currently, a community school operating a Montessori program in any school district may apply for such funds for fiscal year 2015. (See Section 263.20 of H.B. 59, as amended by H.B. 487, both of the 130th General Assembly.)

[45] R.C. 3312.01, not in the bill.

[46] R.C. 3312.02 and 3312.04, neither in the bill.

Disposal of school district property purchased by a community school or college-preparatory boarding school

(R.C. 3313.411)

The bill prohibits the governing authority of a community school or board of trustees of a college-preparatory boarding[47] school from selling any property the school purchased from a school district by way of mandatory sale, unless the property is being purchased by another community school or college-preparatory boarding school located in the district. Continuing law requires a school district board to offer for lease or sale certain unused real property to the governing authorities of community schools and the board of trustees of any college-preparatory boarding schools that are located within the district.

Sale of school district property to a professional sports museum

(Section 263.600)

The bill permits, until July 1, 1017, the board of education of a city school district to offer for sale property it owns to a professional sports museum that is located in the same municipal corporation, prior to offering that property for sale according to continuing law. Currently, if a school district board of education decides to dispose of real property, it must offer a right of first refusal to community schools or college-preparatory boarding schools located within the district. If no community school or college-preparatory boarding school makes an offer to purchase that property, the school district must then offer the property at public auction.[48]

III. State Testing and Report Cards

Prohibition on use of PARCC assessments

(R.C. 3301.078)

The bill explicitly prohibits funds appropriated from the General Revenue Fund from being used to purchase an assessment developed by the Partnership for Assessment of Readiness for College and Careers (PARCC) for use as the state elementary and secondary achievement assessments. Currently, the assessments developed by PARCC are prescribed as the state's elementary-level assessments in English language arts and mathematics and as the high school end-of-course

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[47] There are no college-preparatory boarding schools operating currently. They are authorized under R.C. Chapter 3328.

[48] R.C. 3313.41, not in the bill.

examinations in English language arts I, English language arts II, Algebra I, and geometry.

Funding for state achievement assessments

(Section 263.283)

The bill prohibits any federal Race to the Top program funds from being used for any purpose related to the state elementary and secondary achievement assessments.

Type of state achievement assessments

(Section 263.570)

The bill explicitly requires the state elementary and secondary achievement assessments to be "nationally normed, standardized assessments."

High school graduation testing requirements

(R.C. 3313.614)

The bill provides additional pathways to high school graduation for students who entered ninth grade prior to the 2014-2015 school year. Under current law, such students must attain a passing score on each of the Ohio Graduation Tests (OGT),[49] but beginning with students who enter ninth grade in the 2014-2015 school year, high school students must complete one of three graduation pathways to be eligible for a diploma. Those pathways are: (1) score at "remediation-free" levels in English, math, and reading on nationally standardized assessments, (2) attain a cumulative passing score on the state high school end-of-course examinations, or (3) attain a passing score on a nationally recognized job skills assessment and obtain either an industry-recognized credential or a state agency- or board-issued license for practice in a specific vocation.[50]

The bill makes eligible for graduation a person who entered ninth grade prior to the 2014-2015 school year, and who satisfies either of the following conditions:

(1) The person completes one of the graduation pathways described above; or

[49] R.C. 3301.0710(B)(1) and 3313.61, neither in the bill.

[50] R.C. 3313.618, not in the bill.

(2) The person successfully completes some, but not all, areas of the OGT, but also completes one of the graduation pathways, in accordance with rules established by the State Board of Education.

Under the bill, the State Board's rules must be adopted by December 31, 2015, and must prescribe the manner in which such a person may be eligible to graduate from high school under the second option described above. Finally, the rules must do the following:

(1) Include the date by which a person who began ninth grade prior to the 2014-2015 school year may be eligible for high school graduation under the bill's revised graduation provisions;

(2) Include methods of replacing individual assessments of the OGT and methods of integrating the three graduation pathways;

(3) Ensure that the second graduation option described above requires a mastery that is equivalent or greater to the expectations of the OGT.

Exemption from high school graduation requirements and assessments

(R.C. 3301.0711 and 3313.612; conforming changes in R.C. 3301.0712 and 3313.615)

The bill exempts students enrolled in a chartered nonpublic school that is accredited through the Independent School Association of the Central States (ISACS) from (1) the requirement to complete one of three prescribed pathways in order to graduate from high school (see "**High school graduation testing requirements**" above), and (2) the requirement to take the high school end-of-course examinations. This exemption is similar to one that existed under former law in effect until September 24, 2014, but that provision exempted ISACS schools from the end-of-course examination requirement.[51]

For a chartered nonpublic school not accredited through ISACS, the bill maintains a separate conditional exemption, which specifies that a nonpublic school is not required to administer the end-of-course examinations if it publishes in a prescribed manner the results of the college and career readiness assessments that must be administered to its students. That provision does not exempt such students from the requirement to complete a high school graduation pathway, which, under the bill, no longer applies to students in an ISACS-accredited chartered nonpublic school.

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[51] R.C. 3313.612, as amended by H.B. 59 and as subsequently amended by H.B. 487, both of the 130th General Assembly.

The bill also maintains the current requirements for students attending a chartered nonpublic school under the Educational Choice Scholarship Program, Pilot Project Scholarship Program (Cleveland), Jon Peterson Special Needs Scholarship Program, or the Autism Scholarship Program to (1) complete one of three prescribed pathways for high school graduation, and (2) take the high school end-of-course examinations.

Finally, the bill removes a provision of current law that delays the conditional exemption for chartered nonpublic schools described above until October 1, 2015, unless the General Assembly does not enact different requirements regarding end-of-course examinations for chartered nonpublic schools that are effective by that date. The effect of the bill's change is to set into effect the exemption on the bill's (90-day) effective date.

The bill does not affect another separate, uncodified provision of current law that outright exempts, for the current 2014-2015 school year only, all chartered nonpublic schools from being required to administer the end-of-course examinations, and their students from being required to take those examinations.[52]

Third-grade reading guarantee diagnostic assessments

(R.C. 3313.608)

The bill adds a deadline for the administration of the reading skills assessment for students in grades kindergarten through third grade for purposes of identifying students who are reading below grade level for purposes of the third-grade reading guarantee. Under the bill, the reading skills assessment must be completed by September 30 for students in grades one to three, and by November 1 for students in kindergarten. The required reading skills assessment is the reading diagnostic assessment or a comparable tool approved by the Department of Education.

The bill also allows for the reading skills assessment to determine a student's reading level to be administered electronically using live, two-way audio and video connections whereby the teacher administering the assessment may be in a separate location from the student. In other words, the bill allows for the virtual administration of the reading skills assessment.

[52] Section 12 of H.B. 367 of the 130th General Assembly.

State report card measures

Effective March 22, 2013, H.B. 555 of the 129th General Assembly established a new academic performance rating and report card system for school districts and individual schools, including community schools and STEM schools, using "A," "B," "C," "D," or "F" letter grades and numerous reported and graded performance measures. Most of the performance measures are based on student scores on the academic achievement assessments. The major six components of the rating system are: (1) gap closing, (2) achievement, (3) progress, (4) graduation, (5) kindergarten through third grade literacy, and (6) prepared for success. Most of the separate performance measures are graded separately and then used to assign the grade for the respective organizing component and an overall grade.

The bill makes a few revisions to the report card system.

Proficiency percentages

(R.C. 3302.02)

The bill requires the State Board of Education to adopt rules to establish proficiency percentages to meet each report card performance indicator based on a state assessment. In other words, the State Board must determine what percentage of students must receive a score of "proficient" or higher on a state assessment in order for a district or school to be considered to have met the performance indicator for that assessment. Current law requires that "performance indicators met" is one of the graded components on the state report card and is also used in the calculation of a school district or school's overall grade.[53]

The bill sets deadlines by which the State Board must adopt these proficiency percentages as follows:

(1) Not later than December 31, 2015, for the 2014-2015 school year;

(2) Not later than July 1, 2016, for the 2015-2016 school year;

(3) Not later than July 1, 2017, for the 2016-2017 school year, and for each school year thereafter.

Under current law, adopting rules to establish such measures for the 2014-2015 school year and each school year thereafter is optional for the State Board.

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[53] R.C. 3302.03(C)(1)(c) and (C)(3)(b).

High school value-added component

(R.C. 3302.03(D))

The bill makes changes regarding the high school value-added component in the state report card. First, it allows, rather than requires as under current law, the State Board of Education to develop the high school student academic progress measure on or after July 1, 2015. Second, the bill specifies that if the State Board develops the measure, districts and schools will not be assigned a separate letter grade for it sooner than the 2017-2018 school year. Finally, the bill prohibits the measure from being included in determining a district or building's overall grade.

Under current law, the State Board is required to adopt a high school student academic progress measure not later than July 1, 2015. Further, current law requires that the measure be included on the state report card without an assigned letter grade for the 2014-2015 school year, and assigned a separate letter grade in the 2015-2016 school year. The separate letter grade must also be included in a district or school's overall letter grade within the "progress" component of the overall grade calculation.

Delay of overall report card grades

(R.C. 3302.03 and 3302.036; conforming changes in R.C. 3302.05, 3310.03, 3313.473, 3314.02, and 3314.05)

The bill changes, from the 2015-2016 school year, as under current law, to the 2017-2018 school year, the first issuance of overall letter grades on the state report card. A separate provision of the bill requires the overall grades to be issued beginning with the 2016-2017 school year, but the provision requiring overall grades in the 2017-2018 school year stipulates that it prevails over the other provision.

Extension of safe harbor provisions for students, teachers, and schools

(R.C. 3302.036 and Sections 4 and 5 of H.B. 7 of the 131st General Assembly (as amended by Section 591.10) and Section 13 of H.B. 487 of the 130th General Assembly (as amended by Sections 610.17 and 610.18))

The bill extends through the 2016-2017 school year the safe harbor provisions related to achievement assessment score results and report card ratings that are currently in effect for only the 2014-2015 school year for students, public schools, and teachers. Essentially, the bill's provisions do the following:

(1) Prohibits the Department from (a) assigning an overall letter grade for school districts and schools for the 2015-2016 and 2016-2017 school years (as described above),

and (b) ranking districts and schools based on operating expenditures, performance achievements, and other specified items for the 2015-2016 and 2016-2017 school years;

(2) Prohibits the report card ratings issued for the 2015-2016 and 2016-2017 school years from being considered in determining whether a school district or school is subject to prescribed sanctions or penalties;

(3) Permits the Department, at the discretion of the State Board, to not assign an individual grade for the six components that comprise the state report card;

(4) Permits a school district, community school, or STEM school to enter into a memorandum of understanding with its teachers' union that stipulates that the value-added progress dimension rating (that measures student academic growth based on state assessment scores) will not be used when making decisions regarding teacher dismissal, retention, tenure, or compensation;

(5) Prohibits public schools from utilizing, at any time during a student's academic career, a student's score on any elementary-level state assessment or high school end-of-course examination that is administered in the 2015-2016 and 2016-2017 school years as a factor in any decision to (a) retain the student, (b) promote the student to a higher grade level, or (c) grant course credit; and

(6) Prohibits the release of individual student score reports on the state elementary assessments and high school end-of-course examinations administered in the 2015-2016 and 2016-2017 school years, except to a student's school district or school or to a student or student's parent or guardian.

Report card deadline for the 2014-2015 school year

(Section 263.510)

The bill extends the deadline for the 2014-2015 state report card from September 15, 2015, to January 15, 2016. Current law requires the Department of Education to issue report cards that measure the academic performance of school districts and schools annually not later than September 15 or the preceding Friday when that day falls on a Saturday or Sunday.[54]

[54] R.C. 3302.03.

Reports for students with disabilities

(Section 263.520)

The bill extends the deadline for the report the Department of Education must issue regarding performance measures disaggregated for a school district's or school's students with disabilities subgroup using data from the 2014-2015 school year to January 31, 2016. Those performance measures are the value-added progress dimension score, performance index score, and four- and five-year adjusted cohort graduation rates.[55] Under current law, the Department must submit this report not later than October 1 each year. The bill continues that deadline for subsequent years.

School district and school rankings

(Section 263.490)

The bill prohibits, temporarily, for the 2014-2015 school year only, the Department of Education from ranking school districts, community schools, and STEM schools according to academic performance measures as otherwise required by continuing law. Those measures include performance index, student performance growth based on the value-added progress dimension, and the performance of, and opportunities provided to, students identified as gifted using value-added progress dimensions, if applicable, and other relevant measures as designated by the Superintendent of Public Instruction.[56] The bill also sets a deadline of January 31, 2016, for the Department to rank districts, community schools, and STEM schools according to expenditures for the 2014-2015 school year. School expenditure rankings include current operating expenditure per equivalent pupils and the percentage of total operating expenditures spent for classroom instruction.[57]

IV. Educator Licensing

Ohio Teacher Residency Program

(R.C. 3319.223)

Under current law, most newly licensed educators are issued either a resident educator license or an alternative resident educator license under which they also must

[55] R.C. 3302.035, not in the bill.

[56] R.C. 3302.21(A)(1), (2), and (5), not in the bill.

[57] R.C. 3302.21(A)(3) and (4).

complete a four-year teacher residency program – the Ohio Teacher Residency Program.

The bill modifies a requirement that the program include mentoring by teachers who hold a lead professional educator license issued by the State Board of Education. Instead, the bill requires that the program include mentoring by any teacher during only the first two years of the program. Second, it modifies the required counseling component by specifying that the district or school must determine if counseling is necessary. Finally, it specifies that one of the required measures of progression through the program must be the performance-based assessment required by the State Board for resident educators in the third year of the program.

The bill also specifies that a career-technical education instructor teaching under an alternative resident educator license may not be required to complete the conditions of the first two years of the Ohio Teacher Residency Program and may apply for a professional educator license after successful completion of the requirements of the last two years of that Program, as it existed prior to the effective date of this provision.

Renewal of educator licenses for consistently high-performing teachers

(R.C. 3319.22)

The bill requires the State Board of Education, by July 1, 2016, to adopt rules, in accordance with the Administrative Procedure Act, that exempt consistently high-performing teachers from (1) the requirement to complete additional coursework to renew an educator license issued by the State Board, and (2) any related requirement prescribed by the district's or school's local professional development committees. The bill also requires the State Board, by that same date, to define "consistently high-performing teachers" for the purpose of this provision.

Under current law, the State Board must adopt rules establishing standards and requirements for obtaining educator licenses, as well as requirements for renewing such licenses. If these rules require additional coursework for license renewal, then each school district and chartered nonpublic school must establish a local professional development committee to determine whether the coursework proposed by a teacher is appropriate for license renewal and meets the requirement of these rules.

Pupil-activity program permits

(R.C. 3319.303)

Under current law, the State Board of Education must adopt rules establishing standards and requirements for obtaining a pupil-activity program permit, which is

issued by the State Board for coaching, supervising, or directing a pupil-activity program (including programs in music, language, arts, speech, government, and athletics[58]). Currently, all pupil-activity program permits are valid for three years and are renewable.

The bill modifies the duration for which a pupil-activity program permit is valid, if the applicant already holds an educator license, certificate, or permit issued by the State Board. In this instance, the bill specifies that the pupil-activity program permit is valid for the same number of years as the individual's educator license, certificate, or permit, and is also renewable. Also, if the educator's license is suspended or revoked, the permit is also subject to suspension or revocation. The bill does not specify how to determine the duration of the permit if the applicant holds multiple licenses, certificates, or permits.

If an applicant does not hold an educator license, certificate, or permit issued by the State Board, the pupil-activity program permit remains valid for three years, as under current law.

Licensure fees for teaching in a Junior ROTC program

(R.C. 3319.51)

The bill prohibits the State Board of Education from requiring any fee to be paid for a license, certificate, or permit issued for the purpose of teaching in a Junior ROTC program. Currently, the Administrative Code authorizes the State Board to issue a "temporary teaching license for military science" to individuals for the purpose of teaching in such a program.[59] According to the Department of Education's website, a one-year temporary license costs $40.[60]

Under continuing law, the State Board must annually establish the amount of fees required for licenses, certificates, and permits that are issued by the State Board. The established fees, along with appropriations made by the General Assembly for such purposes, are paid into the State Board's Licensure Fund, which is used to pay for administrative costs related to the issuance and renewal of licenses, certificates, and permits.

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[58] R.C. 3313.53, not in the bill.

[59] Ohio Administrative Code (O.A.C.) 3301-23-44(C).

[60] Ohio Department of Education. See http://education.ohio.gov/Topics/Teaching/Educator-Licensure/Additional-Information/Complete-List-of-Applications.

Bright New Leaders for Ohio Schools Program

(R.C. 3319.271)

Issuance of licenses to individuals upon completion of the Program

The bill requires the State Board of Education to issue an alternative principal license or an alternative administrator license to an individual who does both of the following:

(1) Successfully completes the Bright New Leaders for Ohio Schools Program;

(2) Satisfies rules adopted by the State Board, in consultation with the board of directors of the Program, for obtaining an alternative principal license or an alternative administrator license upon completion of the Program. In developing these rules, the State Board must use its existing rules regarding alternative principal and alternative administrator licenses[61] as guidance.

Program background

The Bright New Leaders for Ohio Schools Program was created and is implemented by a nonprofit corporation that was incorporated, pursuant to H.B. 59 of the 130th General Assembly,[62] to do all of the following:

(1) Provide an alternative path for individuals to receive training and development in the administration of primary and secondary education and leadership;

(2) Enable those individuals to earn degrees and obtain licenses in public school administration; and

(3) Promote the placement of those individuals in public schools that have a poverty percentage greater than 50%.

V. Exemptions and Waivers

Exemptions for high-performing school districts

(R.C. 3302.05 (repealed), 3302.16, 3313.608, and 3319.301)

Current law requires the State Board of Education to adopt rules freeing specified higher performing school districts from state education statutes and rules,

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[61] See R.C. 3319.27, not in the bill.

[62] Section 733.40 of H.B. 59 of the 130th General Assembly.

except certain State Board operating standards for school districts. The bill repeals that provision and, instead, creates a new exemption provision.

For this purpose, the bill defines a "high-performing school district" as any school district (city, local, or exempted village school district, specifically including a municipal school district (Cleveland Municipal School District), and a joint vocational school district) that:

(1) Has for the two most recent school years received an "A" for the overall value-added progress dimension on the state report card;

(2) Had at least 95% of its third grade students score proficient or higher on the third-grade English language arts state achievement assessment; and

(3) Had a four-year adjusted cohort graduation rate of 93% or higher.

In order to determine if a joint vocational school district is considered "high-performing," the Department of Education must develop performance criteria that are equivalent to the requirements for other types of districts based on report cards issued for joint vocational school districts.[63]

Beginning with the 2017-2018 school year, the bill also requires that at least 75% of students in a four-year adjusted cohort receive a remediation-free score, based on the district's average scores on the nationally standardized assessment to measure college readiness,[64] in order to be considered "high-performing."

Once a school district meets the prescribed conditions, the district is considered high-performing for three years, unless less than 95% of a district's third-grade students fail to score proficient or higher on the third-grade English language arts state achievement assessment.[65] Failure to meet that measure results in an immediate loss of high-performing status for the district.

If a high-performing school district passes a resolution stating its intent to take advantage of the exemptions, it may be exempt from the following requirements beginning in the 2016-2017 school year:

(1) The teacher credential qualification requirements required to be provided to third-grade students in need of intensive remediation under the Third-Grade Reading

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[63] R.C. 3302.033, not in the bill.

[64] R.C. 3301.0712(B)(1), not in the bill.

[65] R.C. 3301.0710(A)(1)(a), not in the bill.

Guarantee. Under that provision, teachers who provide intensive remediation in reading to third-grade students must have additional credentials, such as a reading endorsement on the teacher's license, a master's degree in reading, rated highly in reading instruction, or passage of a rigorous test of principles of scientifically research-based reading instruction.[66]

(2) Class size requirements.

The bill also permits high-performing school districts to hire nonlicensed individuals to teach classes for not more than 40 hours a week. Current law allows districts to hire a nonlicensed individual to teach classes for not more than 12 hours a week.[67]

Finally, beginning in the 2016-2017 school year, a high-performing school district may apply to the Superintendent of Public Instruction for a waiver that exempts the district from other provisions of the Revised Code or rules or standards of the State Board of Education not specified in the bill. The State Superintendent must consider every waiver application and determine whether to deny or grant a waiver on a case-by-case basis.

Conditional waiver for innovative programs

(R.C. 3302.15 and 3326.29 (repealed))

Current law authorizes all STEM schools and up to ten school districts that are members of the Ohio Innovation Lab Network to submit to the Superintendent of Public Instruction a request for a waiver for up to five school years from (1) administering the state-required elementary and secondary achievement assessments, (2) teacher evaluations, and (3) reporting of student achievement data for the purpose of report card ratings. The bill makes changes to this waiver program.

First, the bill eliminates the provision that makes eligible all STEM schools to be granted a waiver and eliminates a provision that requires school districts to be members of the Ohio Innovation Lab Network in order to submit a request for a waiver. The bill also adds community schools to the list of entities that may submit a request for and be granted a waiver, and in doing so, limits to ten the number of school districts, community schools, and STEM schools that may granted a waiver under the program. The bill limits requests for a waiver to be submitted during the 2015-2016 school year only.

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[66] R.C. 3313.608(H).

[67] R.C. 3319.301.

The bill also makes the following changes to the waiver program:

(1) Removes a requirement for a district's or school's alternative assessment system (that is part of a waiver application) to include "links to state-accepted and nationally accepted metrics, assessments, and evaluations";

(2) Revises the timing of the decision by the state Superintendent on whether to approve or deny a waiver or to request additional information from not later than 30 days after receiving a request for a waiver to "upon receipt of a waiver";

(3) Defines "innovative educational program or strategy," for purposes of a waiver, as a program or strategy that uses a new idea or method aimed at increasing student engagement and preparing students to be college or career ready.

Background

Current law authorizes all STEM schools (revised under the bill) and up to ten school districts that are members of the Ohio Innovation Lab Network to submit to the Superintendent of Public Instruction a request for a waiver for up to five school years from any or all of the following: (1) administering the elementary and secondary achievement assessments, (2) teacher evaluations, and (3) reporting of student achievement data for the purpose of report card ratings.

A district or STEM school that obtains a waiver must use an alternative assessment system in place of the state-mandated assessments. Within 30 days of receiving a waiver request (revised under the bill), the state Superintendent must approve or deny the request or may request additional information from the district or STEM school. A waiver granted to a school district or school is contingent on an ongoing review and evaluation of the program for which the waiver was granted by the state Superintendent.

Each request for a waiver must include the following: (1) A timeline to develop and implement an alternative assessment system for the school district or STEM school, (2) an overview of the proposed educational programs or strategies to be offered by the school district, (3) an overview of the proposed alternative assessment system, including links to state-accepted and nationally accepted metrics, assessments, and evaluations (removed under the bill), (4) an overview of planning details that have been implemented or proposed and any documented support from educational networks, established educational consultants, state institutions of higher education, and employers or workforce development partners, (5) an overview of the capacity to implement the alternative assessments, conduct the evaluation of teachers with alternative assessments, and the reporting of student achievement data with alternative assessments for the purpose of report card ratings, all of which must include any prior

success in implementing innovative educational programs or strategies, teaching practices, or assessment practices, (6) an acknowledgement by the school district of federal funding that may be impacted by obtaining a waiver, and (7) the items from which the district or STEM school wishes to be exempt, which are the administration of state assessments, teacher evaluations, and reporting of student achievement data.

Each request must also include the signature of all of the following: (1) the superintendent of the school district or STEM school, (2) the president of the district board or STEM school governing body, (3) the presiding officer of the labor organization representing the district's or STEM school's teachers, if any, and (4) if the district's or STEM school's teachers are not represented by a labor organization, the principal and a majority of the administrators and teachers of the district or school.

For purposes of the waiver program, the Department of Education must seek a waiver from the testing requirements prescribed under the federal "No Child Left Behind Act" if necessary to implement the waiver program. The Department must create a mechanism for the comparison of the proposed alternative assessments and the state assessments as it relates to the evaluation of teachers and student achievement data for the purpose of state report card ratings.

VI. Other Education Provisions

Ed Choice scholarships

(R.C. 3310.03 and 3310.09)

The bill makes two changes to the Educational Choice Scholarship Program. First, it raises the maximum amount that can be awarded to a student in grades 9 through 12 from $5,000 to $5,700. This is the same maximum amount awarded to students who are in grades 9 through 12 under the Cleveland Scholarship Program.[68]

Second, the bill changes the basis for eligibility according to performance index score. Current law qualifies for a scholarship a student who would be assigned to a school building that has been ranked, in at least two out of three years, in the lowest 10% of *all public school buildings* according to performance index score. That ranking, required of the Department of Education in separate law, includes the rankings of not only school district-operated buildings, but community schools and STEM schools as well.[69] The bill, instead, changes the requirement so that the qualifying performance index score ranking is the lowest 10% among all school buildings operated by school

[68] R.C. 3313.978, not in the bill.

[69] R.C. 3302.21(A)(1), not in the bill.

districts, as determined by the Department. That is, the ranking for Ed Choice purposes only, under the bill, no longer includes community schools and STEM schools. (Ed Choice does not apply to community schools and STEM schools.)

Background on Ed Choice

The Educational Choice Scholarship Program operates statewide in every school district except Cleveland to provide scholarships for students who are assigned or would be assigned to district schools that have persistently low academic achievement or are from low-income families. Under the program, students may use their scholarships to enroll in participating chartered nonpublic schools.

Under continuing law, a student is eligible for a first-time Ed Choice scholarship if the student was attending, or otherwise would have been assigned to, a school building operated by the student's resident district that, on two of the three most recent report cards, either:

(1) Received a combination of any of the following ratings:

(a) Academic watch or emergency, under the former rating system;

(b) A "D" or "F" for both the performance index score and the overall value-added progress dimension or if the building serves only grades 10 through 12, the building received a grade of "D" or "F" for the performance index score and had a four-year adjusted cohort graduation rate of less than 75% (applies only for report cards issued for the 2012-2013 and 2013-2014 school year);

(c) A "D" or "F" for the overall grade or "F" for the overall value-added progress dimension (applies for report cards issued for the 2014-2015 school year and thereafter);

(2) Was ranked in the lowest 10% of all public school buildings according to performance index score (changed to 10% of school district-operated buildings under the bill); or

(3) Received a "D" or "F" in "making progress in improving K-3 literacy" starting in the 2016-2017 school year.

In addition, students whose family incomes are at or below 200% of the federal poverty guidelines also qualify for Ed Choice scholarship. Students who qualify under this provision are phased in by grade level over 13 years. Awards granted under this

qualification are funded by an appropriation from the General Assembly, as opposed to a deduction from the school district of residence.[70]

In the case of eligibility based on school performance ratings, the school cannot have been rated any of the following on the most recent report card:

(1) Excellent or effective, under the former rating system;

(2) Received an "A" or "B" for the performance index score and the value-added progress dimension or, if a building serves only grades 10 through 12, the building received a grade of "A" or "B" for the performance index score and had a four-year adjusted cohort graduation rate of 75% or higher (applies only for report cards issued for the 2012- 2013 and 2013-2014 school years);

(3) An "A" or "B" for the overall grade or "A" for the value-added progress dimension or, if a building serves only grades 10 through 12, the building received a grade of "A" or "B" for the performance index score and had a four-year adjusted cohort graduation rate of 75% or higher (applies for report cards issued for the 2014-2015 school year and thereafter);

(4) An "A" for "making progress in improving K-3 literacy."

The amount of each annual Ed Choice scholarship is the lesser of (1) the tuition charged by the chartered nonpublic school in which the student is enrolled or (2) a "maximum" amount, which is:

(a) $4,250 for grades K through 8; and

(b) $5,000 for grades 9 through 12 (changed to $5,700 under the bill).

Qualification of private schools for the Cleveland Scholarship Program

(R.C. 3313.976)

The bill specifies that, in order for a private high school (grades 9-12) to participate in the Cleveland Scholarship Pilot Program, the private school must be located in the pilot project (Cleveland) school district (as under current law) or in a school district that is both (1) located in a municipal corporation with a population of at least 15,000 (instead of at least 50,000 under current law) and (2) located within five miles of the pilot project school district's border (rather than adjacent to the pilot project school district as under current law).

[70] R.C. 3310.032, not in the bill.

The bill maintains current law requiring participating elementary schools to be located in the pilot project school district.

Background on Cleveland Scholarship Program

The Cleveland Scholarship Pilot Program provides scholarships to attend alternative schools, including private schools, and tutorial assistance grants to students who reside in any school district that is or has been under a federal court order requiring supervision and operational management of the district by the Superintendent of Public Instruction. Currently, only the Cleveland Municipal School District meets this criterion. The program has been authorized since 1995. It is financed partially with state funds and partially with an earmark of Cleveland's state payments.

College Credit Plus program changes

(R.C. 3365.02, 3365.07, 3365.14, and 3365.15; Section 263.243)

The College Credit Plus (CCP) program allows students who are enrolled in public or participating nonpublic high schools or who are home-instructed to enroll in nonsectarian college courses to receive high school and college credit. College courses under CCP may be taken at any public or participating private or out-of-state college.

Associate degree pathway

The bill requires all public colleges, and participating private and out-of-state colleges, to offer an associate degree pathway under the CCP program that enables participants to earn an associate degree upon completion of the pathway. The bill specifies that, in order to complete the pathway and earn an associate degree, students must earn at least 60, but not more than 72, semester credit hours (or the equivalent number of quarter hours). To meet this requirement, students in the pathway are specifically permitted to enroll in more than 60 credit hours over two school years. However, students may not enroll in more than 72 credit hours over the same period.

The bill further specifies that the Department of Education must reimburse colleges for students who are (1) participating under "Option B" of CCP and (2) enrolled in the associate degree pathway, in the same manner as for other CCP students, except for the calculation of payments. Under current law, unchanged by the bill, the formula for the calculation of CCP payments assumes a maximum of 30 credit hours per school year for colleges on a semester schedule and 45 credit hours per school year for colleges on a quarter schedule.[71] Therefore, in order to reflect the increased number of credit hours required under the associate degree pathway, the bill requires the Director of

[71] R.C. 3365.01(B) and (I), not in the bill.

Higher Education, in consultation with the Superintendent of Public Instruction, to adopt rules prescribing a method to calculate payments made for students enrolled in the pathway.

Supplemental payments for CCP

The bill appropriates approximately $4.9 million for fiscal year 2016 and $5.0 million for fiscal year 2017 for supplemental CCP payments to school districts and specifies that such payments must be used by districts only for purposes related to the CCP program. Payments must be computed and paid for by the Department, and each district's payment must be calculated according to the following:

> (Growth in the number of students earning at least three college credits while enrolled in high school in the district) X (the per credit hour rate used in determining the default floor amount[72] under CCP, which is approximately $41 under the bill) X 15.

In calculating the growth factor, the Department must use the number of students who earn at least three college credits through dual enrollment or advanced standing programs, which is currently a reported measure on each district's state report card.[73] Dual enrollment and advanced standing programs may include the CCP program (or the former Post-Secondary Enrollment Options program for the 2013-2014 and 2014-2015 school years), Advanced Placement courses, International Baccalaureate diploma courses, Early College High School programs, and career-technical courses.

More specifically, the bill requires the growth factor to be calculated by subtracting the number reported on the 2013-2014 report card from either the number reported on the 2015-2016 report card (for FY 2016) or from the number reported on the 2016-2017 report card (for FY 2017). However, the bill prohibits the growth factor from exceeding the number reported on the report card for the 2013-2014 school year. Additionally, the bill specifies that if the district's growth factor equals a negative number, the district will not receive any supplemental CCP payment.

Participation of chartered nonpublic schools

Under current law, all public high schools (school districts, community schools, STEM schools, and college-preparatory boarding schools) are required to participate in CCP and are subject to the requirements of the program. Chartered nonpublic high

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[72] See R.C. 3365.01(B)(1) and (2).

[73] See R.C. 3302.03(B)(2)(b) and (C)(2)(c).

schools also may choose to participate in CCP, and, if they do so, they are also subject to requirements of the program.

The bill specifically prohibits any requirement of the CCP program, and any rule adopted by the Director of Higher Education or the State Board of Education for purposes of the CCP program, to apply to a chartered nonpublic high school that chooses not to participate in the program.

Career-technical education programs under CCP

The CCP program governs arrangements in which a high school student enrolls in a college and, upon successful completion, receives transcripted credit[74] from the college. Under current law, specified programs are exempt from the CCP program, including, until July 1, 2016, career-technical education programs that grant articulated credit.[75]

The bill removes the end date for this exemption, thus extending the exemption indefinitely for career-technical education programs that grant articulated credit. However, the bill further specifies that if such a program grants transcripted credit, that program must be governed by CCP.

Funding under the CCP program

Current law stipulates that the CCP program is the sole mechanism by which state funds are paid to colleges for students to earn college-level credit while enrolled in a high school, with the exception of Early College High School (ECHS) programs that obtain a waiver, Advanced Placement (AP) or International Baccalaureate (IB) courses, and career-technical education programs that grant articulated credit.

The bill modifies this stipulation by clarifying that the CCP program is the sole mechanism by which such funds are paid for students to earn "transcripted credit" for college courses while enrolled in *both* a high school and a college. All programs and courses that are currently exempt from this funding stipulation, as described above continue to be exempt under this clarification.

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[74] "Transcripted credit" is defined as "post-secondary credit that is conferred by an institution of higher education and is reflected on a student's official record at that institution upon completion of a course." R.C. 3365.01(U), not in the bill.

[75] "Articulated credit" is defined as "post-secondary credit that is reflected on the official record of a student at an institution of higher education only upon enrollment at that institution after graduation" from high school. R.C. 3365.01(A), not in the bill.

Biennial report on the CCP program

Under current law, the Chancellor of the Board of Regents (renamed as the Director of the Department of Higher Education under the bill) and the Superintendent of Public Instruction must submit a biennial report detailing the status of the CCP program to the Governor, President of the Senate, Speaker of the House, and chairpersons of the House and Senate Education committees. The bill adds a requirement that each biennial report also include an analysis of "quality assurance measures" related to the program.

Math curriculum for career-technical students

(R.C. 3313.603(C)(3))

Under current law, in order to receive a high school diploma, a student must successfully complete at least 20 prescribed units of instruction. For most students, four of those units consist of mathematics, including one unit of Algebra II or its equivalent.

The bill permits students who enter ninth grade for the first time on or after July 1, 2015, who are pursuing a "career-technical instructional track" to take a career-based pathway mathematics course as an alternative to Algebra II.

Credit based on subject area competency

(R.C. 3313.603(J) and 3314.03(A)(11)(f); Section 263.540)

Under current law, the State Board of Education, in consultation with the Chancellor of the Board of Regents, was required to adopt by March 31, 2009, a statewide plan implementing methods for students to earn high school credit based on subject area competency or a combination of classroom instruction and subject area competency. The statute required the plan to be phased in during the 2009-2010 school year. Currently, all school districts and community schools are required to comply with this plan and to award credit accordingly.

The bill requires the State Board to update the statewide plan by December 31, 2015, to also include methods for students enrolled in 7th and 8th grade to meet curriculum requirements based on subject area competency or a combination of classroom instruction and subject area competency. Additionally, the Department of Education must provide assistance to the State Board for purposes of updating the statewide plan on subject area competency, including credit by examination, to "reduce barriers to student participation in credit flexibility options." Upon completion of the plan, the Department must inform students, parents, and schools of the plan, and, beginning with the 2017-2018 school year, all school districts and community schools

are required to comply with the updated plan and permit students to meet curriculum requirements accordingly.

Competency-Based Education Pilot Program

(Sections 263.280 and 733.30)

The bill establishes the Competency-Based Education Pilot Program to provide grants to school districts, community schools, STEM schools and consortia of one or more districts or schools led by one or more educational service centers for designing and implementing competency-based models of education for their students during the 2016-2017, 2017-2018, and 2018-2019 school years.[76]

Selection of pilot program participants

A district, school, or consortium that wishes to participate in the pilot program must submit an application to the Department of Education by November 1, 2015, in a form and manner prescribed by the Department. By March 1, 2016, the Department must select not more than ten districts, schools, or consortia to participate in the pilot program.

Awarding of grants to pilot program participants

The Department must award each district, school, or consortium selected to participate in the pilot program a grant of up to $250,000 for each fiscal year of the biennium. The grant must be used during the 2015-2016 and 2016-2017 school years to plan for implementing competency-based education in the district, school, or consortium during the 2016-2017, 2017-2018, and 2018-2019 school years.

Requirements for pilot program participants

Competency-based education requirements

A district, school, or consortium selected to participate in the pilot program must offer competency-based education that satisfies all of the following requirements:

(1) Students must advance upon mastery;

(2) Competencies must include clear, measurable, transferable learning objectives that empower students;

[76] The bill specifically includes joint vocational school districts and the only "municipal" school district in the state (Cleveland). The specific inclusion of Cleveland is not substantive since it would be included already as a "city" school district.

(3) Assessments must be meaningful and a positive learning experience for students;

(4) Students must receive timely, differentiated support based on their individual learning needs;

(5) Learning outcomes must emphasize competencies that include application and creation of knowledge, along with the development of work-ready skills;

(6) It must incorporate partnerships with post-secondary institutions and members of industry.

Annual performance review requirement

The Department must require a district, school, or consortium to agree to an annual performance review conducted by the Department as a condition of participating in the pilot program.

Accountability requirements

The bill specifies that a district, school, or consortium selected to participate in the pilot program remains subject to all accountability requirements in state and federal law that apply to it.

State funding for pilot program participants

The bill specifies that, if a district or school is selected to participate in the pilot program either by itself or as part of a consortium, each student enrolled in the district or school who is participating in competency-based education must be considered to be a full-time equivalent student while participating in competency-based education for purposes of state funding for that district or school, as determined by the Department.

Reports regarding the pilot program

The bill requires the Department to post two separate reports regarding the pilot program on its website.

First, the Department must post, by January 31, 2017, a preliminary report that examines the planning and implementation of competency-based education in the districts, schools, and consortia selected to participate in the pilot program.

Next, the Department must post, by December 31, 2018, a report that includes all of the following:

(1) A review of the competency-based education offered by the districts, schools, and consortia selected to participate in the pilot program;

(2) An evaluation of the implementation of competency-based education by the districts, schools, and consortia selected to participate in the pilot program and student outcomes resulting from that competency-based education;

(3) A determination of the feasibility of a funding model that reflects student achievement outcomes as determined through competency-based education.

Education and business partnerships

(Section 263.530)

The bill specifically permits the Superintendent of Public Instruction to form partnerships with Ohio's business community, including the Ohio Business Roundtable, to create and implement initiatives that connect students with the business community. These initiatives are aimed to increase student engagement and job readiness through internships, work study, and site-based learning experiences.

If the Superintendent forms such a partnership, the initiatives implemented through that partnership must do all of the following:

(1) Support career connections included in the model curriculum developed by the State Board of Education for grades K-12 that embed career connection learning strategies into regular classroom instruction.

(2) Provide an opportunity for students to earn high school credit or meet curriculum requirements in accordance with the statewide plan on subject area competency (see above).

(3) Inform the development of student success plans for students who are at-risk of dropping out of school.[77]

Eligibility requirements to take the GED tests

(R.C. 3313.617)

Automatic eligibility

The bill qualifies a person who is at least 19 years old, rather than at least 18 years old as under current law, to take the test of general educational development

[77] R.C. 3301.079(B)(2), not in the bill, 3313.603(J), and 3313.6020(C), not in the bill.

(GED), without additional administrative requirements, if the person is officially withdrawn from school and has not received a high school diploma.

Approval from the Department of Education

The bill permits a person who is at least 16 but less than 19 years old, instead of at least 16 but less than 18 years old as under current law, to apply to the Department of Education to take the GED tests, but also specifies that the person must *not* have received a high school diploma. Additionally, the bill requires the person to submit, along with the application, both of the following:

(1) Written approval from the person's parent or guardian or a court official, if the person is under 18 years old (current law); and

(2) The person's official high school transcript, which must include the previous 12 months of enrollment in a program approved to grant a high school diploma (added by the bill).

The bill also prescribes several additional requirements related to the approval of applications to take the GED tests. First, upon receipt of each application, the Department must approve or deny the application. Moreover, the Department may approve an application only if the person (1) has been continuously enrolled in a diploma granting program for at least one semester, (2) attained an attendance rate of 75% or higher during that semester, and (3) shows good cause. The State Board of Education must adopt rules determining what qualifies as "good cause" for this purpose.

Finally, if the Department approves the application of a person who is under 18 years old, that person must remain enrolled in school and maintain at least a 75% attendance rate, until either (1) the person passes all required sections of the GED tests, or (2) the person reaches 18 years of age.

Graduation rates for persons taking the GED

The bill specifies that, for the purpose of calculating graduation rates for school districts and schools on the state report cards, the Department must include any person who officially withdraws from school to take the GED tests (rather than any person who obtains approval to take the GED tests as under current law) as a dropout from the school in which the person was last enrolled. This change conforms to the bill's provision specifying that a person who is under 18 may receive approval from the Department to take the GED tests but must remain enrolled in school (therefore, is prohibited from dropping out) until the person passes the GED tests.

Adult Diploma Pilot Program

(R.C. 3313.902; Section 263.260)

The bill changes the name of the Adult Career Opportunity Pilot Program (established in 2014 by H.B. 483 of the 130th General Assembly) to the Adult Diploma Pilot Program. It also makes several changes to the pilot program, which are described in greater detail below.

Under law not changed by the bill, the pilot program permits eligible institutions to develop and offer programs of study that allow eligible students (those who are at least 22 years old and have not received a high school diploma or certificate of high school equivalence) to obtain a high school diploma. A program of study is eligible for approval if it (1) allows an eligible student to complete the requirements for obtaining a high school diploma while also completing requirements for an approved industry credential or certificate, (2) includes career advising and outreach, and (3) includes opportunities for students to receive a competency-based education. For purposes of the pilot program, an eligible institution is a community college, technical college, state community college, or "Ohio technical center" recognized by the Chancellor of the Ohio Board of Regents (renamed as the Director of Higher Education under the bill) that provides post-secondary workforce education.

Program approval

Under current law, an eligible institution must obtain approval from the State Board of Education and the Chancellor (renamed as the Director of Higher Education under the bill) in order to participate in the pilot program. The bill requires an eligible institution to obtain this approval from the Superintendent of Public Instruction instead of from the State Board, but it retains the requirement that an eligible institution also obtain this approval from the Chancellor.

Granting of high school diplomas

The bill requires the State Board, notwithstanding the requirements for a high school diploma in current law,[78] to grant a high school diploma to each student who (1) enrolls in an approved program of study at an approved institution and (2) completes the requirements for obtaining a high school diploma that are specified in rules adopted by the State Superintendent.

[78] R.C. 3313.61, 3313.611, and 3313.618, none in the bill.

Funding

Calculation of funding

The bill requires the Department of Education to calculate a state payment for each student enrolled in an approved program of study at each approved institution using the following formula:

(The student's career pathway training program amount + the student's work readiness training amount) X 1.2

Career-pathway training program amount

A student's "career pathway training program amount" means the following:

(1) If the student is enrolled in a tier one career pathway training program (a career pathway training program that requires more than 600 hours of technical training, as determined by the Department), $4,800.

(2) If the student is enrolled in a tier two career pathway training program (a career pathway training program that requires more than 300 hours of technical training but less than 600 hours of technical training, as determined by the Department), $3,200.

(3) If the student is enrolled in a tier three career pathway training program (a career pathway training program that requires 300 hours or less of technical training, as determined by the Department), $1,600.

Work readiness training amount

A student's "work readiness training amount" means the following:

(1) If the student's grade level upon initial enrollment in an approved program of study at an approved institution is below the ninth grade, as determined in accordance with rules adopted by the State Superintendent, $1,500.

(2) If the student's grade level upon initial enrollment in an approved program of study at an approved institution is at or above the ninth grade, as determined in accordance with rules adopted by the State Superintendent, $750.

Payment of funding

The bill requires the Department to pay the amount calculated for each student under the bill's provisions to the student's institution in three separate payments. First, 25% of the amount calculated must be paid to the student's institution after the student

successfully completes the first third of the approved program of study, as determined by the Department. Next, another 25% of the amount calculated must be paid to the student's institution after the student successfully completes the second third of the approved program of study, as determined by the Department. Finally, the remaining 50% of the amount calculated must be paid to the student's institution after the student successfully completes the final third of the approved program of study, as determined by the Department.

Funding for associated services

The bill permits each approved institution to use the amount that is "in addition to the student's career pathway training amount and the student's work readiness training amount" for the associated services of the approved program of study. The bill specifies that these services include counseling, advising, assessment, and other services as determined or required by the Department.

Rules

Law unchanged by the bill requires the state Superintendent, in consultation with the Chancellor (renamed as the Director of Higher Education under the bill), to adopt rules for the implementation of the pilot program, including the requirements for applying for program approval. The bill specifies that these rules must also address all of the following:

(1) The requirements for obtaining a high school diploma through the pilot program, including the requirement to obtain a passing score on an assessment that is appropriate for the career pathway training program that is being completed by the student and the date on which these requirements take effect;

(2) The assessment or assessments that may be used to complete the assessment requirement for each career pathway training program and the score that must be obtained on each assessment in order to pass the assessment;

(3) Guidelines regarding the funding of the pilot program, including a method of funding for students who transfer from one approved institution to another approved institution prior to completing an approved program of study;

(4) Circumstances under which a student may be charged for tuition, supplies, or associated fees while enrolled in an approved institution's approved program of study;

(5) A requirement that a student may not be charged for tuition, supplies, or associated fees while enrolled in an approved institution's approved program of study except in the circumstances described under the rules; and

(6) The payment of federal funds that are to be used by approved programs of study at approved institutions.

Enrollment of individuals age 22 and up

(R.C. 3314.38, 3317.036, 3317.23, 3317.231, 3317.24, and 3345.86; repealed Section 733.20 of H.B. 483 of the 130th General Assembly)

Under provisions of current law, an individual age 22 and above who has not received a high school diploma or a certificate of high school equivalence (an "eligible individual") may enroll in any of the following for the purpose of earning a high school diploma:

(1) A city, local, or exempted village school district that operates a dropout prevention and recovery program;

(2) A community school that operates a dropout prevention and recovery program;

(3) A joint vocational school district (JVSD) that operates an adult education program;

(4) A community college, university branch, technical college, or state community college.

The bill makes several modifications to these provisions, as described below.

Time period of enrollment

The bill specifies that eligible individuals may enroll in dropout prevention and recovery programs and community colleges, university branches, technical colleges, and state community colleges for up to two *consecutive* school years, rather than two cumulative school years as under current law. It does not, however, change the provisions of existing law specifying that students enrolled in adult education programs at JVSDs may enroll for up to two *cumulative* school years.

Program of study

The bill specifies that eligible individuals may elect to earn a high school diploma by successfully completing a competency-based educational program, rather than a competency-based instructional program as under current law.

A "competency-based educational program" is defined by the bill as any system of academic instruction, assessment, grading, and reporting where students receive

credit based on demonstrations and assessments of their learning rather than the amount of time they spend studying a subject. The program must encourage accelerated learning among students who master academic materials quickly while providing additional instructional support time for students who need it.

Funding

The bill specifies that the Department of Education must annually pay to a school district, school, community college, university branch, technical college, or state community college for each eligible individual enrolled up to $5,000, as determined by the Department based on the individual's successful completion of the graduation requirements prescribed under existing law.

Currently, the Department must annually pay $5,000 times the individual's enrollment on a full-time equivalency basis times the portion of the school year in which the individual is enrolled in the school expressed as a percentage.

Issuance of high school diploma

If an eligible individual enrolls in a JVSD, community college, university branch, technical college, or state community college and completes the requirements to earn a high school diploma in the manner provided in current law, the JVSD or institution must certify the completion of those requirements to the city, local, or exempted village school district in which the individual resides, which then must issue a diploma to the individual. The bill specifies that, in this scenario, the school district must issue a diploma *within sixty days of receiving the certification* from the JVSD or institution.

Rules

The bill requires the Department, rather than the State Board of Education, to adopt rules regarding the enrollment of eligible individuals. The bill specifies that these rules must include all of the following:

(1) Eligibility for the programs;

(2) Application for the programs;

(3) Accountability criteria and measurements for the programs;

(4) Monitoring of the programs;

(5) Data reporting for the programs including the reporting of student enrollment demographics (rather than data collection and the reporting and certification of enrollment in the programs as under current law);

(6) Program outcomes (rather than the measurement of the academic performance of individuals enrolled in the program as under current law); and

(7) The standards of practice for competency-based educational programs (rather than the standards for competency-based instructional programs as under current law).

Report

The bill repeals a requirement that the Department of Education, by December 31, 2015, prepare and submit a report to the General Assembly regarding services provided to individuals ages 22 and above under the provisions described above.

Provision of health care services to students

(R.C. 3313.68, 3313.72, and 3313.721; conforming changes in R.C. 3314.03(A)(11)(d), 3326.11, and 3328.24)

The bill permits the board of education or governing authority of a school district, educational service center (ESC), community school, STEM school, or college-preparatory boarding school to enter into a contract with a hospital or an appropriately licensed health care provider to provide health services to students, if those health services are specifically authorized by Ohio law. It also permits a district board to enter into such a contract in lieu of appointing a school physician or dentist or contracting with an ESC for the services of a nurse to provide diabetes care to students.

If the board or governing authority enters into such a contract, the bill specifically exempts employees of the hospital or the health care provider who are providing the services of a nurse under the contract from any requirement to obtain a school nurse license or a school nurse wellness coordinator license issued by the State Board. The bill also exempts such employees from any requirement prescribed by rule of the State Board related to either license. However, the bill specifies that such employees must, at a minimum, hold a credential equivalent to being licensed as a Registered Nurse or Licensed Practical Nurse.

Background on student health services

Under current law, district boards are specifically permitted to contract with a health district for the services of a school physician, dentist, or nurse. Additionally, a separate provision permits district boards to appoint school physicians and dentists to provide health services to students, as well as to contract with ESCs for the services of a school nurse, Registered Nurse, or Licensed Practical Nurse to provide diabetes care to students.

The State Board is required to establish standards and requirements for obtaining a school nurse license and a school nurse wellness coordinator license, which, at a minimum, must require the applicant to be licensed as a Registered Nurse. However, it is unclear if current law requires all nurses who provide health services to students to hold one of these licenses.[79]

Site-based management councils

(Repealed R.C. 3313.473)

Under current law, each school district with a total student count of 5,000 or more must designate one school building to be operated by a site-based management council, unless the district received, on its most recent report card, a grade of an "A" or "B" for the performance index score and the value-added dimension (for the report card issued for the 2013-2014 school year) or for the overall grade (for the report card issued for the 2014-2015 school year and thereafter).

The bill repeals this provision.

Student transportation

Transportation of nonpublic and community school students

(R.C. 3327.01 and 3327.02)

The bill specifically provides that a district board is not required to transport elementary or high school students to and from a nonpublic or community school on weekends, unless the district board and the nonpublic or community school have an agreement in place before July 1, of the school year in which the agreement takes effect, instead of prior to July 1, 2014, as under current law.

Furthermore, the bill clarifies that in the event a community school takes over the responsibility for transportation of a school district's resident students to and from the community school, the community school may determine that it is impractical to transport any one student to and from school using the same procedure, requirements, and payment structure as a school district uses to determine that it is impractical to transport that student. In such case, the school must make a payment in lieu of transportation to parent, guardian, or custodian of the student.

[79] R.C. 3319.221, not in the bill.

District resolution declaring student transportation impractical

(R.C. 3327.02)

The bill removes a provision requiring that, if a district board passes a resolution declaring a student's transportation impractical, the board also must submit the resolution for concurrence to the ESC containing the district's territory. The bill also removes a provision specifying that, upon receiving the resolution:

(1) If the ESC disagrees with the board and considers the student's transportation practical, then the ESC must inform the district board and the board must provide the transportation.

(2) If the ESC agrees with the board and considers the student's transportation impractical, the board may offer payment in lieu of transportation.

School Transportation Joint Task Force

(Section 263.560)

The bill creates the School Transportation Joint Task Force consisting of members appointed equally by the Speaker of the House of Representatives and by the President of the Senate. The members must appoint a chair and vice-chair, who must be members of the General Assembly.

The Task Force must study and make recommendations to the General Assembly by February 1, 2016, on the following:

(1) The appropriate funding formula to assist school districts with the transportation of students to public and nonpublic schools; and

(2) The appropriate relationship, duties, and responsibilities between school districts, community schools, and nonpublic schools with regard to student transportation.

The bill also requires all state agencies to provide assistance to the Task Force as is requested by the Task Force.

Background on transportation

State law generally requires each city, exempted village, and local school district to transport to and from school any student in grades K to 8 who resides in the district and is enrolled in a school that is more than two miles from the student's home. A district is required to transport resident students attending the district's own schools, as

well as those attending nonpublic schools and community schools. A district may choose to transport students it is not required to transport, including high school students. If a district opts to transport high school students, it appears that the district must offer that service to nonpublic and community school students as well as those attending its own schools. Still, a district need not transport any private or community school student for whom the direct travel time is more than 30 minutes.[80] A district also must transport STEM school students, unless the school's proposal as approved by the STEM committee provides for transportation.[81]

A district or school may offer a payment in lieu of providing transportation to the parent of a student it is required to transport, upon a finding that it is impractical to transport that student.[82]

A community school may transport its own students, and receive a payment for doing so, either through an agreement with the students' resident school district or by unilaterally assuming the district's transportation responsibility. If a community school unilaterally takes over transportation, the state payment for each student the school transports is the amount that would have been calculated for the district for the transportation mode the district would have used.[83]

Competitive bidding threshold for school building contracts

(R.C. 3313.46)

Current law specifies that school district boards of education must fulfill various competitive bidding requirements when contracting for public improvement projects valued over $25,000, except in cases of urgent necessity or security. The bill increases the competitive bidding threshold from $25,000 to $50,000 for such public improvement contracts, including contracts to build, repair, enlarge, improve, or demolish any school building.

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[80] R.C. 3327.01.

[81] R.C. 3326.20, not in the bill.

[82] R.C. 3327.01 and 3327.02.

[83] R.C. 3314.091.

Joint vocational school district board membership

(R.C. 3311.19 and 3311.191)

The bill provides that the term of office for a specific type of joint vocational school district (JVSD) board member be for one year, instead of three as required under current law. This term applies in the case of a JVSD board to which both of the following apply:

(1) The JVSD board has an even number of member districts.

(2) The JVSD board has a plan on file with the Department of Education that provides for an additional member to be appointed on a rotating basis by one of the appointing boards.

However, under the bill, if such a member was appointed on or after September 29, 2013, that member may continue in office until the expiration of the member's current term of office (three years). If such a member vacates that office or any reason prior to the expiration of the member's term, the bill requires that the new replacement member be appointed to serve for the remainder of the vacating member's term. Once that term expires, the term of office thereafter is one year.

Background

H.B. 59 of the 130th General Assembly, effective September 29, 2013, made several changes to the method of appointing members to JVSD boards. As a result, JVSD boards are no longer required to be made up of representative members of the boards of the city, exempted village, or local school districts belonging to each respective JVSD or, in some cases, the educational service centers (ESC) serving the same county or counties as under former law. Rather, JVSD membership may be composed of members who are not themselves members of the represented district boards. On the other hand, district and ESC board members may still be members of a JVSD board, but only as long as they meet the professional qualifications prescribed by H.B. 59. Under those provisions, JVSD board members must meet specific professional qualifications and be selected based on the diversity of the employers from the geographical region of the state in which the respective JVSD is located. Members of JVSD boards must have experience as chief financial officers, chief executive officers, human resources managers, or other business and industry professionals who are qualified to discuss the labor needs of the region with respect to the regional economy. Appointing district and ESC boards must appoint members who represent employers in the JVSD region and who are qualified to consider a region's workforce needs with an understanding of the skills, training, and education needed for current and future employment needs in the region. In choosing members to appoint, district and ESC

boards may give preference to a qualified individual who has served on a joint vocational school business advisory committee. Under current law, the term of office for members of a JVSD board appointed on or after September 29, 2013, is three years and members are limited to two consecutive terms. However, a member may serve again after three or more years have passed since the member's last term expired.

Comprehensive emergency management plans and security devices

(R.C. 3313.536 and 3737.84)

Current law requires the "administrator" of a school district or other public school, career-technical education program approved by the Department of Education, chartered nonpublic school, educational service center, preschool program or school-age child care program licensed by the Department, and any other facility that provides educational services to children that is subject to regulation by the Department, to develop and adopt a comprehensive emergency management plan. For this purpose, an "administrator" is defined as the superintendent, principal, chief administrative officer, or other person having supervisory authority of any of the entities listed above.

The bill permits the administrator, as part of the school's existing comprehensive emergency management plan, to approve the installation of security devices, including devices that prevent both ingress (entrance) and egress (exit) through a door, in buildings under the administrator's control. However, the bill specifies that the devices may be installed only if approved by both:

(1) The police chief, or equivalent, of the law enforcement agency that has jurisdiction over the building; and

(2) The fire chief, or equivalent, of the fire department that serves the political subdivision in which the building is located.

The bill also specifically prohibits the State Fire Code, which consists of rules adopted by the State Fire Marshal, from containing any provision that prohibits the use of such security devices, so long as the devices are properly approved by the administrator, the police chief and fire chief (or their equivalents).

Finally, the bill permits the administrator, as part of the school's existing comprehensive emergency management plan, to incorporate protocols specifically for (a) situations involving an act of terrorism, a person possessing a deadly weapon on school property, or another act of violence, or (b) any other emergency event that requires students either to be secured in the building or rapidly evacuated in response to a threat. Under current law, each emergency management plan must include protocols addressing "serious threats to safety" and "emergency events." Additionally, a

separate provision of law requires school safety drills to be conducted annually to address the emergency situations specified by the bill. Safety drills must be conducted pursuant to the school's emergency management plan.[84]

Contracting for academic remediation and intervention services

(R.C. 3313.6010)

The bill specifically permits a school district to contract with public and private entities for the purpose of providing academic remediation and intervention services, outside of regular school hours, to students in any grade. Services provided must be in the subjects of math, science, reading, writing, or social studies. Under current law, school districts may enter into contracts providing such services, in accordance with rules adopted by the State Board of Education, only to students in grades 1-6.

Ohio Teacher of the Year award

(R.C. 3319.67)

The bill allows the State Board of Education to establish an annual Teacher of the Year recognition program for outstanding teachers. Under the bill, a teacher who is recognized as a Teacher of the Year may accept gifts and privileges as part of the recognition program. Further, the bill permits a person or entity to make a voluntary contribution to the recognition program.

The bill specifies that the Ethics Law does not prohibit a teacher from accepting gifts or privileges under the program and does not prohibit a person or entity from making a voluntary contribution to the program. The Ethics Law generally prohibits a public servant from soliciting or accepting any additional compensation for the performance of the person's official duties and prohibits any person from knowingly promising or giving a public servant such additional compensation.[85]

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[84] R.C. 3737.73(D), not in the bill.

[85] R.C. 2921.43(A), not in the bill.

JOINT EDUCATION OVERSIGHT COMMITTEE

- Establishes the Joint Education Oversight Committee, a joint committee of the General Assembly.
- Requires the committee to review and evaluate education programs at schools and state institutions of higher education that receive financial assistance.

Joint Education Oversight Committee

(R.C. 103.44, 103.45, 103.46, 103.47, 103.48, 103.49, and 103.50; Section 701.70)

The bill establishes the Joint Education Oversight Committee, a joint committee of the House of Representative and Senate. The committee is to select, for review and evaluation, education programs at school districts, other public schools,[86] and state institutions of higher education[87] that receive state financial assistance in any form. The reviews and evaluations may include any of the following:

(1) Assessment of the uses school districts, other public schools, and state institutions of higher education make of state money they receive, and a determination of the extent to which that money improves district, school, or institutional performance in the areas for which the money was intended to be used;

(2) Determination of whether an education program meets its intended goals, has adequate operating or administrative procedures and fiscal controls, encompasses only authorized activities, has any undesirable or unintended effects, and is efficiently managed; and

(3) Examination of pilot programs developed and initiated in school districts, at other public schools, and at state institutions of higher education to determine whether the programs suggest innovative, effective ways to deal with problems that may exist in other districts, schools, or institutions of higher education, and to assess the fiscal costs and likely impact of adopting the programs throughout the state.

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[86] "Other public schools" include the State School for the Deaf, the State School for the Blind, community schools, STEM schools, and college-preparatory boarding schools.

[87] "State institution of higher education" means any state university or college, community college, state community college, university branch, or technical college.

The committee must prepare a report of the results of each review and evaluation that it conducts, and must transmit the report to the General Assembly.

If the General Assembly directs the committee to submit a study to the General Assembly by a particular date, the committee, upon a majority vote of its members, may modify the scope and due date of the study to accommodate the availability of data and resources.

Investigations and inspections

The bill authorizes the committee and its employees to investigate any school district, other public school, or state institution of higher education for the purposes of fulfilling its duties. All of the following apply to an investigation:

(1) The committee and its employees may enter and inspect a school district, other public school, or state institution of higher education for the conduct of the investigation;

(2) A member or employee of the committee is not required to give advance notice of, or to make prior arrangements before, an inspection; and

(3) No person may deny a member or employee of the committee access to an office when access is needed for an inspection.

Each inspection must be conducted during the normal business hours of the office being inspected, unless the chairperson of the committee determines that the inspection must be conducted outside of normal business hours. The chairperson may make such a determination only because of an emergency circumstance or other justifiable cause that furthers the committee's mission. If the chairperson makes such a determination, the chairperson must specify the reason for the determination in the grant of prior approval for the inspection.

A member or employee of the committee may not conduct an inspection unless the committee chairperson grants prior approval for the inspection. The chairperson may not grant approval unless the committee, the President of the Senate, and the Speaker of the House authorize the chairperson to grant the approval.

The chairperson of the committee, with prior approval of the committee, the President of the Senate, and the Speaker of the House, may issue subpoenas and subpoenas duces tecum in aid of the committee's performance of its duties. A subpoena may require a witness in any part of the state to appear before the committee at a time and place designated in the subpoena to testify. A subpoena duces tecum may require witnesses or other persons in any part of the state to produce books, papers, records,

and other tangible evidence before the committee at a time and place designated in the subpoena duces tecum. A subpoena or subpoena duces tecum must be issued, served, and returned, and has consequences, in accordance with continuing law that applies to the subpoena powers of other committees of the General Assembly.

The chairperson of the committee may request that the Superintendent of Public Instruction or the Director of Higher Education appear before the committee. If so requested, the Superintendent or the Director must appear before the committee at the time and place specified in the request.

The chairperson of the committee may administer oaths to witnesses appearing before the committee.

The committee also may review bills and resolutions regarding education that are introduced or offered in the General Assembly, and may prepare a report of its review. The committee must transmit its report to the General Assembly. The report may include the committee's determination regarding the bill's or resolution's desirability as a matter of public policy. But the committee's decision on whether and when to review a bill or resolution has no effect on the General Assembly's authority to act on the bill or resolution.

Committee membership and appointment

The committee is to consist of the following ten members of the General Assembly:

(1) Five members of the House of Representatives appointed by the Speaker, three of whom are members of the majority party and two of whom are members of the minority party; and

(2) Five members of the Senate appointed by the President, three of whom are members of the majority party and two of whom are members of the minority party.

The term of each member begins on the day of appointment and ends on expiration or other termination of the member's term as a member of the House or Senate. The Speaker and President must make initial appointments to the committee not later than 30 days after the effective date of the bill. Subsequent appointments must be made not later than 15 days after the commencement of the first regular session of each General Assembly. Members may be reappointed. A vacancy on the committee must be filled in the same manner as the original appointment.

In odd-numbered years, the Speaker must designate one of the majority members from the House as chairperson and the President must designate one of the

minority members from the Senate as the ranking minority member. In even-numbered years, the President must designate one of the majority members from the Senate as the chairperson and the Speaker must designate one of the minority members from the House of Representatives as the ranking minority member.

In appointing members from the minority, and in designating ranking minority members, the President and Speaker must consult with the Minority Leader of their respective houses.

The committee must meet at the call of the chairperson, but not less often than once each calendar month, unless the chairperson and ranking minority member agree that the chairperson should not call the committee to meet for a particular month.

Member compensation

Committee members, when engaged in their duties as members of the committee on days when there is not a voting session of the member's house of the General Assembly, must be paid at the per diem rate of $150, and their necessary traveling expenses. These amounts must be paid from the funds appropriated for the payment of expenses of legislative committees.

Committee staff

The bill authorizes the committee to employ professional, technical, and clerical employees as are necessary for the committee to be able successfully and efficiently to perform its duties. All the employees will be in the unclassified service and serve at the committee's pleasure. The committee also may contract for the services of persons who are qualified by education and experience to advise, consult with, or otherwise assist the committee in the performance of its duties.

ENVIRONMENTAL PROTECTION AGENCY

Extension of E-Check

- Authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) through June 30, 2021, in Ohio counties in which a program is federally mandated.

- Retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions as achieved by the program under the contract that was extended.

- Retains the requirement under which the Director of Administrative Services must use a competitive selection process when entering into a new contract with a vendor.

- Also retains all statutory requirements governing the implementation and operation of the program, including requirements that the program must be a decentralized program and that it must include a new car exemption.

Waste Management Fund

- Renames the Solid Waste Fund in the Solid, Hazardous, and Infectious Wastes Law the Waste Management Fund, and does all of the following with regard to the uses of the Fund:

  --Eliminates its use for providing compliance assistance to small businesses and paying a share of the administrative costs of the Environmental Protection Agency; and

  --Retains its use for the other purposes specified in continuing law; and

  --Adds that it must be used to address violations of the Air and Water Pollution Control Laws at facilities regulated under the Solid, Hazardous, and Infectious Wastes Law.

- Eliminates the Construction and Demolition Debris Facility Oversight Fund, credits the money that currently is credited to that Fund to the Waste Management Fund, and retains the use of that money exclusively for the administration and enforcement of the Construction and Demolition Debris Law and rules adopted under it.

- Does the following regarding the Infectious Waste Management Fund:

--Eliminates the Fund, and credits the money that currently is credited to that Fund to the Waste Management Fund; and

--Requires, rather than authorizes as in current law, the Director of Environmental Protection to use that money exclusively for the administration and enforcement of the infectious waste provisions in the Solid, Hazardous, and Infectious Wastes Law and rules adopted under them.

Exclusion of specified products from regulation as solid wastes

- Excludes certain shale and clay products from regulation as solid wastes under the Solid, Infectious, and Hazardous Wastes Law.

Solid waste transfer and disposal fees

- Extends the expiration of four state fees levied on the transfer or disposal of solid waste from June 30, 2016, to June 30, 2018.

- Retains the aggregate amount of those fees at $4.75, and reallocates several of the individual fees and their uses, including increasing the fee the proceeds of which are credited to the Environmental Protection Fund, which is used in part for administration, and requiring that Fund also to be used for small business compliance assistance.

Sale of tire fees

- Extends from June 30, 2016, to June 30, 2018, the expiration of both of the following:

  --The 50¢ per-tire fee on the sale of tires the proceeds of which are used to fund the scrap tire management program; and

  --An additional 50¢ per-tire fee on the sale of tires the proceeds of which are credited to the Soil and Water Conservation District Assistance Fund.

Materials Management Advisory Council

- Merges the Solid Waste Advisory Council with the Recycling and Litter Prevention Advisory Council, and renames the merged Council the Materials Management Advisory Council.

- Generally transfers the duties and responsibilities of the two Councils to the new Council, and establishes the following additional duties and responsibilities:

  --Triennially providing advice to the Director of Environmental Protection in conducting a review of the progress made toward achieving the objectives,

restrictions, and goals established under specified provisions of the statute governing the state solid waste management plan;

--Preparing and submitting an annual report to the General Assembly on the state's solid waste management system and efforts towards achieving the goals, restrictions, and objectives established under specified provisions of the statute governing the plan;

--Researching and responding to question posed by the Director; and

--Establishing and developing partnerships that foster a productive marketplace for the collection and use of recycled materials.

- Requires the Governor to appoint the members of the new Council who must represent specified interests.

Extension of various air and water fees

- Extends all of the following for two years:

--The sunset of the annual emissions fees for synthetic minor facilities;

--The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for plan approvals for wastewater treatment works under the Water Pollution Control Law;

--The sunset of the annual discharge fees for holders of national pollutant discharge elimination system permits issued under the Water Pollution Control Law;

--The sunset of license fees for public water system licenses issued under the Safe Drinking Water Law;

--A higher cap on the total fee due for plan approval for a public water supply system under the Safe Drinking Water Law and the decrease of that cap at the end of the two years;

--The levying of higher fees, and the decrease of those fees at the end of the two years, for state certification of laboratories and laboratory personnel for purposes of the Safe Drinking Water Law;

--The levying of higher fees, and the decrease of those fees at the end of the two years, for applications to take examinations for certification as operators of water

supply systems or wastewater systems under the Safe Drinking Water Law or the Water Pollution Control Law; and

--The levying of higher fees, and the decrease of those fees at the end of the two years, for applications for permits, variances, and plan approvals under the Water Pollution Control and the Safe Drinking Water laws.

Water Pollution Control Law and shale and clay products and slag

- Excludes certain shale and clay products and slag from regulation as industrial waste under the Water Pollution Control Law.

- States that the exclusions apply regardless of whether the shale and clay products and slag are placed on the ground or below grade or are used in products that come into contact with the ground or are placed below grade.

Isolated wetlands permits

- Revises the statutes governing permits for impacts to isolated wetlands by doing both of the following:

  --Defining "preservation" as the long-term protection, rather than protection in perpetuity, of ecologically important wetlands through the implementation of appropriate legal mechanisms to prevent harm to the wetlands; and

  --Requiring a permit applicant to demonstrate that the mitigation site will be protected long term rather than in perpetuity.

Section 401 water quality certification; certified water quality professionals

- Requires data sufficient to determine the existing aquatic life use, rather than a use attainability analysis, to accompany an application for a section 401 water quality certification if the project involves a stream for which a specific aquatic life use designation has not been made.

- Requires the mitigation proposal contained in an application for a section 401 water quality certification to include the proposed real estate instrument or other available mechanism for protecting the property long term rather than the legal mechanism for protecting the property in perpetuity.

- Authorizes the Director to establish a program and adopt rules to certify water quality professionals to assess streams to determine existing aquatic life use and to categorize wetlands in support of applications for section 401 water quality certification and isolated wetland permits.

- Requires the Director to use information submitted by certified water quality professionals in reviewing such applications.

- Requires the Director's rules to address specified topics, including experience requirements for applicants, an annual certification fee, suspension and revocation of certifications, and technical standards to be used by certified water quality professionals in conducting stream assessments and wetlands categorizations.

Enforcement of Water Pollution Control Law

- Increases criminal penalties for certain violations of the Water Pollution Control Law, and establishes culpable mental states regarding certain violations.

- Provides that if a person is convicted of or pleads guilty to a violation of any provision of that Law, the sentencing court may order the person to reimburse the state agency or a political subdivision for any actual response costs, including addressing impacts to aquatic resources.

Air Pollution Control Law technical correction

- Corrects an erroneous cross-reference.

Extension of E-Check

(R.C. 3704.14)

The bill authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) through June 30, 2021, in Ohio counties in which a program is federally mandated. The bill accomplishes the extension by doing both of the following:

--Authorizing the Director of Environmental Protection to request the Director of Administrative Services to extend the contract in existence on June 30, 2015, for a period of up to 24 months through June 30, 2017; and

--Requiring that prior to the expiration of the contract extension, the Director of Environmental Protection request the Director of Administrative Services to enter into a new contract with a vendor to operate a program in Ohio counties in which a program is federally mandated through June 30, 2019, with an option for the state to renew the contract for a period of up to 24 months through June 30, 2021.

The bill retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions as achieved by the program under the contract that was extended. It also retains the requirement under which the Director of Administrative Services must use a competitive selection process when entering into a new contract with a vendor. Finally, the bill retains all statutory requirements governing the implementation and operation of the program, including requirements that the program must be a decentralized program and that it must include a new car exemption.

Waste Management Fund

(R.C. 3714.051, 3714.07, 3714.08, 3714.09, 3734.02, 3734.021, 3734.061, 3734.07, 3734.551, and 3734.57)

The bill renames the Solid Waste Fund in the Solid, Hazardous, and Infectious Wastes Law the Waste Management Fund. It also eliminates the Construction and Demolition Debris Facility Oversight Fund and the Infectious Waste Management Fund and credits the money that currently is credited to those Funds to the Waste Management Fund. It then does all of the following with regard to the purposes for which the renamed Fund is used:

(1) Retains the use of money collected from the following sources for the administration and enforcement of the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris:

--One of the four state fees levied on the transfer or disposal of solid waste (see fee discussion below); and

--Reimbursement of expenses incurred by the Director of Environmental Protection in preparing and ordering the implementation of an initial or amended solid waste management plan;

(2) Eliminates the use of the Fund for providing compliance assistance to small businesses and paying a share of the administrative costs of the Environmental Protection Agency (EPA) (see fee discussion below);

(3) Adds that the Fund must be used to address violations of the Air and Water Pollution Control Laws at facilities regulated under the Solid, Hazardous, and Infectious Wastes Law;

(4) Retains the use of money collected from the following sources exclusively for the administration and enforcement of the Construction and Demolition Debris Law and rules adopted under it:

--The application fee for the issuance of a permit to install a new construction and demolition debris facility;

--The disposal fee for construction and demolition debris or asbestos or asbestos-containing material; and

--Reimbursement of expenses incurred by the Director for the inspection of, or investigation of a violation by, a construction and demolition debris facility;

(5) Retains the use of money collected from the following sources exclusively for the administration and enforcement of the infectious waste provisions in the Solid, Hazardous, and Infectious Wastes Law and rules adopted under them:

--The registration fee for an infectious waste generator; and

--Reimbursement of expenses incurred by the Director for the inspection of, or investigation of a violation by, an infectious waste treatment facility or a solid waste facility that accepts infectious wastes.

Finally, regarding the use of money collected from the sources specified in item (5), above, the bill requires, rather than authorizes as in current law, the Director to use that money for the specified purposes.

Exclusion of specified products from regulation as solid wastes

(R.C. 3734.01)

The bill excludes from regulation as solid wastes under the Solid, Infectious, and Hazardous Wastes Law nontoxic, nonhazardous, unwanted fired and unfired, glazed and unglazed, structural shale and clay products.

Solid waste transfer and disposal fees

(R.C. 3734.57 and 3745.015)

The bill revises provisions governing solid waste transfer and disposal fees in the Solid, Hazardous, and Infectious Wastes Law. It extends the expiration of four state fees levied on the transfer or disposal of solid waste from June 30, 2016, to June 30, 2018. In addition, it retains the aggregate amount of those fees at $4.75, but reallocates the individual fees and their uses as follows:

(1) Decreases from $1 to $0.90 the per-ton fee the proceeds of which are credited to two funds that are used for purposes of Ohio's hazardous waste management program, and allocates $0.20, rather than 30% as in current law, of the fee to the

Hazardous Waste Facility Management Fund and $0.70, rather than 70% as in current law, to the Hazardous Waste Clean-Up Fund;

(2) Decreases from $1 to $0.75 the per-ton fee the proceeds of which are credited to the Solid Waste Fund (renamed the Waste Management Fund by the bill), which is used for the solid and infectious waste and construction and demolition debris management programs;

(3) Increases from $2.50 to $2.85 the per-ton fee the proceeds of which are credited to the Environmental Protection Fund, which is used by EPA to pay its costs of administering and enforcing laws governing environmental protection, and requires that Fund to also be used to pay the costs of providing compliance assistance to small businesses; and

(4) Retains the $0.25 per-ton fee the proceeds of which are credited to the Soil and Water Conservation District Assistance Fund, which is used to assist soil and water conservation districts.

Sale of tire fees

(R.C. 3734.901)

The bill extends until June 30, 2018, the sunset of the 50¢ per-tire fee on the sale of tires the proceeds of which are used to fund the scrap tire management program. The fee is scheduled to expire on June 30, 2016.

The bill also extends until June 30, 2018, the sunset of an additional 50¢ per-tire fee on the sale of tires the proceeds of which are credited to the Soil and Water Conservation District Assistance Fund, which is used to provide money to soil and water conservation districts. Current law requires the additional fee to be collected and so credited until June 30, 2016.

Materials Management Advisory Council

(R.C. 3734.49, 3734.50, 3734.51 (repealed), 3734.822, 3736.03, 3736.04 (repealed), 3736.05, and 3736.06; Section 515.10)

The bill merges the Solid Waste Advisory Council with the Recycling and Litter Prevention Advisory Council and renames the merged Council the Materials Management Advisory Council. It generally transfers the duties and responsibilities of the two Councils, as indicated in parentheses, to the new Council and establishes additional duties and responsibilities for the new Council, as indicated in parentheses, as follows:

(1) Providing advice and assistance to the Director of Environmental Protection with preparation of the state solid waste management plan and periodic revisions to the plan (Solid Waste Management Advisory Council);

(2) Approving or disapproving the draft state solid waste management plan and periodic revisions prior to the plan's adoption (Solid Waste Management Advisory Council);

(3) Annually reviewing the implementation of the state solid waste management plan (Solid Waste Management Advisory Council);

(4) Preparing and submitting an annual report to the General Assembly on the state's solid waste management system and efforts towards achieving the goals, restrictions, and objectives established under specified provisions of the statute governing the state solid waste management plan. The report may recommend legislative action (new).

(5) Triennially providing advice to the Director in conducting a review of the progress made toward achieving the objectives, restrictions, and goals established under specified provisions of the statute governing the plan (new);

(6) With the approval of the Director, establishing criteria by which to certify, and certify, state agencies and political subdivisions for receipt of grants for activities or projects that are intended to accomplish the purposes of any of the statewide source reduction, recycling, recycling market development, and litter prevention programs established under current law (Recycling and Litter Prevention Advisory Council);

(7) Advising the Director on establishing and implementing statewide source reduction, recycling, recycling market development, and litter prevention programs (Recycling and Litter Prevention Advisory Council);

(8) Researching and responding to questions posed to the new Council by the Director (new); and

(9) Establishing and developing formal and informal partnerships with other entities that foster a productive marketplace for the collection and use of recycled materials (new).

The bill deletes the requirement that the Solid Waste Management Advisory Council annually review implementation of solid waste management plans of county and joint solid waste management districts.

Under the bill, the Governor, with the advice and consent of the Senate, must appoint the following 11 members to the new Council:

(1) One member who is an employee of a health district whose duties include enforcement of the solid waste provisions of the Solid, Hazardous, and Infectious Wastes Law;

(2) One member representing the interests of counties;

(3) One member representing the interests of municipal corporations;

(4) One member representing the interests of townships;

(5) One member representing the interests of solid waste management districts;

(6) One member representing a statewide environmental advocacy organization;

(7) One member representing the public; and

(8) Four members with knowledge of or experience in waste management, recycling, or litter prevention programs. Those members also must represent a broad range of interests, including manufacturing, wholesale, retail, labor, raw materials, commercial recycling, and solid waste management.

The bill provides for staggered three-year terms for the appointees and includes standard procedures governing their appointment, the filling of vacancies, and removal of appointees. Additionally, the bill requires the Director to appoint the chairperson of the new Council and requires the new Council to meet at least twice a year. A majority vote of the members is necessary to take action. Members serve without compensation, but must be reimbursed for expenses.

Finally, the bill provides for the necessary transfer of assets and liabilities to the new Council and provides that legal actions initiated under current law by either of the existing Councils are to be continued by the new Council.

Extension of various air and water fees

Synthetic minor facility emissions fees

(R.C. 3745.11(D))

Under current law, each person who owns or operates a synthetic minor facility must pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and

lead in accordance with a fee schedule. A synthetic minor facility is a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under existing law. Current law requires the fee to be paid through June 30, 2016. The bill extends the fee through June 30, 2018.

Water pollution control fees and safe drinking water fees

(R.C. 3745.11(L), (M), and (N))

Under current law, a person applying for a plan approval for a wastewater treatment works is required to pay a fee of $100 plus .0065% of the estimated project cost, up to a maximum of $15,000, when submitting an application through June 30, 2016, and a fee of $100 plus .002% of the estimated project cost, up to a maximum of $5,000, on and after July 1, 2016. Under the bill, the first tier fee is extended through June 30, 2018, and the second tier applies to applications submitted on or after July 1, 2018.

Current law establishes two schedules for annual discharge fees to be paid by holders of national pollutant discharge elimination system (NPDES) permits with an average daily discharge flow of 5,000 or more gallons per day. Under each of the schedules, one of which is for public dischargers and one of which is for industrial dischargers, the fees are based on the average daily discharge flow and increase as the flow increases. Under current law, the fees are due by January 30, 2014, and January 30, 2015. The bill extends payment of the fees and the fee schedules to January 30, 2016, and January 30, 2017.

In addition to the fee schedules described above, current law imposes a $7,500 surcharge to the annual discharge fee for major industrial dischargers that must be paid by January 30, 2014, and January 30, 2015. The bill continues the surcharge and requires it to be paid annually by January 30, 2016, and January 30, 2017.

Under current law, one category of public discharger and eight categories of industrial dischargers that are NPDES permit holders are exempt from the annual discharge fees that are based on average daily discharge flow. Instead, they are required to pay an annual discharge fee of $180. Under current law, the fee is due annually not later than January 30, 2014, and January 30, 2015. The bill continues the fee and requires it to be paid annually by January 30, 2016, and January 30, 2017.

The Safe Drinking Water Law prohibits anyone from operating or maintaining a public water system without an annual license from the Director of Environmental Protection. Applications for initial licenses or license renewals must be accompanied by

a fee, which is calculated using schedules for the three basic categories of public water systems established in current law. The fee for initial licenses and license renewals is required in statute through June 30, 2016, and has to be paid annually prior to January 31, 2016. The bill extends the initial license and license renewal fee through June 30, 2018, and requires the fee to be paid annually prior to January 31, 2018.

The Safe Drinking Water Law also requires anyone who intends to construct, install, or modify a public water supply system to obtain approval of the plans from the Director. Ongoing law establishes a fee for such plan approval of $150 plus .0035% of the estimated project cost. Under current law, the fee cannot exceed $20,000 through June 30, 2016, and $15,000 on and after July 1, 2016. The bill specifies that the $20,000 limit applies to persons applying for plan approval through June 30, 2018, and the $15,000 limit applies to persons applying for plan approval on and after July 1, 2018.

Current law establishes two schedules of fees that the EPA charges for evaluating laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established under the Safe Drinking Water Law. A schedule with higher fees applies through June 30, 2016, and a schedule with lower fees applies on and after July 1, 2016. The bill continues the higher fee schedule through June 30, 2018, and applies the lower fee schedule to evaluations conducted on or after July 1, 2018. The bill continues through June 30, 2018, a provision stating that an individual laboratory cannot be assessed a fee more than once in a three-year period unless the person requests the addition of analytical methods or analysts, in which case the person must pay $1,800 for each additional survey requested.

Fees for certification of water supply or wastewater systems operators

(R.C. 3745.11(O))

Current law requires a person applying to the Director to take an examination for certification as an operator of a water supply system or a wastewater system to pay a fee, at the time an application is submitted, in accordance with a statutory schedule. A higher schedule is established through November 30, 2016, and a lower schedule applies on and after December 1, 2016. The bill extends the higher fee schedule through November 30, 2018, and applies the lower fee schedule beginning December 1, 2018.

Application fees – water pollution control and safe drinking water

(R.C. 3745.11(S))

Current law requires any person applying for a permit other than a NPDES permit, a variance, or plan approval under the Safe Drinking Water Law or the Water Pollution Control Law to pay a nonrefundable fee of $100 at the time the application is

submitted through June 30, 2016, and a nonrefundable fee of $15 if the application is submitted on or after July 1, 2016. The bill extends the $100 fee through June 30, 2018, and applies the $15 fee on and after July 1, 2018.

Similarly, under existing law, a person applying for a NPDES permit through June 30, 2016, must pay a nonrefundable fee of $200 at the time of application. On and after July 1, 2016, the nonrefundable application fee is $15. The bill extends the $200 fee through June 30, 2018, and applies the $15 fee on and after July 1, 2018.

Drinking Water Protection Fund

(R.C. 6109.30)

The bill eliminates the prohibition in current law against the use of moneys in the Drinking Water Protection Fund to meet any state matching requirements that are necessary to obtain federal grants. Under continuing law, the Fund is used to administer state and federal safe drinking water laws, provide technical assistance to public water systems, and conduct studies and support programs related to drinking water.

Water Pollution Control Law and shale and clay products and slag

(R.C. 6111.01)

The bill excludes from regulation as industrial waste under the Water Pollution Control Law both shale and clay products and slag. It states that the exclusions apply regardless of whether the shale and clay products and slag are placed on the ground or below grade or are used in products that come into contact with the ground or are placed below grade. Under the bill, shale and clay products are nontoxic, nonhazardous, unwanted fired and unfired, glazed and unglazed, structural shale and clay products. Slag is the nonmetallic product resulting from melting or smelting operations for iron or steel.

Isolated wetlands permits

(R.C. 6111.02 and 6111.027)

The bill revises the definition of "preservation" as used in the statutes governing permits for impacts to isolated wetlands to mean the long-term protection, rather than protection in perpetuity, of ecologically important wetlands through the implementation of appropriate legal mechanisms to prevent harm to the wetlands. It then requires an applicant for coverage under an individual or general state isolated

wetland permit to demonstrate that the mitigation site will be protected long term rather than in perpetuity.

Section 401 water quality certification; certified water quality professionals

(R.C. 6111.30)

The bill revises two of the requirements governing information to be included with an application for a section 401 water quality certification under the Water Pollution Control Law. First, it requires an application to include data sufficient to determine the existing aquatic life use, rather than a use attainability analysis, if the project involves a stream for which a specific aquatic life use designation has not been made. Next, it retains the requirement that an application contain a specific and detailed mitigation proposal, but requires the proposal to include the proposed real estate instrument or other available mechanism for protecting the property long term rather than the proposed legal mechanism for protecting the property in perpetuity.

The bill authorizes the Director to establish a program and adopt rules to certify water quality professionals to assess streams to determine existing aquatic life use and to categorize wetlands in support of applications for section 401 water quality certification and isolated wetland permits. It then requires the Director to use information submitted by certified water quality professionals in reviewing such applications.

The Director's rules must do all of the following:

(1) Provide for the certification of water quality professionals for the above purposes. Those rules must do all of the following:

--Authorize the Director to require an applicant to submit information necessary for the Director to assess a water quality professional's experience in conducting stream assessments and wetlands categorizations;

--Authorize the Director to establish experience requirements and to use tests to determine the competency of applicants;

--Authorize the Director to approve and deny applications based on applicants' compliance with the requirements established in rules;

--Require the Director to revoke certification of a water quality professional if the Director finds that the professional falsified any information on the application for certification regarding the professional's credentials; and

--Require periodic renewal of a water quality professional's certification and establish continuing education requirements for purposes of that renewal.

(2) Establish an annual fee to be paid by certified water quality professionals in an amount calculated to defray costs incurred by the EPA for reviewing applications and issuing certifications;

(3) Authorize the Director to suspend or revoke a certification if the water quality professional's performance has resulted in submission of improper documentation that is inconsistent with standards established in rules as discussed below;

(4) Authorize the Director to review documentation submitted by a certified water quality professional to ensure compliance with the rules establishing standards;

(5) Require a certified water quality professional to submit any documentation developed in support of an application for a section 401 water quality certification or an isolated wetland permit upon the Director's request;

(6) Authorize random audits by the Director of documentation developed or submitted by certified water quality professionals to ensure compliance with the rules establishing standards; and

(7) Establish technical standards to be used by certified water quality professionals in conducting stream assessments and wetlands categorizations.

Enforcement of Water Pollution Control Law

(R.C. 6111.99)

The bill increases criminal penalties for certain violations of the Water Pollution Control Law and establishes culpable mental states regarding certain violations as follows:

Type of violation	The bill	Current law
Violations of provisions regarding prohibited acts of pollution, compliance with effluent standards, and right of entry for enforcement purposes.	A purposeful violation is a felony punishable by a fine of not more than $25,000, imprisonment for not more than four years, or both. Each day of violation is a separate offense. A knowing violation is a misdemeanor punishable by a	A violation is punishable by a fine of not more than $25,000, imprisonment for not more than one year, or both.*

Type of violation	The bill	Current law
	fine of not more than $10,000, imprisonment for not more than one year, or both. Each day of violation is a separate offense.	
Violations of provisions regarding submission of false information.	A purposeful violation is a felony punishable by a fine of not more than $25,000, imprisonment for not more than four years, or both. Each day of violation is a separate offense. A knowing violation is a misdemeanor punishable by a fine of not more than $10,000, imprisonment for not more than one year, or both. Each day of violation is a separate offense.	A violation is punishable by a fine of not more than $25,000.*
Violations of orders, rules, or terms or conditions of a permit.	A purposeful violation is a felony punishable by a fine of not more than $25,000, imprisonment for not more than four years, or both. Each day of violation is a separate offense. A knowing violation is a misdemeanor punishable by a fine of not more than $10,000, imprisonment for not more than one year, or both. Each day of violation is a separate offense.	A violation is punishable by: a fine of not more than $25,000, imprisonment for not more than one year, or both.*
Violations of provisions regarding waste minimization and treatment plans and fees per ton of waste.	A knowing violation is a misdemeanor punishable by a fine of not more than $10,000, imprisonment for not more than one year, or both. Each day of violation is a separate offense.	A violation is punishable by a fine of not more than $10,000.*

Type of violation	The bill	Current law
Violations of provision requiring approval for plans for disposal of industrial waste.	A knowing violation is a misdemeanor punishable by a fine of not more than $10,000, imprisonment for not more than one year, or both. Each day of violation is a separate offense.	A violation is punishable by a fine of not more than $500.*
Violations of provision requiring approval of plans for installation of or changes in sewerage or treatment works.	A violation is punishable by a fine of not more than $10,000.* Each day of violation is a separate offense.	A violation is punishable by a fine of not more than $100.*

* No culpable mental state is specified. The default culpable mental state is recklessness.

The bill also provides that if a person is convicted of or pleads guilty to a violation of any provision of the Water Pollution Control Law, the court imposing the sentence may order the person to reimburse the state agency or a political subdivision for any actual response costs incurred in responding to the violation, including the cost of restoring affected aquatic resources or otherwise compensating for adverse impact to aquatic resources directly caused by the violation, but not including costs of prosecution.

Air Pollution Control Law technical correction

(R.C. 3704.04)

The bill corrects an erroneous cross-reference.

OHIO FACILITIES CONSTRUCTION COMMISSION

Declaration of public exigency

- Expands the authority of the Executive Director of the Ohio Facilities Construction Commission (OFCC) to declare a public exigency regarding any public works.
- Allows the OFCC Executive Director to declare a public exigency upon the request of a state institution of higher education or any other state instrumentality.

Cultural facilities cooperative use agreements

- Renames a "cooperative contract" under the Public Works Law a "cooperative use agreement."
- Specifies, when an Ohio sports facility is financed in part by state bonds, that construction services must be provided on the state's behalf or at the direction of the governmental agency or nonprofit corporation that will own or manage the facility.
- Specifies that the construction services must be specified in a cooperative use agreement between the OFCC and the governmental agency or nonprofit corporation.
- Exempts the cooperative use agreement and actions taken under it from Public Works and Public Improvements Laws, but subjects them to phases of those laws relating to cultural facilities and the use of domestic steel and the Prevailing Wage Law.
- Specifies that a cooperative use agreement must have a provision requiring a cultural project to be completed and ready to support culture, rather than completed and ready for full occupancy.
- Expands the definition of "governmental agency" in the public works law to include state agencies and state institutions of higher education.

Project labor agreements in public improvement contracts

- Prohibits a state agency, in the bid specifications for a contract related to a public improvement to be constructed by or on behalf of the agency, from requiring a contractor or subcontractor to enter into (similar to current law, which is not currently enforced) or prohibiting a contractor or subcontractor from entering into project labor agreements.

- Prohibits a state agency from discriminating against a bidder, contractor, or subcontractor for refusing or electing to become a party to a project labor agreement.

- Prohibits any state funds from being distributed for constructing a public improvement by or for a political subdivision if the subdivision, in its bid specifications, requires a contractor or subcontractor to enter into, or prohibits a contractor or subcontractor from entering into, project labor agreements.

- Allows an interested party to bring an action against a state agency or political subdivision to have a prohibited contract voided.

State-financed historical facilities

- Specifies that a cultural organization financing a historical facility project with state money may use not more than 3% of the money to pay its cost of administering the project.

Surety bonds

- Transfers from the Director of Administrative Services to the Executive Director authority to adopt rules regarding certain surety bonds.

Electronically filed bids

- Allows a public bid guaranty to be provided by means of an electronic verification and security system.

- Limits the ability to broadcast a public bid opening by electronic means to only bids that are filed electronically.

- Eliminates the requirement that submitted bids be tabulated on duplicate sheets.

Energy and water conservation

- Clarifies that the Executive Director has authority to enter into energy or water conservation contracts on the Executive Director's own initiative or at the request of a state agency.

School Facilities Commission

- Provides that the project scope and basic costs established by the School Facilities Commission at the request of a school district seeking new conditional approval of a classroom facilities project, after a lapse of a previous conditional approval, are valid for 13 months, rather than one year as prescribed under current law.

- Permits funds appropriated to the Commission for classroom facilities projects that were not spent or encumbered during the first year of each biennium, and which are greater than half of such appropriations for the entire biennium, to be used for various Commission programs.

- Requires the Commission, in consultation with the Office of Budget and Management, to prepare a study of the impacts, benefits, and risks associated with a school district funding its share of the cost of a school facilities project under any of the Commission's programs with cash-on-hand resulting from a lease-purchase agreement.

- Eliminates the Education Facilities Trust Fund and the Ohio School Facilities Commission Fund.

Declaration of public exigency

(R.C. 123.10)

The bill expands the authority of the Executive Director of the Ohio Facilities Construction Commission (OFCC) to declare a public exigency. Under current law, the Executive Director may declare a public exigency when an injury or obstruction occurs in any public work of the state maintained by the Director of Administrative Services. The bill removes the limitation "maintained by the Director of Administrative Services" to allow the Executive Director to declare a public exigency regarding any public work of the state.

Current law allows the Executive Director to declare a public exigency on the Executive Director's own initiative or upon the request of the director of a state agency. The bill expands this authorization to allow the Executive Director also to declare a public exigency upon the request of a state institution of higher education or any other state instrumentality.

Cultural facilities cooperative use agreements

(R.C. 123.28 and 123.281)

Ohio's Public Works Law defines "cooperative contract" to mean a contract between the OFCC and a cultural organization providing the terms and conditions of the cooperative use of an Ohio cultural facility. The bill changes the name "cooperative contract" to "cooperative use agreement." The bill also expands the meaning of

"governmental agency," as it is used in the Public Works Law, to include a state agency and state institutions of higher education.

Instead of the current requirement that a cooperative use agreement include a provision specifying that a project can be completed and ready "for full occupancy" without exceeding appropriated funds, the bill requires the specification to be that the project can be completed and ready "to support culture" without exceeding appropriated funds.

Current law provides that a cooperative use agreement generally is not subject to Public Works Law. The bill subjects a cooperative use agreement to provisions of the Public Works Law regarding cultural facilities and the use of domestic steel.

The bill provides that when an Ohio sports facility is financed in part by state bonds, construction services must be provided on the state's behalf or at the direction of the governmental agency or nonprofit corporation that will own or manage the facility. The construction services must be specified in a cooperative use agreement between the OFCC and the governmental agency or nonprofit corporation. The cooperative use agreement, and actions taken under it, are exempt from Public Works and Public Improvements Laws, but are subject to provisions of those laws relating to cultural facilities and the use of domestic steel and the Prevailing Wage Law.

Project labor agreements in public improvement contracts

(R.C. 4116.01, 4116.02, 4116.03, 4116.031, and 4116.04)

The bill limits the application of the Unlawful Labor Requirements in Public Improvement Contracts Law to only state agencies, rather than to "public authorities" under current law. That Law prohibits the imposition of certain labor requirements as a condition of performing public works (essentially, project labor agreements). A "state agency," under the bill, means any officer, board, or commission of the state authorized to enter into a contract for the construction of a public improvement or to construct a public improvement by the direct employment of labor and includes a state institution of higher education. The bill defines a "state institution of higher education" as any state university or college, community college, state community college, university branch, technical college or the Northeast Ohio Medical University and its board of trustees.

Under current law, a "public authority" includes a state agency as described above, any Ohio political subdivision, and any institution supported in whole or in part by public funds, authorized to enter into a contract for the construction of a public improvement or to construct a public improvement by the direct employment of labor. However, under current law, "public authority" does not mean any municipal corporation exercising the municipal corporation's home rule authority, unless the

specific contract for a public improvement includes state funds appropriated for the purposes of that public improvement.

The Ohio Supreme Court held in *Ohio State Bldg. and Constr. Trades Council, et al. v. Cuyahoga County Bd. of Commissioners, et al.*[88] that the Unlawful Labor Requirements in Public Improvement Contracts Law is preempted by the National Labor Relations Act[89] and is thus unconstitutional; therefore, the law is not currently enforced. (See "**Comment – federal preemption**," below.)

Imposition of certain labor requirements in public improvement contracts

(R.C. 4116.02)

The bill limits to state agencies, including state institutions of higher education, the prohibition against including certain labor requirements in bid specifications for a public improvement undertaken by them or on their behalf, and no longer applies the prohibition to any political subdivision of the state or any institution supported by public funds. However, the bill also expands this provision by not permitting a state agency to *prohibit* the requirements either. Thus, under the bill, a state agency, when engaged in procuring products or services, awarding contracts, or overseeing procurement or construction for public improvements, must ensure that the agency-issued bid specifications for the proposed public improvement do not require a contractor or subcontractor to do, or prohibit a contractor or subcontractor from doing, either of the following:

(1) Entering into agreements with any labor organization (essentially, a union) on the public improvement;

(2) Entering into any agreement that requires the employees of that contractor or subcontractor to become members of or affiliated with a labor organization or to pay dues or fees to a labor organization as a condition of employment or continued employment.

As under current law, this provision also applies to any subsequent contract or other agreement for the public improvement to which the state agency and a contractor or subcontractor are direct parties.

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[88] 98 Ohio St.3d 214, 2002-Ohio-7213 (2002).

[89] 29 United States Code 151, *et seq*.

Prohibited actions by state agencies

(R.C. 4116.03)

Similar to current law, the bill prohibits a state agency (rather than a public authority as under current law) from doing any of the following with respect to public improvements undertaken by or on behalf of the state agency:

(1) Awarding a contract for a public improvement if the contract or subsequent contract or other agreement to which the state agency and a contractor or subcontractor are direct parties is required to or prohibited from containing the elements described in (1) and (2) under "**Imposition of certain labor requirements in public improvement contracts**," above;

(2) Discriminating against any bidder, contractor, or subcontractor for refusing or electing to become a party to any agreement with any labor organization on the public improvement that currently is under bid or on projects related to that improvement;

(3) Violating the state agency's duty to ensure that bid specifications issued by the state agency for the proposed public improvement, and any subsequent contract or other agreement for the public improvement to which the state agency and a contractor or subcontractor are direct parties, do not require or prohibit the elements described in (1) and (2) under "**Imposition of certain labor requirements in public improvement contracts**," above.

Use of state funds for certain local projects

(R.C. 4116.031)

The bill prohibits any state funds from being distributed for the purpose of constructing a public improvement by or on behalf of a political subdivision, if the political subdivision, in procuring products or services, awarding contracts, or overseeing procurement or construction for public improvements undertaken by or on behalf of the political subdivision, requires in the bid specifications a contractor or subcontractor to enter into, or prohibits in the bid specifications a contractor or subcontractor from entering into, an agreement described under "**Imposition of certain labor requirements in public improvement contracts**," above. The bill defines a "political subdivision" as a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

Enforcement

(R.C. 4116.01 and 4116.04)

Continuing law permits an interested party to bring an action to enforce the Unlawful Labor Requirements in Public Improvement Contracts Law; however, the bill permits those actions to be brought against a state agency or political subdivision, rather than a public authority. An "interested party," under continuing law and with respect to a particular public improvement, includes all of the following:

(1) Any person who submits a bid for the purpose of securing a contract for the public improvement;

(2) Any person acting as a subcontractor of a person mentioned in (1), above;

(3) Any association having as members any of the persons mentioned in (1) or (2), above;

(4) Any employee of a person mentioned in (1), (2), or (3), above;

(5) Any resident who is a resident of the jurisdiction of the state agency or political subdivision for which products or services are being procured for, or work is being performed on, a public improvement.

Similar to current law, the bill permits an interested party to file a complaint against a state agency or political subdivision alleging a violation of the bill, within two years after the date on which the contract is signed for the public improvement, in the court of common pleas of the county in which the public improvement is performed. Under continuing law, the performance of the contract forms the basis of the allegation of a violation. Continuing law requires the court in which the complaint is filed to hear and decide the case and, upon a finding that a violation has occurred, must void the contract and make any orders that will prevent further violations. If the court finds a violation has occurred, the court may award reasonable attorney's fees, court costs, and any other fees incurred in the course of the civil action to the prevailing plaintiff. Under continuing law, the Rules of Civil Procedure govern these actions, and any determination of a court is subject to appellate review.

Comment – federal preemption

In 2002, the Ohio Supreme Court held that specified provisions of the federal National Labor Relations Act (NLRA) preempted Ohio's Unlawful Labor Requirements in Public Improvement Contracts Law. The NLRA generally applies to the private sector, and a state may be limited in regulating labor relations between private employers and unions. Sections 8(e) and (f) of the NLRA specifically allow the

construction industry to enter into agreements and take other actions that other private employers cannot. The Court held that the Revised Code provisions essentially prohibit public authorities from entering into or enforcing project labor agreements on public construction projects, and that those sections of the NLRA allow such agreements. The Court stated that if the state, as a market participant, wants to prohibit the use of project labor agreements, the state may do so as the purchaser of the product or services. However, by prohibiting other entities, such as political subdivisions, from using project labor agreements, the prohibition amounts to a regulation, and the Court held that the state cannot pass laws to regulate the construction industry in contravention of the NLRA.[90]

In a separate case, the federal Sixth Circuit Court of Appeals (whose geographic jurisdictional area includes Ohio) recently concluded that a Michigan law was not preempted by the NLRA because the law was not regulatory in nature and was essentially just a blanket action by the state as a market participant. The Michigan law generally prohibits a governmental unit that awards any construction contract from doing either of the following in any bid specifications, project agreements, or other controlling documents:

- Requiring a bidder or contractor to enter into or prohibiting a bidder or contractor from entering into an agreement with a union for that project;
- Discriminating against a bidder or contractor for becoming or remaining or refusing to become or remain a signatory to, or for adhering or refusing to adhere to, an agreement with a union in regard to that project or a related construction project.[91]

Only a court could decide whether any part of this bill concerning project labor agreements is preempted by the NLRA.

State-financed historical facilities

(R.C. 123.281)

The bill specifies that a cultural organization financing a historical facility project with state money may not use more than 3% of the money to pay the organization's cost of administering the project.

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[90] *Ohio State Bldg. and Constr. Trades Council*, supra, at ¶65, 69, and 94.

[91] *Mich. Bldg. & Constr. Trades Council & Genessee v. Snyder*, 729 F.3d 572 (6th Cir. 2013); M.C.L.A. 408.875.

Current law authorizes cultural organizations to enter into agreements with the OFCC whereby the organization provides construction services on behalf of the state to construct, partly with state funds, a "state historical facility," which is a site or facility used for cultural activities and that is created, operated, and maintained by the Ohio Historical Society (OHS), owned at least partly by the state or the OHS, and managed by or under contract with the OFCC.

To the extent the state funds are raised by state-issued bonds, the use of the bond proceeds must comply with certain federal restrictions if the bonds are to qualify bondholders for federal income tax exemption on the interest. Noncompliance jeopardizes the bonds' tax-exempt status and invokes the federal anti-arbitrage "rebate" requirements, causing the state to have to pay the federal government the extra yield the state receives from using the bond proceeds for purposes other than the governmental purposes that qualify the bonds for tax exemption. The purpose of the anti-arbitrage rebate provision is to discourage state and local governments from using federally tax exempt bond issuances to raise money that is used to invest in higher-yielding securities, thereby profiting from the spread between the higher yield and the government's interest cost (i.e., arbitrage). One of the federal anti-arbitrage restrictions limits, in effect, the portion of bond proceeds that may be used to pay working capital (i.e., operating) expenditures by counting a limited amount of those expenditures among the legitimate public purpose uses of the bond proceeds. Working capital expenditures in excess of that limit are considered not to be for the public purpose and therefore could invoke the rebate requirement.[92]

Surety bond authority

(R.C. 9.333 and 153.70)

The bill transfers from the Director of Administrative Services to the Executive Director the authority to adopt rules regarding surety bonds provided by a construction manager at risk, or by a design-build firm, to a public authority.

Electronically filed bids

(R.C. 153.08)

The bill modifies provisions of the Ohio Public Improvements Law regarding the competitive bidding process for the selection of a contractor for the construction of buildings or structures for the use of the state or any institution supported by the state. Currently, a public bid opening may be broadcast by electronic means. The bill limits

[92] Internal Revenue Code sec. 148. 26 Code of Fed. Regs. 1.148-6.

this to allow only bids filed electronically to be broadcast by electronic means. Current law requires all electronically filed bids to be made available to the relevant public authority after the public bid opening. The bill provides that this may be achieved by means of an electronic verification and security system established under rules adopted by OFCC under the Administrative Procedure Act. Finally, the bill removes a current requirement that all submitted bids be tabulated upon duplicate sheets.

Contracts for energy and water conservation

(R.C. 156.01, 156.02, and 156.04)

The bill clarifies that the Executive Director has authority to enter into energy or water conservation contracts on the Executive Director's own initiative or at the request of a state agency. Continuing law authorizes the Executive Director to contract with various entities for a report containing an analysis and recommendations pertaining to the implementation of energy or water conservation measures, and to enter into an installment payment contract for the implementation of energy or water saving measures.

The bill also replaces references to the Department and Director of Administrative Services with references to the Executive Director who replaced the Department and Director in previous legislation.

School Facilities Commission

Background on School Facilities Commission programs

As an independent agency of the OFCC, the School Facilities Commission (SFC) administers several programs that provide state assistance to school districts and community schools in constructing classroom facilities. The main program, the Classroom Facilities Assistance Program (CFAP), is designed to provide each city, exempted village, and local school district with partial funding to address all of the district's classroom facilities needs. It is a graduated, cost-sharing program where a district's portion of the total cost of the project and priority for funding are based on the district's relative wealth. Districts are ranked by wealth into percentiles. The poorest districts are served first and receive a greater amount of state assistance than wealthier districts will receive when it is their turn to be served based on their respective wealth percentile. Other smaller programs address the particular needs of certain types of districts and schools but most assistance continues to be based on relative wealth.

Lapse in project funding for Classroom Facilities Assistance Program

(R.C. 3318.054)

When a district is eligible for CFAP funding, it must secure local funding to pay its portion of the project cost, usually by seeking voter approval for a bond issue and an accompanying property tax levy to pay its share. For a district for which state funding lapses due to failed voter approval of local funding, the law prescribes procedures for a board to follow if it wishes to revive its project after such a lapse. To do so, the board must request that School Facilities Commission set a new scope and estimated cost for the project based on the district's current wealth percentile and tax valuation. The new scope and estimated costs are valid for one year.

The bill extends that validity of the scope and estimated costs to 13 months.

Reuse of unspent funds

(R.C. 3318.024)

In addition to CFAP as under current law, the bill permits funds appropriated to the SFC for classroom facilities projects that were not spent or encumbered during the first year of each biennium, and which are greater than half of such appropriations for the entire biennium, to be used for the following:

(1) Funding for school districts that voluntarily develop joint use or other cooperative agreements that significantly improve the efficiency of the use of facility space within or between districts;

(2) The School Building Emergency Assistance Program;

(3) Early assistance to a school district that has entered into an Expedited Local Partnership agreement;

(4) The Exceptional Needs School Assistance Program, including assistance for the relocation or replacement of facilities required as a result of any contamination of air, soil, or water that impacts the occupants of the facility;

(5) The Accelerated Urban School Building Assistance Program; and

(6) The Vocational School Facilities Program.

Funding projects with lease-purchase agreements

(Section 285.80)

The bill requires the SFC, in consultation with the Office of Budget and Management, to prepare a study of the impacts, benefits, and risks associated with a school district funding its share of the cost of a school facilities project under any of the SFC's programs with cash-on-hand resulting from a lease-purchase agreement entered into under current law, which agreement itself was not subject to voter approval. The study must be completed not later than nine months after the bill's effective date and must be submitted to the Governor and the General Assembly. Except in limited circumstances specified by the bill and with approval of the SFC, until the study is completed, the bill prohibits a school district from funding its share of the cost of a project with cash-on-hand resulting from an unvoted lease-purchase agreement. (With Commission approval, a district may use such proceeds to pay its share of project cost overruns, locally funded initiatives (nonstate-funded portions of a project), and district costs under the Expedited Local Partnership programs.)

Under current law, the board of education of a school district, the governing board of an educational service center, or the governing authority of a community school may acquire buildings or building improvements and furnishings by a lease-purchase agreement. The agreement must provide for a series of not more than 30 one-year renewable lease terms, at the end of which series title to the property is vested in the district, ESC, or community school, if all of its obligations under the agreement have been satisfied.[93]

Education Facilities Trust Fund

(Repealed R.C. 183.26; conforming changes in R.C. 3318.33 and 3318.40)

The bill eliminates the Education Facilities Trust Fund, which consists of a portion of the state's tobacco master settlement agreement proceeds to be used to pay costs of constructing, renovating, or repairing primary and secondary schools.

Ohio School Facilities Commission Fund

(Repealed R.C. 3318.33; conforming changes in R.C. 3318.02 and 3318.30)

The bill eliminates the Ohio School Facilities Commission Fund, which consists of (1) transfers of moneys authorized by the General Assembly, (2) investment earnings on the Public School Building Fund, Education Facilities Trust Fund, and School

[93] R.C. 3313.375, not in the bill.

Building Program Assistance Fund, and (3) revenues received by the SFC to be used to pay for commission operations.

GOVERNOR

- Places the Commission on Service and Volunteerism within the Governor's Office of Faith-Based and Community Initiatives.
- Requires messages of the Governor, and the inaugural address of the Governor-elect, to be produced and distributed in electronic form, and requires that a physical copy of the message or address be provided upon request to certain recipients.

Commission on Service and Volunteerism

(R.C. 121.40)

The bill places the Commission on Service and Volunteerism within the Governor's Office of Faith-Based and Community Initiatives. Currently, the Commission is independent, and not organized within another agency.

Messages of the Governor

(R.C. 149.04)

The bill requires that messages of the Governor, and the inaugural address of the Governor-elect, be produced and distributed in electronic form to the Governor, to each member of the General Assembly, and to the State Library. Under current law, these documents must be printed in pamphlet form. And current law requires that 250 copies of the pamphlet be distributed to the Governor, five copies be distributed to each member of the General Assembly, and two copies be distributed to the State Library.

The bill requires that a physical copy of the message or address be provided, upon request, to any recipient named above.

DEPARTMENT OF HEALTH

Smoking related provisions

School smoking prohibitions

- Extends to all individuals, the prohibition from smoking, using tobacco, or possessing any substance that contains tobacco in any area under the control of a school district or an educational service center (ESC) or at any school-supervised activity, and expands the prohibition to include outdoor facilities.

- Prohibits pupils from using nicotine or possessing any substance containing nicotine in any area under the control of a school district or ESC, including any outdoor facilities, or at any school-supervised activity.

Food service operation license

- Authorizes a food service operation licensor to revoke a license when the license holder has acquired, within a period of two years, three or more violations for failure to enforce or observe smoking prohibitions, or because the license holder has failed to pay an associated civil fine of more than $1,000.

- Specifies that a decision to revoke a food service operation license may be appealed.

Violation of smoking prohibitions

- Requires a proprietor of a public place or place of employment to permit an officer or employee of the Ohio Department of Health (ODH) prompt entry to investigate complaints against the proprietor regarding smoking.

- Requires ODH to adopt rules to prescribe fines for violations committed by retail tobacco stores regarding filings with ODH for exemption from smoking prohibitions.

- Specifies that such a violation is not included in the progressive fine schedule created by ODH.

Policy for state institutions of higher education

- Requires the Department of Higher Education and ODH to develop, not later than six months after the effective date of the provision, a model policy regarding the use of tobacco at state institutions of higher education.

- Requires state institutions of higher education to adopt, not later than 12 months after the model policy is developed, policies that are not less stringent than the model policy.

Uterine cytologic exams (pap smears) in hospitals

- Changes the law that requires hospitals to offer uterine cytologic exams (pap smears) to female inpatients by (1) making the offer permissive instead of mandatory for hospitals, (2) raising the minimum age from 18 to 21, and (3) requiring hospitals that offer the exams to record the results or the patient's decision to decline the exam.

State-level review of child deaths

- Requires the ODH Director to establish guidelines for the state-level review of deaths of children under 18 years of age.

- Allows the ODH Director to access certain information when reviewing a death, provides for immunity for civil liability for persons participating in a review, and prohibits the dissemination of confidential information gathered during a review.

Distribution of money from the "Choose Life" Fund

- Authorizes the ODH Director to distribute money in the "Choose Life" Fund that is allocated to a county to an eligible organization located in a noncontiguous county so long as:

  --No eligible organization located within the county to which the money is allocated or a contiguous county has applied for the money; and

  --The eligible organization from the noncontiguous county provides services within the county to which money is allocated.

Public Health Emergency Preparedness Fund

- Creates in the state treasury the Public Health Emergency Preparedness Fund, and requires ODH to use money in the Fund to pay expenses related to public health emergency preparedness and response activities.

Physician and Dentist Loan Repayment programs

- Modifies the limit on the amount of state funds that may be repaid on behalf of a physician participating in the Physician Loan Repayment Program or a dentist participating in the Dentist Loan Repayment Program.

- Includes providing clinical education in the teaching activities that count towards the service hours of a participating dentist.

Signature on vital records

- Repeals a provision that requires birth, fetal death, and death records and certificates be printed legibly or typewritten in unfading black ink and prohibits facsimile signatures.

- Permits signatures on records, certificates, and reports authorized under the Vital Statistics Law to be made by photographic, electronic, or other means prescribed by the ODH Director.

Noncertified copy of birth or death record

- Requires a local registrar to issue a noncertified copy of a birth or death record.

Immunizations

- Specifies that, beginning January 1, 2016, ODH will no longer provide GRF-funded vaccines from appropriation line item 440418, Immunizations, except in specified circumstances.

WIC vendor contracts

- Requires ODH to process an application for a Women, Infants, and Children (WIC) vendor contract within 45 days if the applicant already has a WIC vendor contract.

Health insurer required provision of information

- Requires insurers offering health benefit plans through an exchange to make available a list of the top 20% of services and an insured's expected contribution for each service.

Ohio hospital report card

- Requires the Executive Director of the Office of Health Transformation to develop, in consultation with a hospital association selected by the Executive Director, the Ohio hospital report card.

- Requires the report card to (1) be available on a public website and (2) provide information about the clinical outcomes and other data to allow consumers to compare health care services at different hospitals.

Ohio All-Payer Health Claims Database

- Requires the Executive Director of the Office of Health Transformation to create the Ohio All-Payer Health Claims Database that permits the public to access information about health claims among different medical providers.

- Grants the Executive Director authority needed to create, maintain, and maintain the integrity of the database and the authority to share data for larger scale databases.

- Creates the Ohio All-Payer Health Claims Database Advisory Committee to provide recommendations to the Executive Director in developing the database.

Health care cost information for nonemergency services

- Requires a health care provider to provide certain cost information (including out-of-pocket charges) to a patient or patient's representative before dispensing a prescription drug or providing a medical product or service unless an emergency exists.

- Prohibits a health care provider, except in an emergency, from dispensing a prescription drug or providing a medical product or service unless the patient or the patient's representative consents to paying the out-of-pocket charge.

Health care provider advertising

- Permits a health care provider to advertise the provider's usual and customary charge for any procedure or service the provider performs or renders.

- Specifies that any provision in a contract that prohibits this advertising is void.

Hope for a Smile Program

- Establishes the Hope for a Smile Program with a specified primary objective of improving the oral health of school-age children, particularly those who are indigent and uninsured.

- Requires the Director of Health to secure, maintain, and operate a bus as a mobile dental unit.

- Creates a state income tax deduction, to be used by a dentist or dental hygienist beginning with taxable years beginning in 2015, equal to the fair market value of the services provided for free under the program.

Smoking related provisions

School smoking prohibitions

(R.C. 3313.751)

The bill extends to all individuals, instead of just students as under current law, the prohibition from smoking, using tobacco, or possessing any substance derived from tobacco in any area under the control of a school district or an educational service center (ESC) or at any school-supervised activity. The bill also expands the prohibition to include outdoor facilities and to prohibit students from using nicotine or possessing any substance containing nicotine.

The board of education of a school district and ESC must adopt a policy providing for enforcement of the smoking and tobacco-use prohibition against all persons. And the board must adopt a policy establishing disciplinary measures for a violation of the smoking and tobacco-use prohibition, presumably by students.

For purposes of these provisions, to "smoke" means to burn any substance containing tobacco, including a lighted cigarette, cigar, or pipe, or to burn a clove cigarette. To "use tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, or any substance derived from tobacco, in the mouth to derive the effects of tobacco. And to "use nicotine" means to maintain any substance containing nicotine or a similar substance intended for human consumption or to consume nicotine or a similar substance, whether by means of smoking, heating, chewing, absorbing, dissolving, or ingesting by any other means.

The term "use nicotine" does not include use of nicotine replacement therapy products. These products are smoking or nicotine cessation products that have been approved by the U.S. Food and Drug Administration as nicotine replacement therapy products.

Food service operation license

(R.C. 3717.49)

The bill authorizes a licensor of food service operations to revoke a license upon determining that the license holder has acquired, within a period of two years, three or more violations for failure to enforce or observe certain smoking prohibitions. The licensor also is authorized to revoke a license when the licensor determines that the license holder has failed to pay a civil fine greater than $1,000 associated with such a violation. Only violations or fines that occur after the effective date of these provisions

are subject to the provisions. The bill specifies that the license holder may appeal a revocation under the appeals process in continuing law.

Violation of smoking prohibitions

(R.C. 3794.06 and 3794.07)

The bill requires proprietors of public places or places of employment to permit prompt entry of an officer or employee of the Ohio Department of Health (ODH) or its designee to investigate complaints made against the proprietor regarding smoking prohibitions. A proprietor's failure to permit prompt entry is a violation of the Non-Smoking Law.

The bill requires ODH to adopt rules to prescribe fines for violations committed by retail tobacco stores regarding filings with ODH for an exemption from the smoking prohibitions. Continuing law requires ODH to establish a schedule of fines for violations of smoking laws. The schedule of fines must be progressive based on the number of prior violations by a proprietor. The bill exempts fines charged for violations regarding filings with ODH for the retail tobacco store exemption from this progressive schedule of fines.

Policy for state institutions of higher education

(Section 733.10)

The bill requires the Department of Higher Education and ODH to develop, not later than six months after the effective date of the provision, a model policy regarding the use of tobacco at state institutions of higher education. State institutions of higher education must adopt, not later than 12 months after the model policy is developed, policies that are not less stringent than the model policy.

Uterine cytologic exams (pap smears) in hospitals

(R.C. 3701.60)

Uterine cytologic examinations (commonly referred to as pap smears) can detect early cancers of the cervix, which is the lower part of the uterus. The bill permits public and nonprofit hospitals to offer these exams to every female patient age 21 or older who has been admitted on an in-patient basis, unless the exam is contrary to the attending physician's orders or has been performed within the preceding year. This provision replaces the mandate of current law, which requires a hospital to offer the exam to every inpatient female age 18 or older, unless the exam is contrary to the attending physician's orders or has been performed within the preceding year.

Both the bill and current law permit the patient to refuse the exam. If a hospital offers the exam, the bill requires it to maintain records of the results or to record that the exam was refused.

State-level review of child deaths

(R.C. 121.22, 149.43, 2151.421, 3701.045, 3701.70, 3701.701, 3701.702, 3701.703, and 4731.22)

ODH Director to establish guidelines

The bill requires the ODH Director to establish guidelines for a state-level review of the deaths of children under 18 years of age who, at the time of death, were Ohio residents. The bill largely parallels current law provisions regulating county and regional child fatality review boards. Existing law, unchanged by the bill, permits a county, or group of counties, to establish a county or regional child fatality review board to review the deaths of children under 18 years of age who were residents of the county or region at the time of death. Current law also requires that each county or regional board report its findings to ODH.

Purpose

The bill specifies that the purpose of a review of child death conducted by the Director pursuant to the guidelines is to decrease the incidence of preventable child deaths by doing all of the following:

(1) Promoting cooperation, collaboration, and communication between all groups, professions, agencies, or entities that serve families and children;

(2) Maintaining a comprehensive database of child deaths that occur in Ohio in order to develop an understanding of the causes and incidence of those deaths;

(3) Recommending and developing plans for implementing state and local service and program changes and changes to the groups, professions, agencies, or entities that serve families and children that prevent child deaths.

No review during pending investigation

The bill specifies that, under the guidelines, the Director may not conduct a review of the death of a child while an investigation of the child's death or prosecution of a person for causing the death is pending, unless the prosecuting attorney agrees to allow the review. Moreover, the bill provides that a person, entity, law enforcement agency, or prosecuting attorney may not provide any information regarding the death of a child to Director while an investigation of the death or prosecution of a person for

causing the death is pending, unless the prosecuting attorney agrees to allow the review. The bill requires that, on the Director's request, a law enforcement agency or prosecuting attorney, on the conclusion of an investigation or prosecution, notify the ODH Director of the conclusion.

Information provided to the Director

The bill requires that, on the request of the Director, any individual, public children services agency, private child placing agency, or agency that provides services specifically to individuals or families, law enforcement agency, or other public or private entity that provided services to a child whose death is being reviewed by the Director pursuant to the guidelines, submit a summary sheet of information to the Director.

In the case of a health care entity, the sheet must contain only information available and reasonably drawn from the child's medical record created by the entity. With respect to a child one year of age or younger whose death is being reviewed by the Director, on the request of the Director, a health care entity that provided services to the child's mother must submit to the Director a summary sheet of information available and reasonably drawn from the mother's medical record created by the health care entity. Before submitting the sheet, the entity must attempt to obtain the mother's consent to do so, but a lack of consent does not preclude the entity from submitting the sheet.

In the case of any other entity or individual, the sheet must contain only information available and reasonably drawn from any record involving the child that the individual or entity develops. In addition, the bill provides that, on the request of the Director, an individual or entity may, at the individual's or entity's discretion, make any additional information, documents, or reports available to the Director.

Access to certain confidential information

The bill allows the Director, when conducting a review pursuant to the guidelines, access to any confidential report of child abuse or neglect that was provided to law enforcement or a public children services agency. The bill also requires that the Director preserve the confidentiality of such a report.

Use of information obtained by the Director

The bill provides that all of the following are confidential and may be used by the Director or a person participating in the review of a child's death pursuant to the guidelines only in the exercise of ODH's proper functions:

(1) Any information, document, or report presented to the Director;

(2) All statements made by those participating in a review;

(3) All work products of the Director.

Under the bill, a person who knowingly permits or encourages the unauthorized dissemination of confidential information is guilty of a misdemeanor of the second degree.

Civil immunity

Under the bill, an individual or public or private entity providing information, documents, or reports to the Director is immune from civil liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of providing the information, documents, or reports to the Director. In addition, the bill provides that each person participating in the review is immune from civil liability for injury, death, or loss to person or property that might otherwise be incurred or imposed as a result of the person's participation.

Open meetings and public records law

Current law provides that, with certain exceptions, "all meetings of any public body are declared to be public meetings open to the public at all times." At present, the exceptions include meetings of a county or regional child fatality review board. Under the bill, meetings related to a review of a child's death by the Director are not meetings that must be open to the public at all times.

Existing law also requires that, upon request, records kept by any public office be promptly prepared and made available for inspection. The bill specifies that, in the case of a review of a child's death by the Director, all of the following are not public records:

(1) Records provided to the Director;

(2) Statements made by persons participating in the Director's review;

(3) All work products of the Director.

Currently, the records, statements, and work products of a county or regional child fatality review board are not public records.

Distribution of money from the "Choose Life" Fund

(R.C. 3701.65)

The bill allows the ODH Director to distribute money from the "Choose Life" Fund that has been allocated to a county to an eligible organization within a noncontiguous county, so long as the organization provides services in the county for which the funds have been allocated and no eligible organization located within that county or a contiguous county applies for the money. The existing "Choose Life" Fund consists of contributions that are paid to the Registrar of Motor Vehicles by applicants who voluntarily elect to obtain "choose life" license plates. Money from the Fund is allocated to each county in proportion to the number of "choose life" license plates issued during the preceding year to vehicles registered in the county.

Under current law, the funds allocated for each county must be equally distributed to eligible organizations within the county that apply for funding. However, if no eligible organization located within the county applies, the funds may be allocated to eligible organizations located in contiguous counties. An eligible organization is a nonprofit organization that meets all of the following requirements:

(1) Is a private, nonprofit organization;

(2) Is committed to counseling pregnant women about the option of adoption;

(3) Provides services to pregnant women who are planning to place their children for adoption, including counseling and meeting the material needs of the women;

(4) Does not charge women for any services received;

(5) Is not involved or associated with any abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising; and

(6) Does not discriminate in its provision of any services on the basis of race, religion, color, age, marital status, national origin, handicap, gender, or age.

Public Health Emergency Preparedness Fund

(R.C. 3701.834; Section 289.50)

The bill creates the Public Health Emergency Preparedness Fund in the state treasury. All federal funds that ODH receives to conduct public health emergency preparedness and response activities must be credited to the Fund. The bill requires

ODH to use money in the Fund to pay expenses related to public health emergency preparedness and response activities.

Physician and Dentist Loan Repayment programs

Limit on state funds

(R.C. 3702.74 and 3702.91)

The bill makes various changes to the Physician Loan Repayment Program and the Dentist Loan Repayment Program, which offer funds to repay some or all of the educational loans of physicians and dentists who agree to provide primary care or dental services in health resource shortage areas.

The bill modifies the limit on the amount of state funds that are used for repayment made on behalf of a participating physician or dentist whose repayment also includes federal funds. Under current law, the amount of state funds included in a participant's repayment must equal the amount of federal funds that are included in the repayment if the source of the federal funds is the Bureau of Clinician Recruitment and Services (BCRS) in the U.S. Department of Health and Human Services. The bill eliminates the provision that applies the limit only to those participants whose repayment includes funds from the BCRS. Thus, under the bill, if a participant's repayment includes funds from any federal source, the amount of state funds included in a participant's repayment must equal the amount of those federal funds.

Teaching activities

(R.C. 3702.91(A))

With respect to the Dental Loan Repayment Program, current law permits teaching activities to count as service hours only if they involve supervising dental students and dental residents at the service site. The bill provides instead that teaching activities means providing clinical education to dental students and residents and dental health profession students at the service site.

Signatures on vital records

(R.C. 3705.08)

The bill changes current law requirements for signatures on vital records to permit signatures to be made by electronic means. Under current law, all birth, fetal death, and death records and certificates must be printed legibly or typewritten in unfading black ink and facsimile signatures are prohibited. The bill repeals those

provisions and expressly states that required signatures may be filed and registered by means prescribed by the ODH Director, including by electronic means.

Noncertified copy of birth or death record

(R.C. 3705.231)

The bill requires a local registrar to issue, on receipt of a signed application for a birth or death record and a fee, a noncertified copy of a birth or death record. The copy must contain at least the name, sex, date of birth or death, registration date, and place of birth or death of the person whose birth or death the record attests to. The copy also must attest that the person's birth or death has been registered. The bill allows a local registrar to charge up to 25 cents per page for a black and white copy, and, for a color copy, an amount not to exceed the amount the registrar expends in producing the color copy. Continuing law requires a local registrar and other entities to issue a certified copy of a vital record upon payment of a fee prescribed by the Director of Heath, which must be at least $12.[94]

Immunizations

(Section 289.30)

The bill specifies that, beginning January 1, 2016, ODH will no longer provide general revenue funded (GRF-funded) vaccines from appropriation line item 440418, Immunizations. Local health departments and other local providers who receive GRF funding for vaccines from ODH before January 1, 2016 must instead bill private insurance companies, as appropriate, to recover the costs of providing and administering vaccines. The bill, however, allows ODH to continue to provide GRF-funded vaccines in the following circumstances: (1) to cover uninsured adults, (2) to cover individuals on grandfathered private insurance plans that do not cover vaccines, and (3) in certain exceptional cases determined by the ODH Director.

WIC vendor contracts

(Section 289.40)

In Ohio, ODH administers the federal Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The act requires that during fiscal years 2016 and 2017 ODH review and process a WIC vendor contract application not later than 45 days after it is received if on that date the applicant is a WIC-contracted vendor and meets all of the following requirements:

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[94] R.C. 3705.24(A)(2). An additional $1.50 per copy is collected under R.C. 3705.242.

(1) Submits a complete WIC vendor application with all required documents and information;

(2) Passes the required unannounced preauthorization visit within 45 days of submitting a complete application;

(3) Completes the required in-person training within 45 days of submitting the complete application.

ODH must deny the application if the applicant fails to meet all of the requirements. After an application has been denied, the applicant may reapply for a contract to act as a WIC vendor during the contracting cycle of the applicant's WIC region.

Health insurer required provision of information

(R.C. 3901.241)

The bill requires an insurer offering a health benefit plan through a health benefit exchange established pursuant to the Patient Protection and Affordable Care Act of 2010, to make available for individuals seeking information on the plan a list of the top 20% of services utilized by individuals insured by the insurer. The list must include an enrollee's expected contribution for each service both when the enrollee has and has not met any associated deductibles. "Expected contribution" includes any copayments or cost sharing amounts that an enrollee is expected to pay under the plan.

The bill specifies that an insurer that does not meet this requirement is guilty of an unfair and deceptive act or practice in the business of insurance, the penalties for which include a cease and desist order, civil penalties up to $35,000, and suspension or revocation of the insurer's license.

Ohio hospital report card

(R.C. 3727.70)

The bill requires the Executive Director of the Office of Health Transformation to create an annual hospital report card within two years of the provision's effective date. The hospital report card must be available on a public website in a manner that allows members of the public to view and compare information for specific hospitals. The website must include any additional information the Executive Director determines is necessary to enhance decision-making among consumers.

The bill requires the Executive Director to develop the hospital report card in consultation with a hospital association selected by the Executive Director pursuant to

the bill (see "**Hospital association**") and to develop a comprehensive hospital information system to allow for the collection, compilation, indexing, and utilization of hospital-related data that will be used to create the hospital report card. The bill permits the Executive Director to contract with any individual or entity to carry out the Executive Director's duties with respect to the hospital report card.

Duties of the Executive Director

(R.C. 3727.71)

The bill requires the Executive Director to do all of the following:

- Develop, along with the selected hospital association, a long-range plan to create the hospital report card;
- Do all of the following in developing the hospital report card:
  - Include data on all hospital patients regardless of the payer source and other information that may be required for purchasers to assess the value of the hospital health care services;
  - Use standardized clinical outcomes measures recognized by national organizations that establish standards to measure the performance of health care providers;
  - Use data that is severity- and acuity-adjusted using statistical methods that show variation in reported outcomes, where applicable, and data that has passed standard edits;
  - Report the results with separate documents containing the technical specification and measures;
  - Use standardized reporting;
  - Disclose the methodology of reporting.
- Submit an initial plan and a report on the status of implementation to the Governor, Speaker of the House of Representatives, and President of the Senate with copies to all members of the General Assembly and available on a public website. The plan must identify the process and time frames for implementation, barriers to implementation, and recommendations of changes in the law for the elimination of the barriers.
- Submit an annual update to the initial plan and status report;

- Establish procedures by which all licensed hospitals receive a draft of the annual report card and are given 30 days to submit written comments to the Office of Health Transformation.

The bill requires the initial plan and status report to be submitted within one year of the provision's effective date.

Hospital association

(R.C. 3727.72 and 3727.75)

The bill requires the Executive Director to develop the hospital report card in consultation with a hospital association. The bill requires the Executive Director to select the hospital association within one year of the provision's effective date. The bill requires the selected association to provide (1) a copy of the association's organizational documents and other rules and regulations governing the association's activities, (2) a list of the association's members and the name and address of a representative of the association who is an Ohio resident who can receive notice or orders from the Executive Director, and (3) a plan to create the hospital report card, with specific reference to how the interests of health care consumers will be considered in developing the report card. The association must provide the Executive Director with the plan and a status report of the development and implementation of the report card within 16 months of the provision's effective date.

The bill specifies that a hospital association or its employees, agents, or designees or the designees of the Executive Director of the Office of Health Transformation is not liable in a civil action for any actions taken or omitted in the performance of their powers and duties relating to the hospital report card.

Suspension or revocation

(R.C. 3727.73)

The bill permits the Executive Director to suspend or revoke the acceptance of the selected hospital association if (1) it reasonably appears that the association will not be able to carry out its duties, (2) the association does not provide the Executive Director with the required plan and status report, or (3) fails to meet any other requirements set out under the bill.

Ohio Commission for Hospital Statistics

(R.C. 3727.74)

In the event the Executive Director suspends or revokes the selected hospital association's acceptance, the bill creates the Ohio Commission for Hospital Statistics. The bill requires the Executive Director to adopt rules establishing the creation, initial appointments, and operation of the Commission that specify all of the following:

- The Commission will consist of nine members, who shall be appointed by the Governor as follows:
    - Three members representing hospitals registered under Ohio law;
    - Two members representing individuals authorized to practice a health care profession under Ohio law;
    - Four members representing consumers or businesses without any direct interest in registered hospitals.
- At no time may the Commission have more than five members of any one political party.
- Members of the Commission serve without compensation but will receive payment for their actual and necessary expenses incurred in the conduct of official business.
- The Commission must annually elect the chair of the Commission from its members.
- A majority of the Commission constitutes a quorum.
- The Commission must meet at least once during each calendar quarter. Meeting dates must be set upon written request by three or more members of the Commission or by a call of the chair upon five days' notice to the members.
- Action of the Commission cannot be taken except upon the affirmative vote of a majority of a quorum of the Commission.
- All meetings of the Commission are to be open to the public.

Ohio All-Payer Health Claims Database

(R.C. 3728.01(B))

The bill requires the Office of Health Transformation to create the Ohio All-Payer Health Claims Database (health claims database) for the public to access information about health claims among different medical providers. The bill requires the health claims database to (1) be available to the public in a form and manner that ensures the privacy and security of personal health information, as required by federal and state law, as a resource to the public to allow for continuous review of health care utilization, expenditures, and quality and safety performance in Ohio, (2) be available to both public and private entities engaged in efforts to improve health care, and (3) present data in a consumer-friendly manner that allows for comparisons of geographic, demographic, and economic factors and institutional size.

Ohio All-Payer Health Claims Database Advisory Committee

(R.C. 3728.02 and 3728.01(A))

The bill creates the Ohio All-Payer Health Claims Database Advisory Committee (Committee) and tasks the Committee with providing the Office of Health Transformation with recommendations for developing the health claims database. Within 45 days of the provision's effective date, the Governor must appoint the following members to the Committee:

- One member of academia with experience in health care data and cost efficiency research;
- One representative of the Ohio Hospital Association;
- One representative of the Ohio State Medical Association;
- One representative of the Ohio Osteopathic Association;
- One representative of small businesses that purchase group health insurance for employees who is not a supplier or broker of health insurance;
- One representative of large businesses that purchase health insurance for employees who is not a supplier or broker of health insurance;
- One representative of self-insured businesses who is not a supplier or broker of health insurance;

- One representative of an organization that processes insurance claims or certain aspects of employee benefit plans for a separate entity;
- One representative of a nonprofit organization that demonstrates experience working with employers to enhance value and affordability in health insurance;
- One individual with a demonstrated record of advocating health care privacy issues on behalf of consumers;
- One individual with a demonstrated record of advocating general health care issues on behalf of consumers;
- Two representatives of the Ohio Association of Health Plans: one representing for-profit insurers and one representing nonprofit insurers.
- One representative from the mental health and addiction field that has experience in behavioral health data collection;
- One representative of the Ohio Pharmacists Association;
- One representative of pharmacy benefit managers;
- Two representatives of nonprofit organizations that facilitate health information exchange to improve health care in Ohio.

The following individuals will serve as nonvoting members of the Committee:

- The Executive Director of the Office of Health Transformation;
- The Director of Administrative Services;
- The Superintendent of Insurance or the Superintendent's designee;
- One representative from the Office of Information Technology;
- One member of the majority party of the House of Representatives;
- One member of the minority party of the House;
- One member of the majority party of the Senate;
- One member of the minority party of the Senate.

The bill requires two members of the Committee to reside in a rural community with a population of less than 50,000 or who represent rural interests.

Termination of the Committee

(R.C. 3728.08 and 3728.02(D))

Under the bill, the Committee will cease to exist upon the creation of the health claims database and all appointments to the Committee will end on that date. If a vacancy occurs before that date, a successor must be appointed who has the same qualifications as the vacancy requires.

Recommendations

(R.C. 3728.03)

The bill requires the Committee, within six months of its creation, to make recommendations about creating the health claims database to the Executive Director of the Office of Health Transformation. The recommendations must do all of the following:

- Include specific strategies to measure and collect data related to health care safety and quality, utilization, health outcomes, and cost;
- Focus on data elements that foster quality improvement and peer group comparisons;
- Facilitate value-based, cost-effective purchasing of health care services by public and private purchasers and consumers;
- Result in usable and comparable information that allows public and private health care purchasers, consumers, and data analysts to identify and compare health plans, health insurers, health care facilities, and health care providers regarding the provision of safe, cost-effective, high-quality health care services;
- Use and build upon existing data collection standards and methods to establish and maintain the health claims database in a cost-effective and efficient manner;
- Be designed to meet the following performance domains: (1) safety, (2) timeliness, (3) effectiveness, (4) efficiency, (5) equity, (6) patient-centeredness;

- Incorporate and utilize claims, eligibility, and other publicly available data as needed to minimize the cost and administrative burden on data sources;

- Determine whether or not to include data on the uninsured;

- Discuss the harmonization of the Ohio database with the efforts of other states, regions, and the federal government concerning all-payer claims databases;

- Discuss the harmonization of the Ohio database with federal legislation concerning an all-payer claims database;

- Establish a limit on the number of times the administration may require submission of the required data elements;

- Establish a limit on the number of times the database administrator may change the required data elements for submission in a calendar year considering administrative costs, resources, and time required to fulfill the requests;

- Discuss compliance with the Health Insurance Portability and Accountability Act (see "**HIPAA**") and other proprietary information related to collection and release of data;

- Determine how the ongoing oversight of the operations of the Ohio All-Payer Health Claims Database should function.

Rules

(R.C. 3728.04 and 3728.05(I))

The bill requires the Executive Director of the Office of Health Transformation, within six months of receiving the Committee's recommendations, to adopt rules regarding the health claims database that do all of the following:

- Create the Ohio All-Payer Health Claims Database;

- Define the data to be collected from payers and the method of collection, including mandatory and voluntary reporting of health care and health quality data. Medicaid-related data is to be mandatory.

- Establish agreements for voluntary reporting of health care claims data from health care payers that are not subject to mandatory reporting

requirements in order to ensure availability of the most comprehensive and system-wide data on health care costs and quality;

- Establish agreements or make requests with the federal Centers for Medicare and Medicaid Services to obtain Medicare health claims data;

- Define the measures necessary to implement the reporting requirements in a manner that is cost-effective and reasonable for data sources and timely, relevant, and reliable for the public;

- Define the data to be made available to the public with recommendations from the Committee in order to accomplish the purposes of these provisions, including conducting studies and reporting the results of the studies;

- Establish processes to collect, aggregate, distribute, and publicly report performance data on quality, health outcomes, health disparities, cost, utilization, and pricing in a manner accessible for the public;

- Establish procedures to protect patient privacy in compliance with state and federal privacy laws while preserving the ability to analyze data and share with providers and payers to ensure accuracy prior to the public release of information;

- Establish fines for payers that do not comply with rules adopted under the bill;

- Establish procedures for the winding up of the Committee's business and termination of the Committee upon the successful creation of the health claims database.

The bill also requires the Executive Director to adopt any additional rules that are necessary to implement the bill's provisions with respect to the health claims database.

Duties of the Executive Director

(R.C. 3728.05)

The bill tasks the Executive Director with certain duties in the development and implementation of the health claims database. In addition to adopting rules, as described in "**Rules**," the bill requires the Executive Director to do all of the following with respect to the health claims database:

- At the Executive Director's discretion, audit the accuracy of all data submitted;

- As necessary, contract with third parties to collect and process the health care data collected. The contract must prohibit the collection of unencrypted Social Security numbers and the use of the data for any purpose other than those specifically authorized by the contract and must require the third party to transmit the data collected and processed under the contract to the Executive Director or other designated entity.

- At the Executive Director's discretion, share data regionally or help develop a multi-state effort, if recommended by the Committee;

- Issue a report regarding the information kept in the health claims database to the Governor, Speaker of the House of Representatives, and President of the Senate annually.

Ohio All-Payer Health Claims Database Fund

(R.C. 3728.06)

The bill creates the Ohio All-Payer Health Claims Database Fund in the state treasury and requires all fines collected pursuant to the bill's health claims database provisions to be deposited into the Fund to pay for the operating expenses of the health claims database when other funding is not available.

HIPAA

(R.C. 3728.07)

The bill specifies that the collection, storage, and release of health care data and other information relating to the health claims database is subject to the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d.

Nonemergency service conditioned on paying out-of-pocket charge

(R.C. 4743.08)

The bill requires a health care provider to provide certain information to a patient or patient's representative before dispensing a prescription drug[95] or providing a medical product or service to the patient unless there is an emergency situation. The provider is to inform the patient or representative of (1) the provider's usual and customary charge for the drug or medical product or service, (2) the portion of the provider's usual and customary charge that the patient's insurer will pay or, if the patient is a Medicaid recipient, the portion the Medicaid program will pay, and (3) any out-of-pocket amount the patient will be charged. The information is to be provided in writing. However, the information may be provided verbally if the patient and provider are in different locations.

Except in an emergency, a health care provider is prohibited from dispensing a prescription drug or providing a medical product or service to a patient unless the patient or patient's representative consents to being charged the out-of-pocket amount. Consent must be given in writing, unless the patient and provider are in different locations, in which case consent may be given verbally if the provider records the verbal consent. The prohibition does not apply when a health care provider dispenses a prescription drug or provides a medical product or service to a Medicaid recipient, unless the HHS Secretary enters into an enforceable agreement regarding the bill's Medicaid provisions.

"Health care provider" is defined as an individual who is licensed, certified, or registered by a board, commission, or agency created under or by virtue of state statutes governing the regulation of professions and provides health-related diagnostic, evaluative, or treatment services. The Director of Health is permitted to adopt rules further defining "health care provider." The Director also is permitted to adopt rules specifying which situations are emergency situations.

Health care provider advertising

(R.C. 4743.09)

The bill permits a health care provider to advertise the provider's usual and customary charge for any procedure or service the provider performs or renders. Any provision in a contract that prohibits this practice is declared by the bill to be void.

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[95] The bill refers to a "dangerous drug," which is defined in R.C. 4729.01(F) to mean a drug that may be dispensed only pursuant to a prescription or is intended for administration by injection into the human body other than through a natural orifice of the human body.

Hope for a Smile Program

(R.C. 3701.139 and 5747.01(A); Section 803.200)

Establishment

The bill establishes the Hope for a Smile Program as a collaboration between the Department of Health and all of the following entities:

--The Ohio Dental Association;

--The Ohio Dental Hygienists' Association;

--The Ohio State University College of Dentistry and the dental hygiene program at the College;

--Case Western Reserve University School of Dental Medicine;

--Shawnee State University;

--James A. Rhodes State College;

--Columbus State Community College;

--Cuyahoga Community College, Metropolitan Campus;

--Youngstown State University;

--Lorain County Community College;

--Lakeland Community College;

--University of Cincinnati;

--Sinclair Community College;

--Owens Community College; and

--Stark State College.

Objective and services

The bill specifies that the primary objective of the Program is to improve the oral health of school-age children, which the General Assembly declares to be one of the most unmet health care needs of Ohio. The bill requires that Program services be targeted at school-age children who are indigent and uninsured, although it specifies

that other children may be served. The bill authorizes the Hope for a Smile Advisory Council created by the bill (see "**Advisory Council**," below) to recommend additional populations for the Program to target.

Mobile dental unit

The bill requires the Director of Health, with assistance from the Director of Administrative Services, to use the state's purchasing power to purchase or secure the use of, maintain, and operate a single bus equipped as a mobile dental unit. Funds for these purposes are to come from one or more of the following sources: the Economic Development Programs Fund created under existing law governing casino licensure, the Hope for a Smile Program Fund created by the bill (see "**Hope for a Smile Program Fund**," below), and other public funds.

Dentists, dental hygienists, and faculty and staff of the dental and dental hygiene programs specified above must staff the bus and travel to schools across Ohio. Students enrolled in the specified educational programs also may participate in staffing the buses.

When scheduling visits to schools, priority must be given to schools attended by high numbers of children in the Program's targeted population. Services must be provided in accordance with law governing dentists and dental hygienists that is administered by the Ohio State Dental Board (R.C. Chapter 4715.).

Reimbursement

The bill authorizes the Program to accept grants, donations, and awards. It also authorizes the Program to seek (1) Medicaid payment for services provided to children who are Medicaid recipients and (2) payment from private insurance companies for services provided to children covered by policies issued by those companies. Accordingly, the bill requires the Director of Health to apply on the Program's behalf to the Department of Medicaid for a Medicaid provider agreement. The Director also must seek to enter into arrangements with private insurance companies operating in Ohio for the Program to be reimbursed for services provided to children who have coverage through those companies.

Workforce and economic development initiative

The bill specifies that the service of dental and dental hygiene students to the Program must be recognized by the Governor and General Assembly as a workforce and economic development initiative. Accordingly, the bill authorizes the Program to apply for money allocated by the U.S. Department of Labor or other entities for workforce or economic development initiatives.

Hope for a Smile Program Fund

The bill creates the Hope for a Smile Program Fund and requires any funds received from the sources described above be deposited into the Fund. It also requires that any interest earned on money in the Fund be credited to the Fund. Money in the Fund must be used solely to pay costs incurred under the Program.

State income tax deduction

The bill authorizes dentists and dental hygienists who provide services free of charge under the Program to take a state income tax deduction that is equal to the fair market value of the services provided. The income tax deduction applies to taxable years on and after January 1, 2015.

Advisory Council

The bill requires the Director of Health to appoint the Hope for a Smile Advisory Council to advise the Director on implementation and administration of the Program. The Council's membership must consist of representatives of the Ohio Dental Association, the Ohio Dental Hygienists' Association, the Ohio State University College of Dentistry and its dental hygiene program, the Case Western Reserve University School of Dental Medicine, the Ohio Council of Dental Hygiene Directors, and other members considered appropriate by the Director.

In consultation with the Advisory Council, the bill requires the Director to adopt rules as necessary to implement and administer the Program. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

Not later than July 1 each year, the Director, with input from the Advisory Council, must submit to the Governor and to the General Assembly (in accordance with R.C. 101.68) a report on progress the Program has made in achieving its primary objective, saving money for the Medicaid Program and other safety net programs, and promoting workforce and economic development in Ohio.

DEPARTMENT OF HIGHER EDUCATION (BOARD OF REGENTS)

Board of Regents name change

- Renames the office of the Board of Regents as the "Department of Higher Education."

- Renames the Chancellor of the Board of Regents as the "Director of Higher Education."

Bachelor's degree program at two-year colleges

- Allows a community college, technical college, or state community college to offer bachelor's degree programs, upon receiving approval from the Director of Higher Education, in subject areas that are not the same or substantially similar as (1) those currently offered by any state university within 30 miles of the college or (2) those that a state university plans to offer within a year of the college's application.

- Requires the Director to conduct two studies, one not later than December 31, 2018, and one not later than December 31, 2020, to determine the effects of bachelor's programs at two-year colleges on fulfilling the needs of students and local industry and to submit those studies to the General Assembly and Governor.

Cap on undergraduate tuition increases

- For fiscal year 2016, limits the increases of in-state undergraduate instructional and general fees for:

  (1) State universities and the Northeast Ohio Medical University to 2% or $200, whichever is higher, over the previous year; and

  (2) University regional campuses, community colleges, state community colleges, and technical colleges to 2% or $100, whichever is higher, over the previous year.

- For fiscal year 2017, prohibits an increase in in-state undergraduate instructional and general fees for all state institutions of higher education.

In-state tuition for veterans, spouses, and dependents

- Qualifies a veteran for in-state tuition at a state institution of higher education, if the veteran (1) is receiving federal veterans' education benefits under the G.I. Bill, (2) served on active duty for at least 90 days, and (3) resides in the state as of the first day of a term of enrollment.

- Qualifies a veteran's spouse or dependent for in-state tuition at a state institution of higher education, if the spouse or dependent (1) is receiving transferred federal veterans' education benefits under the G.I. Bill from a veteran who served on active duty for at least 90 days and (2) resides in the state as of the first day of a term of enrollment.

Overload fees

- Prohibits state institutions of higher education from charging overload fees for courses taken in excess of the institution's full course load, except in specified circumstances.

Tuition guarantee program

- Specifies in permanent law that no other statutory limitation on the increase of in-state undergraduate instructional and general fees applies to a state university that has established an undergraduate tuition guarantee program.

College credit for International Baccalaureate courses

- Requires state institutions of higher education to establish a policy to grant credit for successful completion of the International Baccalaureate Diploma Program (IB).

OSU student trustee voting power

- Requires the board of trustees of the Ohio State University to adopt a resolution to grant or not grant voting power to student members.

- Authorizes the university's board to adopt subsequent resolutions to change the voting status of student trustees.

- Prohibits a student from being disqualified as a voting student trustee, if the student receives financial aid or is employed in certain student employment positions.

- Exempts voting student trustees from the law that disqualifies the university's trustees from holding faculty or other positions at the university if the compensation for that position is paid from the state treasury or a university fund.

STEM Public-Private Partnership Pilot Program

- Establishes the STEM Public-Private Partnership Pilot Program to encourage public-private partnerships between high schools, colleges, and the community.

- Requires the Director of Higher Education to administer the Program, and to select five partnerships to participate in the Program.

- Requires the Director to adopt rules for implementation of the Program, including application requirements and various operational requirements.

- Provides that a partnership selected for participation in the Program may use the grants awarded only for transportation, classroom supplies, and primary instructors for a course offered under the Program.

Report on performance of teacher preparation program graduates

- Moves, from December 31 to February 15, the annual deadline for the Director to report to the Governor and the General Assembly the aggregate academic growth data for students of graduates of teacher preparation programs.

Evaluation of courses and programs

- Requires each state institution of higher education, not later than January 1, 2016, and every five years thereafter on January 1, to evaluate, based on enrollment and student performance, all courses and programs the institution offers.

OSU committee

- Eliminates the requirement that the Ohio University College of Osteopathic Medicine to have an advisory committee.

OSU Extension fingerprinting of 4-H volunteers

- Stipulates that any OSU Extension policy or guideline requiring 4-H volunteers to be fingerprinted must require only individuals who become volunteers on or after the bill's effective date to be fingerprinted and to be fingerprinted only once.

Higher Education Innovation Grant Program

- Requires the Director of Higher Education to establish the Ohio Higher Education Innovation Grant Program to promote educational excellence and economic efficiency to stabilize or reduce student tuition rates through grants to state and private institutions of higher education.

Career counseling program

- Requires the Director of Higher Education, in consultation with state institutions of higher education and nonprofit private institutions of higher education, to develop implementation strategies regarding career counseling by December 31, 2015.

Ohio Task Force on Affordability and Efficiency in Higher Education report

- Specifies that no recommendation of the Ohio Task Force on Affordability and Efficiency in Higher Education may be implemented without the approval of the General Assembly or, if a change to Ohio law is necessary for the recommendation to take effect, without the enactment of the required changes by the General Assembly.

- Requires all state institutions of higher education, upon submission of the report of the Task Force, to complete, by July 1, 2016, an efficiency review based on the report and, within 30 days after the completion of the efficiency review, to provide a report to the Director of Higher Education that describes how it will implement the recommendations and any other cost savings measures.

Reserve fund transfers

- Makes changes regarding the administration of scholarship program reserve funds.

Board of Regents name change

(R.C. 103.48, 121.03, 125.901, 1713.02, 1713.03, 1713.031, 1713.04, 1713.05, 1713.06, 1713.09, 1713.25, 3313.603, 3313.902, 3319.22, 3319.223, 3319.61, 3333.01, 3333.011, 3333.012 (renumbered from 3333.031), 3333.021, 3333.03, 3333.032, 3333.04, 3333.041, 3333.042, 3333.043, 3333.044, 3333.045, 3333.047, 3333.048, 3333.049, 3333.0410, 3333.0411, 3333.0412, 3333.0413, 3333.0414, 3333.05, 3333.06, 3333.07, 3333.071, 3333.08, 3333.09, 3333.10, 3333.11, 3333.12, 3333.121, 3333.122, 3333.123, 3333.124, 3333.13, 3333.14, 3333.15, 3333.16, 3333.161, 3333.162, 3333.163, 3333.164, 3333.17, 3333.171, 3333.18, 3333.19, 3333.20, 3333.21, 3333.22, 3333.23, 3333.25, 3333.26, 3333.28, 3333.29, 3333.30, 3333.31, 3333.33, 3333.34, 3333.342, 3333.35, 3333.36, 3333.37, 3333.372, 3333.373, 3333.374, 3333.375, 3333.39, 3333.391, 3333.392, 3333.43, 3333.44, 3333.50, 3333.55, 3333.58, 3333.59, 3333.61, 3333.611, 3333.612, 3333.613, 3333.62, 3333.63, 3333.64, 3333.65, 3333.66, 3333.67, 3333.68, 3333.69, 3333.70, 3333.71, 3333.72, 3333.73, 3333.731, 3333.74, 3333.75, 3333.76, 3333.77, 3333.78, 3333.79, 3333.82, 3333.83, 3333.84, 3333.86, 3333.87, 3333.90, 3333.91, 3334.08, 3345.022, 3345.05, 3345.06, 3345.061, 3345.32, 3345.35, 3345.421, 3345.45, 3345.48, 3345.50, 3345.51, 3345.54, 3345.692, 3345.70, 3345.72, 3345.73, 3345.74, 3345.75, 3345.76, 3345.81, 3354.01, 3354.071, 3354.09, 3357.01, 3357.071, 3357.09, 3357.19, 3358.071, 3365.02, 3365.07, 3365.14, 3365.15, 4763.01, 5104.30, 5709.93, 5747.01, 5751.20, 5910.08, and 5919.341; Sections 263.210, 263.260, 263.340, and 733.10; Uncodified Chapter 369.)

The bill renames the administrative office of the Ohio Board of Regents as the "Department of Higher Education" and the Chancellor of the Board of Regents as the "Director of Higher Education." The bill maintains the current law that the Board of Regents acts as an advisory board to the Director.

Bachelor's degree programs at two-year colleges

(R.C. 3333.0414, 3354.071, 3357.071, and 3358.071; conforming changes in R.C. 3354.01, 3354.09, 3357.01, 3357.09, 3357.19, 3358.01, and 3358.08)

Approval for two-year colleges to offer bachelor's degree programs

The bill permits the board of trustees of any community college, technical college, or state community college to apply to the Director of Higher Education for approval to offer bachelor's degree programs in subject areas that are not either of the following:

(1) The same or substantially similar subject areas currently offered at any state university, either on its main campus or a regional campus, or university branch, that is within 30 miles of the main campus of the college;

(2) The same or substantially similar subject areas that a state university plans to offer on its main campus, regional campus, or university branch within one year of the date the college submits its application for approval.

Before granting approval to a program, the Director must determine and certify that there is a demonstrated need for such a program in the geographic area of the community college, technical college, or state community college. If the Director grants approval, the college may offer such programs and award the appropriate bachelor's degrees to students upon completion of the programs.

Study of bachelor's degree programs offered by two-year colleges

The bill requires the Director to conduct and complete two studies of the bachelor's degree programs approved and offered by community colleges, technical colleges, and state community colleges under the bill's provisions to determine the effects of the programs on fulfilling the needs of students and local industry. The first study must be completed not later than December 31, 2018, and the second study must be completed not later than December 31, 2020. Each study must be submitted to the General Assembly and the Governor.

Cap on undergraduate tuition increases

(Section 369.170)

For fiscal year 2016 (the 2015-2016 academic year), the bill requires the board of trustees of each state institution of higher education to limit increases of in-state undergraduate instructional and general fees as follows:

(1) For each state university and the Northeast Ohio Medical University, not more than 2% or $200, whichever is higher, over what the institution charged the previous year;

(2) For each university regional campus, not more than 2% or $100, whichever is higher, over what the institution charged the previous year; and

(3) For each community college, state community college, or technical college, not more than 2% or $100, whichever is higher, over what the institution charged the previous year.

For fiscal year 2017 (the 2016-2017 academic year), the bill prohibits the boards of trustees of each state institution of higher education from increasing its in-state undergraduate instructional and general fees over what the institution charged for the 2015-2016 academic year.

As in previous biennia when the General Assembly capped tuition increases, the bill's limits do not apply to increases required to comply with institutional covenants related to the institution's obligations or to meet unfunded legal mandates or legally binding prior obligations or commitments. Further, the Director of Higher Education, with Controlling Board approval, may modify the limitations to respond to exceptional circumstances as the Director identifies.

The bill specifies that these limitations do not apply to institutions that participate in an undergraduate tuition guarantee program (see below).

In-state tuition for veterans, spouses, and dependents

(R.C. 3333.31)

The bill qualifies a veteran for in-state tuition at state institutions of higher education, if the veteran is the recipient of federal veterans' education benefits under the "All-Volunteer Force Educational Assistance Program" (also called the Montgomery G.I. Bill) or the "Post 9/11 Veterans Educational Assistance Program" (also called the Post 9/11 G.I. Bill). In order to qualify, the veteran also must (1) have served on active

duty for at least 90 days and (2) reside in the state as of the first day of a term of enrollment at the institution.

The bill also qualifies a veteran's spouse or dependent for in-state tuition at state institutions of higher education, if (1) the spouse or dependent is the recipient of transferred education benefits under either of the aforementioned G.I. Bills and (2) the veteran from who the benefits were transferred served on active duty for at least 90 days. Additionally, the spouse or dependent, whichever is applicable, must reside in the state as of the first day of a term of enrollment at the institution.

Current law, not affected by the bill, also qualifies a veteran and the veteran's spouse and dependents for in-state tuition under a different set of conditions. To qualify under that provision, the veteran must have (1) served at least one year on active military duty or (2) been killed in action or declared a prisoner of war (POW) or missing in action (MIA). Additionally, if the veteran is seeking residency status for in-state tuition, the veteran must have established domicile in the state as of the first day of a term of enrollment. If the spouse or dependent is seeking such status, both the veteran and the spouse or dependent must have established domicile, unless the veteran was killed in action or declared POW or MIA.

It appears that, under the bill, veterans and their spouses and dependents may continue to qualify under the current law or may qualify under the new provision, so long as all of the criteria are met.

Overload fees

(R.C. 3345.46)

The bill prohibits state institutions of higher education from charging overload fees for courses taken in excess of the institution's full course load, except for:

(1) Credit hours in excess of 18 per semester (or the equivalent number per quarter, as determined by the board of trustees of each institution).

(2) Courses from which the student withdraws prior to a date specified by the board of trustees, if the student's course load (a) exceeds the full course load, but (b) is less than or equal to 18 credit hours per semester, or the equivalent.

An "overload fee" is defined by the bill as "a fee or increased tuition rate charged to students who enroll in courses for a total number of credit hours in excess of a full course load." Each board of trustees must define what constitutes a "full course load" at that institution. For example, if the board defines its full course load as 15 credit hours

per semester, that institution may not charge an overload fee for credit hours 16, 17, or 18, so long as the student does not withdraw from a course prior to the specified date.

Undergraduate tuition guarantee program

(R.C. 3345.48)

The bill specifies in permanent law that, except as specified in the provision that authorizes a university to establish a tuition guarantee program, no other statutory limitation on the increase of in-state undergraduate instructional and general fees applies to a state university that establishes such a program. Section 369.170 of the bill, an uncodified section, does this for fiscal years 2016 and 2017 (see above).

Background

A state university that establishes a tuition guarantee program affords eligible students in the same cohort a guarantee to pay a fixed rate for general and instructional fees for four years, in exchange for the possibility of a one-time increase in those fees. That increase may be up to 6% above what has been charged in the previous academic year one time for the *first* cohort of the tuition guarantee program. Thereafter, the one-time increase is the sum of the 60-month (five-year) rate of inflation as measured by the Consumer Price Index, plus the amount of any General Assembly-imposed limit on the increase of in-state undergraduate general and instructional fees (tuition increase cap) once per each cohort. If the General Assembly does not enact a tuition increase cap, then no limit applies to the one-time increase under the guarantee for a cohort that first enrolls in such an academic year.

College credit for International Baccalaureate courses

(R.C. 3345.38)

The bill requires the board of trustees of each state institution of higher education to establish a policy to grant undergraduate course credit to students who successfully completed the International Baccalaureate Diploma Program (IB) (see "**Background on the IB diploma**," below). The policy must do both of the following:

(1) Establish conditions for granting course credit, including the minimum scores required on IB examinations in order to receive credit;

(2) Identify specific course credit or other academic requirements of the institution, including the number of credit hours or other course credit that the institution will grant to a student who completes the IB program.

Under continuing law, districts and schools may offer IB as one of the advanced standing programs specified in law. Advanced standing programs are programs in which a student, who is currently enrolled in high school, may choose to participate in order to earn credit toward a college degree while also completing the high school curriculum.[96] Under current law, there is no provision that requires institutions of higher education to award college credit for IB courses.

Background on the IB diploma

An IB diploma is earned through an interdisciplinary education program and is recognized at various institutions of higher education both nationally and internationally. The program, approved by the IB Organization, includes examinations in specified traditional and nontraditional courses, community service requirements, and an extended essay.

Student trustee voting power – Ohio State University

(R.C. 3335.02 and 3335.09)

The bill requires the board of trustees of the Ohio State University to adopt a resolution to grant or not grant voting power to student members and authorizes the university's board to adopt subsequent resolutions to change the voting status of student trustees. A student cannot be disqualified as a voting student trustee if the student receives financial aid or is employed in certain student employment positions.

Continuing law disqualifies the university's trustees and their relatives from holding faculty or other positions at the university if the compensation for that position is paid from the state treasury or a university fund. The bill exempts student trustees who are granted voting power from this disqualification.

STEM Public-Private Partnership Pilot Program

(Section 733.20)

The bill establishes the STEM Public-Private Partnership Pilot Program to encourage public-private partnerships between high schools, colleges, and the community to provide high school students the opportunity to receive education in a targeted industry while simultaneously earning high school and college credit. The Pilot Program is to operate for fiscal years 2016 and 2017.

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[96] R.C. 3313.6013, not in the bill.

The Director of Higher Education must administer the Pilot Program, and must select five partnerships to participate in the Pilot Program, one from each quadrant of the state and one from the central part of the state. A partnership will receive a one-time grant of $400,000.

The bill requires the Director to adopt rules for implementation of the Pilot Program that include, but are not limited to, the following operational requirements:

(1) A partnership must consist of one community college or state community college, one or more private companies, and one or more public or private high schools.

(2) The partnering community college or state community college must pursue one targeted industry during the Pilot Program; however, the community college or state community college may partner with multiple private companies within the targeted industry.

(3) Students who take courses under the Pilot Program will earn college credit for the courses from the community college or state community college.

(4) Students, high schools, and colleges that participate in the Pilot Program must do so under the College Credit Plus Program.

(5) The curriculum offered by the Pilot Program must be developed and agreed upon by all members of the partnership.

(6) The private company or companies that are part of the partnership must provide full- or part-time facilities to be used as classroom space.

The Director must develop an application and review process to select the five partnerships that are to receive grants under the Pilot Program. The community college or state community college is responsible for submitting the application for the partnership to the Director. The application must include a proposed budget for the Pilot Program, presumably insofar as the applicant's participation in the Pilot Program is concerned.

The Director is to select the five partnerships for the Pilot Program based on the following considerations:

(1) Whether the partnership existed before the application was submitted;

(2) Whether the partnership is oriented toward a targeted industry;

(3) The likelihood of a student gaining employment upon graduating from high school or upon completing a two-year degree in the industry to which the partnership is oriented in relation to its geographic region;

(4) The number of students projected to be served by the partnership;

(5) The partnership's cost per student;

(6) The sustainability of the partnership beyond the duration of the two-year Pilot Program; and

(7) The level of investment made by the private company partner or partners in the partnership, including financially and through the use of facilities, equipment, and staff.

A partnership selected for participation in the Pilot Program may use the grants awarded only for transportation, classroom supplies, and primary instructors for a course offered under the Program. Classroom supplies include, but are not limited to, textbooks, furniture, and technology. Primary instructors include, but are limited to, faculty from participating high schools and community colleges or state community colleges, including adjunct faculty.

Report on performance of teacher preparation program graduates

(R.C. 3333.041)

Moves, from December 31 to February 15, the annual deadline for the Director of Higher Education to report to the Governor and the General Assembly the aggregate academic growth data for students of graduates of teacher preparation programs.

Evaluation of courses and programs

(R.C. 3345.35)

The bill requires each state institution of high education to evaluate by January 1, 2016, and every five years thereafter by January 1, all courses and programs offered by the institution. The evaluation must be based on enrollment and student performance. For courses with low enrollment, the institution must evaluate the benefits of collaboration with other state institutions, based on geographic region, to deliver the course. Finally, each institution must submit its findings to the Director of Higher Education not later than 30 days after completion of the evaluation.

OU College of Osteopathic Medicine advisory committee

(R.C. 3337.10; repealed R.C. 3337.11)

The bill eliminates the requirement that the Ohio University College of Osteopathic Medicine have an advisory committee. It also eliminates all requirements related to the committee's structure and membership, including provisions specifying the election of officers and quorums at committee meetings. Finally, it eliminates a duty of the committee to annually submit recommendations to Ohio University's Board of Trustees.

OSU Extension fingerprinting of 4-H volunteers

(R.C. 3335.361)

The bill stipulates that any OSU Extension policy or guideline that requires volunteers for 4-H programs to be fingerprinted must require only individuals who become volunteers on or after the provision's effective date to be fingerprinted, and to be fingerprinted only one time. OSU Extension must modify any prior policy or guideline regarding fingerprinting of 4-H volunteers to comply with that stipulation.

Current law defines "OSU Extension" as the Cooperative Extension Service established by the federal Smith-Lever Act and administered in Ohio by the Ohio State University. Employees of OSU Extension conduct educational activities related to agriculture, natural resources, community development, family and consumer sciences, and 4-H programs throughout Ohio.[97]

Higher Education Innovation Grant Program

(R.C. 3333.70)

The bill requires the Director of Higher Education to establish and administer the Ohio Higher Education Innovation Grant Program to promote educational excellence and economic efficiency to stabilize or reduce student tuition rates. The Director is required to award grants to state institutions of higher education and private nonprofit institutions of higher education for innovative projects that incorporate academic achievement and economic efficiencies. Institutions may apply for grants and collaborate with other institutions of higher education, either public or private, on the projects.

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[97] R.C. 1.611 and 3335.36, neither in the bill.

The bill requires the Director to adopt rules to administer the program, including requirements that each grant application provide for all of the following:

- A system to measure academic achievement and reductions in expenditures;
- Demonstration of how the project's value will be sustained beyond the grant period and continue to provide substantial value and lasting impact;
- Proof of commitment from all parties responsible for implementing the project; and
- Implementation of an ongoing evaluation process and improvement plans, as necessary.

Work experiences and career counseling in curriculum programs

(Section 369.570)

The bill requires the Director of Higher Education, in consultation with state institutions of higher education and nonprofit private institutions of higher education to develop implementation strategies by December 31, 2015, to do all of the following:

(1) Embed work experiences, including but not limited to internships and cooperatives, into the curriculum of degree programs starting in the 2016-2017 academic year;

(2) Explore ways to increase student participation in in-demand occupations, including computer sciences; and

(3) Create industry clusters to develop curriculum that can be used for competency based tests.

These implementation strategies must also include the use of the OhioMeansJobs website as a central location for higher education students to access information on work experiences and career opportunities.

The bill also requires that, by December 31, 2015, each institution of higher education must display a link to the OhioMeansJobs website in a prominent location on the institution's website.

Finally, the bill requires the Director to work with institutions of higher education to have a career counseling program in place by December 31, 2015.

Ohio Task Force on Affordability and Efficiency in Higher Education Report

(Sections 369.560 and 369.590)

On February 10, 2015, the Governor signed an executive order establishing the Ohio Task Force on Affordability and Efficiency in Higher Education.[98] The Task Force must "review and recommend ways in which state-sponsored institutions of higher education . . . can be more efficient" in a number of different areas. The Task Force must submit a report of its recommendations to the Governor and General Assembly by October 1, 2015, at which point it will be dissolved.

Implementation of Task Force recommendations

The bill specifies that no recommendation of the Task Force may be implemented without the approval of the General Assembly or, if a change to Ohio law is necessary for the recommendation to take effect, without the enactment of the required changes in Ohio law by the General Assembly.

Efficiency review based on Task Force recommendations

The bill also specifies that, upon submission of the report of the Task Force, all state institutions of higher education, by July 1, 2016, must complete an efficiency review based on the report and recommendations of the Task Force. Within 30 days after the completion of the efficiency review, each institution must provide a report to the Director of Higher Education that describes how it will implement the recommendations and any other cost savings measures.

Deadline for certification of reserve fund transfer of scholarship programs

(R.C. 3333.124, 3333.613, 5910.08, and 5919.341)

The bill authorizes the Director of Budget and Management to transfer funds from the reserve funds of the Ohio College Opportunity Grant Program, Ohio First Scholarship Program, Ohio National Guard Scholarship Program, and War Orphans Scholarship Program in order to meet General Revenue Fund (GRF) obligations, if it is determined that GRF appropriations are insufficient. Current law authorizes the Director to transfer "any unencumbered balance" of those funds to the GRF.

The bill authorizes the Director of Budget and Management to transfer the unexpended balance of the amounts initially transferred to the GRF back to those scholarship reserve funds, if the funds transferred from those reserve funds are not

[98] Executive Order 2015-01K.

needed. The bill also eliminates an authorization for the Director to seek Controlling Board approval to establish appropriations for the National Guard Scholarship Reserve Fund.

Finally the bill revises, from July 1 of each fiscal year to "as soon as possible following the end of each fiscal year," the deadline by which the Director of Higher Education must certify to the Director of Budget and Management the unencumbered balance of GRF appropriations made in the immediately preceding fiscal year for the Ohio College Opportunity Grant Program, Ohio First Scholarship Program, Ohio National Guard Scholarship Program, and War Orphans Scholarship Program.

DEPARTMENT OF INSURANCE

Multiple employer welfare arrangements

- Expands entities eligible to form a multiple employer welfare arrangement (MEWA) to include a chamber of commerce, a tax-exempt voluntary employee beneficiary association or business league, or any other association specified in rule by the Superintendent of Insurance.
- Extends from one year to five years the time frame a group must have been organized and maintained before registering as a MEWA.
- Increases the required minimum surplus for MEWAs from $150,000 to $500,000.
- Specifies that a MEWA is subject to the continuing law risk-based capital requirements for life or health insurers.
- Permits a MEWA to send notice of involuntary termination to a member by any manner permitted in the agreement, instead of only by certified mail.
- Prohibits a MEWA's stop-loss insurance policy from engaging in specified actions with respect to covered individuals.
- Prohibits a MEWA from enrolling a member in the MEWA's group self-insurance program until the MEWA has notified the member of the possibility of additional liability if the MEWA has insufficient funds.
- Requires MEWAs to annually file with the Superintendent of Insurance an actuarial certification.

Use of genetic information by insurers

- Prohibits health plan issuers from using genetic information in relation to providing health insurance coverage.

Surplus lines affidavit

- Replaces the surplus lines affidavit required for every insurance policy placed in the surplus lines market with a signed statement serving a similar purpose that does not need to be notarized.

Pharmacy benefit managers and maximum allowable cost

- Requires pharmacy benefit managers to be licensed as third-party administrators.

- Specifies requirements with regard to maximum allowable cost provisions in contracts instituted between pharmacies and pharmacy benefit managers

Multiple employer welfare arrangements

Eligibility requirements

(R.C. 1739.02; conforming changes in R.C. 1739.03 and 1739.20)

The bill makes changes to the eligibility requirements pertaining to groups forming a multiple employer welfare arrangement (MEWA). The bill expands the entities that are eligible to form a MEWA to include a chamber of commerce, a tax-exempt voluntary employee beneficiary association or business league, or any other association specified in rule by the Superintendent of Insurance. The bill also extends to five years the time period a group must have been organized and maintained before registering as a MEWA. Under current law, only a trade association, industry association, or professional association that has been maintained continuously for one year can form a MEWA.

Surplus requirement

(R.C. 1739.13; Section 812.10)

Current law requires a MEWA operating a group self-insurance program to maintain a minimum surplus level for the protection of the MEWA members and the members' employees. The bill increases the required minimum surplus from $150,000 to $500,000. These requirements take effect two years from the bill's effective date for MEWAs that have a valid certificate of authority on that date.

Risk-based capital requirements

(R.C. 1739.05(E) and 3903.81)

The bill subjects a MEWA to the continuing law risk-based capital requirements for life or health insurers, such as the duty to submit an annual report on risk-based capital levels and the duty to submit a risk-based capital plan after specified events.

Notice of involuntary termination

(R.C. 1739.07)

Continuing law permits a MEWA to involuntarily terminate a member's participation in the MEWA under specified circumstances. The bill permits a MEWA to

give a member written notice of an involuntary termination in any manner permitted in the agreement, instead of only by certified mail to the last address of record of the member as required under current law.

Stop-loss insurance policy prohibitions

(R.C. 1739.12)

Continuing law requires a MEWA operating a group self-insurance program to purchase individual stop-loss insurance from a licensed insurer authorized to do business in Ohio. "Stop-loss insurance" means an insurance policy under which a MEWA receives reimbursement for benefits it pays in excess of a preset deductible or limit.[99] The bill prohibits a stop-loss insurance policy purchased by a MEWA from doing any of the following based on actual or expected claims for an individual or an individual's diagnosis:

- Assign a different attachment point for that individual;
- Assign a deductible to that individual that must be met before stop-loss insurance applies;
- Deny stop-loss insurance coverage to that individual.

Notice regarding insufficient funds

(R.C. 1739.20)

Continuing law prohibits a MEWA from taking certain actions, such as refusing to pay proper claims arising under the group self-insurance coverage. The bill additionally prohibits enrolling a member in the MEWA's group self-insurance program before the MEWA has notified the member in writing of the possibility that the member may be required to make additional payments in the event the MEWA has insufficient funds. The MEWA must keep a copy of this notification in its program files to evidence compliance with this requirement.

Actuarial certification

(R.C. 1739.141)

The bill requires each MEWA to annually file with the Superintendent of Insurance an actuarial certification that includes a statement that the underwriting and rating methods of the carrier do all of the following:

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[99] R.C. 1739.01(B), not in the bill.

- Comply with accepted actuarial practices;
- Are uniformly applied to arrangement members, employees of members, and the dependents of members or employees;
- Comply with the requirements for certificates and other forms used by a MEWA in connection with a group self-insurance program.

The certification must be filed by March 31 of each year.

Use of genetic information by insurers

(R.C. 1739.05, 1751.18, 1751.65, and 3923.66)

The bill prohibits health plan issuers from using genetic information in relation to providing health insurance coverage. Current law already prohibits health insuring corporations and sickness and accident insurers from using genetic information in relation to reviewing applications, determining insurability, or determining benefits. The bill expands this prohibition to apply to multiple employer welfare arrangements and public employee benefit plans. It also expands the prohibition to include the use of genetic information in setting health insurance premiums.

Surplus lines affidavit

(R.C. 3905.33)

The bill removes the current law requirement that, unless certain criteria are met, an insurance agent who procures or places insurance through a surplus lines broker must obtain an affidavit from the insured acknowledging that the policy will be placed with an insurer not licensed to do business in Ohio. Instead, the bill requires such an insurance agent to obtain a signed statement that does not need to be notarized from the insured acknowledging the same information.

Pharmacy benefit managers and maximum allowable cost

(R.C. 3959.01 and 3959.111)

Licensing as third-party administrators

The bill expands the definition of an "administrator," commonly referred to as a "third-party administrator," in the context of health insurance and services to include entities that administer prescription drug benefit claims, commonly referred to as "pharmacy benefit managers," thereby requiring pharmacy benefit managers to be licensed as third-party administrators. Current law stipulates that neither a health

insuring corporation nor a sickness and accident insurer is to be considered a third-party administrator with regard to the licensing requirement. The bill stipulates that, regardless of this exemption, if a health insuring corporation or sickness and accident insurer acts as a pharmacy benefit manager, then that health plan issuer must still comply with the contract requirements outlined below.

Contract requirements

The bill imposes requirements with regard to maximum allowable cost provisions in contracts instituted between pharmacies and pharmacy benefit managers (PBMs). To provide context, such provisions stipulate a maximum reimbursement to pharmacies for specific drugs, regardless of the cost to the pharmacy to procure the drug.

Under the contract required by the bill, a PBM must provide, within ten days of a request, to a pharmacy a list of the sources used to determine maximum allowable cost pricing. The list of maximum reimbursements is required to be kept up-to-date on a weekly basis. This including, removing items from the list as necessary. Any updates to the list must be readily accessible by the pharmacies.

The contract must stipulate that a drug cannot be placed on maximum allowable cost list unless it meets both of the following conditions:

- The drug is listed as "A" or "B" rated in the most recent version of the U.S. Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations (the "Orange Book"), or has an "NR" or "NA" rating or similar rating by nationally recognized reference.

- The drug is generally available for purchase by pharmacies in Ohio from a national or regional wholesaler and is not obsolete.

Appeals

The contract required by the bill must require the PBM to implement a process for pharmacies to appeal, investigate, and resolve disputes regarding maximum allowable cost pricing that includes all of the following:

- A 21-day limit on the right to appeal following the initial claim;

- A requirement that the appeal be investigated and resolved within 21-days after the appeal;

- A telephone number at which the pharmacy may contact the PBM to speak to a person responsible for processing appeals.

If an appeal is denied, a PBM must provide a reason for the appeal and the national drug code of a drug that may be purchased in Ohio by the pharmacy in this state or from a national or regional wholesaler at a price at or below the maximum reimbursement price. The appeals process must also include a requirement that a PBM make an adjustment to a date related to a claim not later than one day after the date related to a claim and not later than one day after the date of determination of the appeal. The adjustment is to be retroactive to the date the appeal was made and must apply to all situated pharmacies as determined by the PBM. This requirement does not prohibit a PBM from retroactively adjusting a claim for the appealing pharmacy or for any other similarly situated pharmacies.

Disclosures

The bill requires PBMs to make certain disclosures to health benefit plan sponsors for whom they administer claims. A PBM must disclose to a plan sponsor whether or not the PBM uses the same maximum allowable cost list when billing a plan sponsor as it does when reimbursing a pharmacy. If a PBM uses multiple maximum allowable cost lists, the PBM must disclose to a plan sponsor any differences between the amount paid to a pharmacy and the amount charged to a plan sponsor. These disclosures are to be made within ten days of a PBM and a plan sponsor signing a contract or within ten days of any update to a maximum allowable cost list or lists.

DEPARTMENT OF JOB AND FAMILY SERVICES

Support obligors

- Modifies the processing charge a court or administrative agency must impose on an obligor under a support order.
- Requires child support obligors ordered to seek work or participate in a work activity to register with OhioMeansJobs.

Filing a paternity action after receiving pre-birth notice

- Requires, instead of permits, a putative father who receives a pre-birth notice and who wishes to preserve his right to consent to the child's adoption to file a paternity action.

Adult protective services

- Requires the Ohio Department of Job and Family Services (ODJFS) to establish and maintain a statewide adult protective services information system.
- Requires each county department of job and family services (CDJFS) to prepare a memorandum of understanding that establishes the procedures to be followed by local officials when working on cases of elder abuse, neglect, and exploitation.
- Adds irreparable financial harm as a basis for obtaining an emergency order for protective services without giving notice to the adult.
- Establishes procedure for obtaining an ex parte emergency protective services order for an older adult.
- Requires a CDJFS to refer a report of elder abuse, neglect, or exploitation it receives to one of a number of specified state agencies if the person who is the subject of the report falls under the agency's jurisdiction.
- Requires ODJFS to provide training on the implementation of the adult protective services statutes and to require all protective services caseworkers and their managers to complete the training.
- Modifies the definition of "exploitation" as that term is used in adult protective services statutes.

Child care

- Makes various changes to definitions governing child day-care.
- Consolidates existing provisions related to criminal records checks for child day-care centers, type A family day-care homes, licensed type B family day-care homes, and in-home aides and repeals duplicative provisions.
- Prohibits the ODJFS Director from issuing or renewing a license for a type A home or type B home if a minor resident has been adjudicated a delinquent child for committing a disqualifying offense.
- Requires a center, type A home, or licensed type B home to request a criminal records check for each job applicant and employee rather than only those applicants for and employees with positions involving responsibility for the care, custody, or control of a child.
- Adds offenses to the list that disqualifies a person from licensure or employment under current law.
- Requires the Director to adopt rules establishing standards for minimum instructional time for child care facilities rated through the Step Up to Quality rating system.
- Repeals provisions that specify child day-care center staff member training requirements and instead requires the Director to adopt rules regarding training.
- Authorizes the Director to contract with a government or private nonprofit entity to conduct type A family day-care home inspections.
- Specifies that certain actions of the ODJFS Director are not subject to the Administrative Procedure Act (Chapter 119. of the Revised Code).
- Requires ODJFS to suspend, without prior hearing, the license of a child care facility under specified circumstances.
- Requires the Director to establish an hourly reimbursement ceiling for in-home aides providing publicly funded child care, rather than a reimbursement ceiling that is 75% of the ceiling for type B family day-care homes.
- Permits child-care staff members to furnish evidence of qualifications to a designee of the Director.

- Changes to 300% (from 200%) of the Federal Poverty Line, the maximum amount of income a family can have for initial and continued eligibility for publicly funded child care.

- Repeals a provision that prohibits a caretaker parent from being required to pay a fee for publicly funded child care that exceeds 10% of the parent's family income.

Supplemental Nutrition Assistance Program (SNAP) and Ohio Works First (OWF)

- Specifies that rules governing SNAP must be consistent with federal work and employment and training requirements and must provide for SNAP recipients to participate in certain work activities, developmental activities, and alternative work activities.

- Specifies that rules governing OWF must include requirements for work activities, developmental activities, and alternative work activities for OWF participants.

Prevention, Retention, and Contingency (PRC) program

- Replaces a requirement that each CDJFS adopt a statement of policies governing the PRC program with a requirement that each CDJFS adopt a PRC program plan.

- Requires each CDJFS to adopt its initial PRC program plan not later than November 15, 2015 and update its plan not later than October 1, 2017, and at least every two years thereafter.

- Requires each CDJFS to include in its PRC program plan all required benefits and services specified in rules the ODJFS Director is required to adopt.

- Requires that the required benefits and services include, at a minimum, short-term supportive services that address the specific crisis or episode of need and disaster assistance.

- Restricts the circumstances under which a PRC program plan can be amended to suspend required benefits and services.

- Permits each CDJFS to include additional benefits and services in its PRC program plan.

- Prohibits required and additional benefits and services from including work subsidies.

- Mandates required and additional benefits and services to have the primary purposes of (1) diverting families from participating in Ohio Works First and (2) meeting an emergent need that, if not met, would threaten the safety, health, or well-being of one or more members of a family.

Ohio Healthier Buckeye Advisory Council

- Requires the Ohio Healthier Buckeye Advisory Council (OHBAC) to prepare an annual report of its activities.

- Repeals requirements that OHBAC recommend (1) criteria, application processes, and maximum grant amounts for the Ohio Healthier Buckeye Grant Program, and (2) means to achieve coordination, person-centered case management, and standardization in public assistance programs.

- Requires OHBAC to (1) provide assistance establishing local healthier buckeye councils, (2) identify barriers and gaps to achieving greater financial independence and provide advice on overcoming those barriers and gaps, and (3) collect, analyze, and report performance measure information.

Local healthier buckeye councils

- Requires each board of county commissioners, not later than December 15, 2015, to adopt a resolution establishing a local healthier buckeye council.

- Requires local councils to promote opportunities for individuals and families to achieve and maintain optimal health, and develop plans to promote that objective and other objectives in current law.

- Requires each local council to submit the council's plan to its board of county commissioners and to OHBAC.

- Requires local councils to submit annual performance reports to OHBAC.

- Requires local councils to report certain information to the Joint Medicaid Oversight Committee and OHBAC.

Healthier Buckeye Grant Program

- Repeals the existing Healthier Buckeye Grant Program and reenacts it with new criteria for grants to be awarded to local healthier buckeye councils, other public and private entities, and individuals.

- Requires that the Program be administered by OHBAC.

- Creates the Healthier Buckeye Fund in the state treasury from which grants can be awarded under the Program.

Evaluation of county departments of job and family services

- Repeals a provision that requires ODJFS to establish an evaluation system to rate CDJFSs in terms of success in helping public assistance recipients to obtain employment and cease relying on public assistance.

Disability Financial Assistance

- Permits ODJFS to contract with a state agency to make eligibility determinations for the Disability Financial Assistance Program.

- Requires ODJFS to pay the state agency's administrative costs to make those determinations.

Military Injury Relief Fund

- Transfers from ODJFS to the Department of Veterans Services all duties relating to grants from the Military Injury Relief Fund.

- Expands the service members eligible to receive a grant from the Fund to include a service member injured while serving after October 7, 2001, or any service member diagnosed with post-traumatic stress disorder while serving, or after having served, after October 7, 2001.

- Requires the Director of Veterans Services to adopt rules necessary to administer the Military Injury Relief Fund Grant Program.

- Specifies that the current rules regarding the grant program remain effective until the Director of Veterans Services rules take effect.

Audit Settlements and Contingency Fund

- Renames the ODJFS General Services Administration and Operating Fund the Audit Settlements and Contingency Fund.

- Specifies that the Fund is to consist of money transferred from any of the Funds used by ODJFS, other than the GRF, and is to be used to pay for required audits, settlements, contingencies, and other related expenses.

- Permits the Director of Budget and Management to transfer money from the Fund to any fund used by ODJFS or to the GRF.

Case management

- States that it is the General Assembly's intent to have any case management services regarding employment and training needs governed at the county level.

Child placement level of care tool pilot program

- Requires ODJFS to implement, oversee, evaluate, and seek federal and state funding for a pilot program in ten counties selected by ODJFS for use of a Child Placement Level of Care Tool.

- Provides for the pilot program to begin not later than six months after authority for the program is effective under the bill and for the program to last no longer than 18 months after it begins.

Exemption from certification for therapeutic wilderness camps

- Exempts private, nonprofit therapeutic wilderness camps from ODJFS certification required of other child caring institutions and associations, and from ODJFS regulations governing such entities.

- Requires the ODJFS Director to license a private, nonprofit therapeutic wilderness camp that meets specified minimum standards.

- Prohibits the operation of a private, nonprofit therapeutic wilderness camp without a license.

Support obligors

Support processing charge

(R.C. 3119.27)

The bill modifies the processing charge that a court or administrative agency must impose on a support obligor. A court that issues or modifies a support order (which can be either a child support order or spousal support order) or an agency that issues or modifies an administrative child support order must impose on the order's obligor a processing charge equal to 2% of the support payment to be collected under the order. Under current law, the amount charged is the greater of 2% of the support amount or $1 per month.

Seek work orders for child support obligors

(R.C. 3121.03)

The bill requires a court or administrative child support agency, when ordering a child support obligor to seek employment or participate in a work activity, to also require the obligor to register with OhioMeansJobs. Under continuing law, this order supports an existing child support order. It is issued to an obligor that is able to work, but is unemployed, has no income, and does not have an account at a financial institution.

Filing a paternity action after receiving pre-birth notice

(R.C. 3107.0611 and 3107.0612)

The bill requires, instead of permits under existing law, a putative father who receives a pre-birth notice that the mother of the child intends to place the child for adoption and who wishes to preserve his right to consent to the placement for adoption of the child who is the subject of the notice to file a paternity action. The bill also modifies the language of the pre-birth notice to include this requirement.

Adult protective services

Statewide adult protective services information system

(R.C. 1347.08, 5101.612, and 5101.99)

The bill requires the Ohio Department of Job and Family Services (ODJFS) to establish and maintain a uniform statewide adult protective services information system. The information system is to contain records regarding all reports of abuse, neglect, or exploitation of adults made to a county department of job and family services (CDJFS); the investigations of those reports; the protective services provided to adults; and any other information related to adults in need of protective services that ODJFS or a CDJFS is required by law to maintain. ODJFS is to implement the information system on a county-by-county basis and notify all CDJFSs when statewide implementation of the system is complete.

The bill specifies that the information contained in or obtained from the information system is confidential, is not a public record, and is not subject to the disclosure laws that apply to other state-implemented personal information systems. The information may be accessed or used only in a manner, to the extent, and for the purposes authorized by, rules adopted by ODJFS. A person who knowingly accesses, uses, or discloses information contained in the information system other than in accordance with those rules is guilty of a fourth degree misdemeanor.

Memorandum of understanding

(R.C. 5101.621)

The bill requires each CDJFS to prepare a memorandum of understanding that sets forth the procedures to be followed by local officials when working on cases of elder abuse, neglect, and exploitation. Those procedures are to include the officials' roles and responsibilities for handling cases that have been referred by CDJFS to another agency and for filing criminal charges against the persons alleged to have committed the abuse, neglect, or exploitation. The memorandum also must provide for the establishment of an interdisciplinary team to coordinate efforts to prevent, report, and treat abuse, neglect, and exploitation of adults.

The bill specifies that a failure to follow the procedures established by the memorandum of understanding is not grounds for the dismissal of a charge or complaint arising from a report of abuse, neglect, or exploitation; for the suppression of evidence obtained as a result of such a report; or for appeal or post-conviction relief.

The bill requires the memorandum of understanding to be signed by the director of the CDJFS; the director of any state agency with which the CDJFS has entered into an interagency agreement; the county peace officer; all chief municipal peace officers within the county; law enforcement officers handling adult abuse, neglect, and exploitation cases; the county prosecuting attorney; and the county coroner. The memorandum of understanding may additionally be signed by the following as members of the interdisciplinary team established by the memorandum of understanding: a representative of the area agency on aging; the regional long-term care ombudsman; a representative of the board of alcohol, drug addiction, and mental health services; a representative of the local board of health; a representative of the county board of developmental disabilities; a representative of a victim assistance program; a representative of a local housing authority; or any other person whose participation furthers the goals of the memorandum of understanding.

Reports of elder abuse, neglect, or exploitation

(R.C. 5101.61)

The bill requires all CDJFSs to be available to receive reports of elder abuse, neglect, or exploitation 24 hours a day and seven days a week. The bill specifies that the information in the reports is confidential and repeals a provision that requires the information to be made available upon request to agencies authorized by a CDJFS to receive the information.

Referring reports of elder abuse, neglect, or exploitation

(R.C. 5101.611)

The bill modifies the requirement that a CDJFS refer a report of elder abuse, neglect, or exploitation to another state agency if the person who is the subject of the report falls under that agency's jurisdiction. If the subject of the report is a resident of a long-term care facility regulated by the Department of Aging, the report is to be referred to the State Long-Term Care Ombudsman Program. If the subject of the report is resident of a nursing home and has allegedly been abused, neglected, or exploited by an employee of the nursing home, the report is to be referred to the Department of Health. If the subject of the report is a child, the report is to be referred to the public children services agency. The referrals are to be made in accordance with rules ODJFS adopts.

Additionally, the bill requires a CDJFS to treat reports of abuse, neglect, and exploitation that are referred to it by the State Ombudsman or a regional long-term care ombudsman program as if the reports were made under the law governing adult protective services.

Emergency protective services

(R.C. 5101.69, 5101.691, and 5101.692)

Current law permits a CDJFS to petition the court for an order authorizing the provision of protective services on an emergency basis. In general, the adult must be given at least notice of the filing and contents of the petition, the adult's rights, and the consequences of a court order at least 24 hours before the hearing required by current law. The court may waive the notice requirement if reasonable attempts have been made to notify the adult or the adult's family or guardian, if any and immediate and irreparable physical harm to the adult or others would result from a 24-hour delay. The bill permits the court, in addition, to waive the 24-hour notice period if immediate and irreparable financial harm to the adult or others would result from the delay.

Emergency ex parte orders

The bill adds provisions allowing for ex parte emergency protective-services orders. These are orders issued without prior notice to the adult. Under the bill, a court, through a probate judge or a magistrate under the direction of a probate judge, may issue by telephone an ex parte emergency order authorizing the provision of protective services to an adult on an emergency basis if all of the following are the case:

(1) The court receives notice from the CDJFS or its authorized employee that the CDJFS or employee believes an emergency order is needed as described in this section.

(2) There is reasonable cause to believe that the adult is incapacitated.

(3) There is reasonable cause to believe that there is a substantial risk to the adult of immediate and irreparable physical harm, immediate and irreparable financial harm, or death.

An ex parte order, which must be journalized by the judge or magistrate, may remain in effect for not longer than 24 hours, except that if the day following the day on which the order is issued is not a working day, the order remains in effect until the next working day. The CDJFS must file a regular petition for emergency court-ordered services within 24 hours after an ex parte order is issued or, if the day following the day on which the order was issued is not a working day, on the next working day. The proceedings are then the same as for a regular emergency petition, except that the court must hold a hearing not later than 24 hours after the issuance of the ex parte order (or on the next working day if the day following the day on which the order is issued is not a working day) to determine whether there is probable cause for the order. At the hearing, the court must determine whether protective services are the least restrictive alternative available for meeting the adult's needs. At the hearing, the court may do any of the following:

(1) Issue temporary orders to protect the adult from immediate and irreparable physical harm or immediate and irreparable financial harm, including, but not limited to, temporary protection orders, evaluations, and orders requiring a party to vacate the adult's place of residence or legal settlement;

(2) Order emergency services;

(3) Freeze the financial assets of the adult.

A temporary order is effective for 30 days. The court may renew the order for an additional 30-day period. Information contained in the order may be entered into the Law Enforcement Automated Data System.

Designation of duties

(R.C. 5101.622)

The bill permits a CDJFS to enter into a contract with one or more private or government entities to perform any of its duties regarding receiving reports of abuse, neglect, and exploitation; investigating the reports and arranging for the provision of

protective services; and petitioning the court for an order authorizing the provision of protective services.

ODJFS rules

(R.C. 5101.71)

Current law permits ODJFS to provide a program of ongoing, comprehensive, formal training to CDJFSs regarding the implementation of the law governing adult protective services. The bill instead requires ODJFS to provide training and require all protective services caseworkers and their supervisors to undergo the training.

As part of its authority to adopt rules governing the implementation of the law governing adult protective services, ODJFS is permitted by current law to adopt rules regarding CDJFSs' plans for proposed expenditures and reporting of expenditures for the program. The bill permits, in addition, that the rules include other requirements for intake procedures, investigations, case management, and the provision of protective services.

Definition of "exploitation"

(R.C. 5101.60)

Current law defines "exploitation" to mean the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain. The bill specifies that exploitation occurs when a caretaker obtains or exerts control over an adult or the adult's resources either without consent, beyond the scope of express or implied consent, or by deception, threat, or intimidation.

Child care

Regulation of child care: background

(R.C. 3301.51 to 3301.59; R.C. Chapter 5104.)

ODJFS and CDJFSs are responsible for the regulation of child care providers, other than preschool programs and school child programs, which are regulated by the Ohio Department of Education (ODE). Child care can be provided in a facility, the home of the provider, or the child's home. Not all child care providers are subject to regulation, but a provider must be licensed or certified to be eligible to provide publicly funded child care. The distinctions among the types of providers are described in the table below.

Child Care Providers		
Type	**Description/Number of children served**	**Regulatory system**
Child day-care center	Any place in which child care is provided as follows: --For 13 or more children at one time; or --For 7-12 children at one time if the place is not the permanent residence of the licensee or administrator (which is, instead, a type A home).	A child day-care center must be licensed by ODJFS, regardless of whether it provides publicly funded child care.
Family day-care home	**Type A home** – a permanent residence of an administrator in which child care is provided as follows: --For 7-12 children at one time; or --For 4-12 children at one time if 4 or more are under age 2. **Type B home** – a permanent residence of the provider in which child care is provided as follows: --For 1-6 children at one time; and --No more than 3 children at one time under age 2.	A type A home must be licensed by ODJFS, regardless of whether it provides publicly funded child care. To be eligible to provide publicly funded child care, a type B home must be licensed by ODJFS.
In-home aide	A person who provides child care in a child's home but does not reside with the child.	To be eligible to provide publicly funded child care, an in-home aide must be certified by a CDJFS.

Changes to child day-care definitions

(R.C. 5104.01)

The bill makes several changes to child day-care definitions. Under current law, "child care" means administering to the needs of infants, toddlers, preschool-age children, and school-age children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the 24-hour day in a place or residence other than a child's own home. The bill repeals the part of that definition that excludes care provided by relatives from child care. The bill also clarifies that care provided by an in-home aide in the child's own home is child care.

Current law defines Head Start as a comprehensive child development program that receives funds under federal law and is licensed as a child day-care center. The bill

clarifies that Head Start serves children from birth to three years old and preschool-age children.

The bill also expands the definition of "owner" of a center, type A home, and type B home. Under current law, an owner is a person (which includes an individual, corporation, business trust, estate, trust, partnership, and association)[100] or a government entity. The bill expands that definition to include in addition a firm, organization, institution, or agency, as well as the individual governing board members, partners, incorporators, agents, and the authorized representatives of those entities. Consequently, the bill expands existing provisions that relate to owners to include those entities and individuals. These include, for example, restrictions on seeking a license after revocation or denial and criminal records check and attestation requirements (see "**Criminal records checks**," below).[101]

Finally, the bill expands the definitions of part-time child care providers. Under current law, only centers or type A homes that provide child care for no more than four hours per day for any child meet the definition. The bill expands part-time child care to include centers and type A homes that operate for not more than 15 consecutive weeks per year, regardless of the number of hours per day.

Criminal records checks and attestations

(R.C. 109.57, 109.572, 5104.012, 5104.013, 5104.04, 5104.09, 5104.37, and 5104.99)

ODJFS is required by current law to request a criminal records check of the following persons: (1) the owner, licensee, or administrator of a child day-care center, (2) the owner, licensee, or administrator of a type A family day-care home, (3) the administrator of a licensed type B family day-care home, and (4) any person age 18 or older who lives in a type A home or licensed type B home. A CDJFS is required to request a criminal records check of an in-home aide. An administrator of a center or type A home is required to request a criminal records check of any applicant who has applied to the center or type A home for employment as a person responsible for the care, custody, or control of a child. The criminal records checks for all of these specified persons must be requested at the time of initial application and every five years thereafter.

In general, the ODJFS Director is prohibited from granting a license to a center, type A home, or type B home and a CDJFS director is prohibited from certifying an in-home aide if a person for whom a criminal records check is required in connection with

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[100] R.C. 1.59, not in the bill.

[101] R.C. 5104.013 and 5104.03, not in the bill.

the center or home has been convicted of or pleaded guilty to certain offenses. A license or certificate may be issued if the person has met ODJFS established rehabilitation standards. Additionally, a center or type A home is prohibited from employing or contracting with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person has been convicted of or pleaded guilty to specified offenses, unless the person meets ODJFS rehabilitation standards. The center or home may employ a person conditionally until the criminal records check is completed, but the center or home's administrator must review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

Current law also contains another provision listing offenses that disqualify a person from owning or operating a center, type A home, or licensed type B home; being employed in any capacity in a center or type A home; or being certified as an in-home aide unless rehabilitation standards are met.[102] The offenses are somewhat duplicative of those that are included in the criminal records check requirements, but the list is not as extensive. The provision also requires that the following attestations be made:

- Each employee of a center or type A home and every person age 18 or older residing in a type A home or licensed type B home must sign a statement attesting to the fact that the employee or resident has not been convicted of or pleaded guilty to any disqualifying offense and that no child has been removed from the employee's or resident's home pursuant to an abuse, dependency, or neglect adjudication.

- Each licensee of a type A home or licensed type B home must sign a statement attesting to the fact that no person under age 18 who resides in the home has been adjudicated a delinquent child for committing any disqualifying offense.

- Each administrator and licensee of a center, type A home, or licensed type B home must sign a statement attesting that the administrator or licensee has not been convicted of or pleaded guilty to any disqualifying offense and that no child has been removed from the person's home pursuant to an abuse, dependency, or neglect adjudication.

- Each in-home aide must sign a statement attesting that the aide has not been convicted of or pleaded guilty to any disqualifying offense and that no child has been removed from the aide's home pursuant to an abuse, dependency, or neglect adjudication.

[102] R.C. 5104.09.

Withholding or falsifying information on the attestations described above is a first degree misdemeanor.

The bill consolidates all of the existing provisions related to criminal records checks, disqualifying offenses, and attestations that concern child care into a single Revised Code section and makes conforming technical changes.[103] It also makes several substantive changes to these provisions.

First, the bill extends its criminal records check and attestation requirements to include employees, owners, and licensees of licensed type B homes rather than only administrators of licensed type B homes. Further, it specifies that criminal records check requirements for employees apply to ***any*** employee rather than only those employed as a person responsible for the care, custody, or control of a child.

Next, in addition to the attestation required under current law, the bill expressly prohibits the ODJFS Director from issuing a license to a type A home or type B home if a child under 18 residing in the home has been adjudicated a delinquent child for committing any of the offenses for which a criminal records check must be performed.

Finally, the bill adds the following offenses to those currently included in a criminal records check (and that are disqualifying offenses unless rehabilitation standards are met): extortion, trafficking in persons, commercial sexual exploitation of a minor, soliciting to engage in sexual activity for hire, aggravated arson, arson, disrupting public services, vandalism, inciting to violence, aggravated riot, riot, inducing panic, misrepresentation relating to provision of child care, failure to disclose the death or injury of a child in a child care facility, intimidation, failure to report child abuse or neglect, making a false report of child abuse or neglect, escape, or aiding escape or resistance to lawful authority.[104]

Minimum instructional time for certain child care facilities

(R.C. 5104.015, 5104.017, and 5104.018)

The bill requires the Director to adopt rules establishing standards for minimum instructional time for child day-care centers, type A family day-care homes, and licensed type B family day-care homes that are rated through the quality tiered rating and improvement system (Step Up to Quality) that existing law requires the Director to establish.

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[103] R.C. 5104.013.

[104] R.C. 2151.421, 2905.11, 2905.32, 2907.19, 2907.24, 2909.02, 2909.03, 2909.04, 2909.05, 2917.01, 2917.02, 2917.03, 2917.31, 2919.224, 2919.225, 2921.03, 2921.14, 2921.34, 2921.35, not in the bill.

Child day-care center staff training

(R.C. 5104.037 (repealed), 5104.015, 5104.016, and 5104.036)

Under current law, a child day-care center staff member must complete 15 hours of in-service training annually, with certain exceptions. The bill repeals this provision and instead requires that the Director adopt rules regarding the training of child day-care center staff members.

Type A family day-care home inspections

(R.C. 5104.03)

The bill authorizes the Director to contract with a government or private nonprofit entity to conduct inspections of type A family day-care homes. Current law requires that each child day-care center, type A family day-care home, or type B family day-care home be inspected following the filing of an application for licensure. Under existing law, however, the Director may contract with a government or private nonprofit entity to conduct inspections for type B homes only.

Certain actions not subject to the Administrative Procedure Act

The bill specifies that certain actions of the Director are not subject to the Administrative Procedure Act (Chapter 119. of the Revised Code). Under existing law, if the Director revokes the license of a child day-care center, type A home, or licensed type B home, the Director cannot issue another license to the owner of the center or home until five years have elapsed from the date the license is revoked.

In addition, if the Director denies an application for licensure, current law prohibits the Director from accepting another application from the applicant until five years have elapsed since the date the previous application was denied. The bill provides that the Director's refusal to issue a license because the application was filed within five years of license revocation or application denial is not subject to the Administrative Procedure Act.

Summary suspension of child care licenses

(R.C. 5104.042 (new))

The bill requires ODJFS to suspend, without prior hearing, the license of a center, type A home, or licensed type B home if any of the following occur:

(1) A child dies or suffers a serious injury while receiving child care in the center or home;

(2) A public children services agency (PCSA) receives a report of the possible abuse or neglect or possible threat of abuse or neglect of a child receiving child care in the center or home and the person who is the subject of the report is the owner, licensee, administrator, employee, or resident of the center or home;

(3) An owner, licensee, administrator, employee, or resident of the center or home is charged by an indictment, information, or complaint with an offense relating to the abuse or neglect of a child;

(4) ODJFS determines that the center or home created a serious risk to the health or safety of a child receiving child care in the center or home that resulted in or could have resulted in a child's death or injury;

(5) The owner, licensee, administrator, employee, or resident of the center or home is charged by an indictment, information, or complaint with fraud.

Under the bill, ODJFS must issue a written order of suspension and must furnish a copy of the order to the licensee. The licensee may appeal the suspension to the common pleas court of the county in which the licensee resides or the licensee's business is located.

The bill provides that a summary suspension remains in effect, unless reversed on appeal, for the longer of 60 days or until any of the following occurs:

(1) The PCSA completes its investigation of the report of the possible abuse or neglect or the possible threat of abuse or neglect;

(2) All criminal charges are disposed of through dismissal, a finding of not guilty, conviction, or a plea of guilty;

(3) A final order issued by ODJFS becomes effective.

Additionally, if ODJFS initiates the revocation of a license that has been summarily suspended, the suspension remains in effect until the revocation process is completed.

In-home aide reimbursement for publicly funded child care

(R.C. 5104.30)

The bill requires the Director to establish an hourly reimbursement ceiling for in-home aides providing publicly funded child care. Under current law, the reimbursement ceiling must be 75% of the reimbursement ceiling that applies to

licensed type B family day-care homes. The bill changes the reimbursement ceiling set by the Director to an hourly cap.

Child-care staff credential procedures

(R.C. 5104.036)

The bill permits child-care staff members of a child day-care center to furnish evidence of qualifications to a designee of the Director, rather than only to the Director. Continuing law generally requires such staff members to furnish evidence of at least high school graduation or certification of equivalency, or evidence of completion of a training program approved by ODJFS or the State Board of Education.

Publicly funded child care

(R.C. 5104.38)

Eligibility

Existing law requires the Director to adopt rules governing financial and administrative requirements for publicly funded child care, including the maximum amount of income a family can have to qualify. Currently, that maximum income is capped at 200% of the Federal Poverty Line for both initial and continued eligibility. The bill increases the maximum income that the Director may establish to 300%.

Fees paid by caretaker parents

Existing law also requires the Director to adopt a schedule of fees that may be charged to caretaker parents for publicly funded child care. The Director is restricted from requiring a fee in excess of 10% of a family's income. The bill repeals that limitation on the Director's ability to determine the fee schedule.

Work requirements for SNAP recipients and OWF participants

(R.C. 5101.54 and 5107.05)

Supplemental Nutritional Assistance Program

Existing law requires the ODJFS Director to administer the Supplemental Nutritional Assistance Program (SNAP) (commonly referred to as the Food Stamp Program) in accordance with the federal Food and Nutrition Act. It authorizes ODJFS to adopt rules governing employment and training requirements for recipients of SNAP benefits and provides that the rules must be consistent with federal law. Under the bill, the rules must also be consistent with the federal Food and Nutrition Act's work and training requirements and, to the extent practicable, must provide for SNAP recipients

to participate in certain work activities, developmental activities, and alternative work activities.

SNAP background

SNAP is a federal program administered by the states to assist low-income households in purchasing food products from authorized food merchants. As a condition of receiving SNAP benefits, certain participants are subject to work requirements established by federal law. In general, SNAP benefits for an able-bodied adult without dependents, or ABAWD, are limited to three months in a 36-month period, unless the ABAWD complies with specified work requirements. The following are not considered ABAWDs: (1) individuals under the age of 18 or 50 years of age or over, (2) pregnant women, (3) individuals medically certified as physically or mentally unfit for employment, (4) those responsible for the care of a child under 6 or an incapacitated household member, and (5) individuals already exempt from SNAP general work requirements.[105]

ABAWDs, also known as work registrants under federal law, may satisfy the work requirements by doing any of the following: (1) working 20 or more hours per week, averaged monthly, (2) participating in and complying with the requirements of a work program for 20 or more hours per week, as determined by the Ohio Department of Job and Family Services, or (3) participating in or complying with the requirements of a workfare program or a comparable program established by a state or political subdivision.[106]

Ohio Works First

Current law requires the ODJFS Director to adopt rules to implement Ohio Works First (OWF) and provides that the rules must be consistent with federal law. The rules must address the following topics: the method of determining the amount of cash assistance received, requirements for initial and continued eligibility, and application procedures. Under the bill, the rules must establish requirements for work activities, developmental activities, and alternative work activities for OWF participants.

OWF background

OWF is the cash assistance portion of Ohio's Temporary Assistance for Needy Families (TANF) program and provides cash benefits to eligible families. Generally, an

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[105] 7 U.S.C. 2015(d)(2)(2014), www.fns.usda.gov/snap/able-bodied-adults-without-dependents-abawds.

[106] 7 U.S.C. 2015(o) (2014).

eligible family can receive benefits under OWF for up to 36 months.[107] The goal of the program is to promote self-sufficiency, personal responsibility, and employment.[108]

To be eligible for OWF, a family (referred to as an "assistance group") must satisfy requirements concerning income, work, and other matters.[109] Regarding income requirements, the assistance group's gross income must not exceed 50% of the FPL, and the group's countable income must not exceed the OWF payment standard, which is the maximum amount of cash assistance that an assistance group may receive under OWF.[110] In calculating gross income and countable income, certain expenses, such as the cost of child care, are disregarded.

Regarding work requirements, each adult member of the assistance group or the group's minor head of household must enter into a self-sufficiency contract.[111] The contract must set forth the assistance group's plan to achieve self-sufficiency and personal responsibility within the program's time limit, as well as work-related activities in which each member must participate.[112]

Prevention, Retention, and Contingency (PRC) program

(R.C. 5108.04 (primary), 5108.01, 5108.021, 5108.022, 5108.03, 5108.041, 5108.05, 5108.051 (repealed), 5108.06, 5108.07, 5108.09, 5108.10 (repealed), and 5108.11)

The PRC program is one of the state's TANF programs. The purpose of TANF, as stated in the federal law creating it, is to increase the flexibility of states in operating a program designed to (1) provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives, (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage, (3) prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these

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[107] There are exceptions to the 36-month time limit. Under certain circumstances, a family may receive OWF benefits for an additional 24 months (for a total of 60 months) two years after leaving OWF due to the initial 36-month time limit. Some families may be exempt from the initial 36-month and total 60-month time limits. (R.C. 5107.18.)

[108] Benefits.gov. *Ohio Works First (OWF)*, available at www.benefits.gov/benefits/benefit-details/1674. *See also* R.C. 5107.01.

[109] R.C. 5107.10.

[110] O.A.C. 5101:1-23-20(H) and (J).

[111] R.C. 5107.14(A).

[112] R.C. 5107.14(B).

pregnancies, and (4) encourage the formation and maintenance of two-parent families.[113] The PRC program is administered by ODJFS on the state level. On the county level, it is administered by CDJFSs.

Current law requires each CDJFS to adopt a written statement of policies governing the PRC program for the county. A CDJFS's statement of policies must establish or specify (1) the benefits and services to be provided under the county's PRC program, (2) restrictions on the amount, duration, and frequency of the benefits and services, (3) eligibility requirements, and (4) certain other matters.

The bill replaces the requirement for each CDJFS to adopt a written statement of policies with a requirement for each CDJFS to adopt a written PRC program plan. The initial plan must be adopted not later than November 15, 2015. The plan must be updated not later than October 1, 2017, and at least every two years thereafter. A CDJFS is permitted to amend its plan; however, it cannot suspend required benefits and services unless funds allocated for the PRC program by the ODJFS Director have been exhausted and the CDJFS submits an amended plan. Each CDJFS is required to comply with rules that the bill requires the Director to adopt when adopting, updating, amending, or suspending its plan.

A CDJFS's PRC program plan is required to include all benefits and services that the Director's rules require be included. The bill requires that all of the following be specified in the rules as required benefits and services: short-term supportive services that address the specific crisis or episode of need, disaster assistance, and any other benefits and services the Director specifies. A CDJFS's plan may include additional benefits and services.

Current law requires that the benefits and services included in a CDJFS's statement of policies for its PRC program be allowable uses of federal TANF funds, except that they may not be "assistance" as defined in a federal regulation but rather benefits and services that the regulation excludes from that definition. Assistance includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).[114] The following are excluded from assistance: (1) nonrecurrent, short-term benefits that are designed to deal with a specific crisis situation or episode of need, are not intended to meet recurrent or ongoing needs, and will not extend beyond four months, (2) work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages,

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[113] 42 U.S.C. 601(a).

[114] 45 C.F.R. 260.31(a).

benefits, supervision, and training), (3) supportive services such as child care and transportation provided to families who are employed, (4) refundable earned income tax credits, (5) contributions to, and distributions from, Individual Development Accounts, (6) services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, and (7) transportation benefits provided under a Job Access or Reverse Commute project to an individual who is not otherwise receiving assistance.[115]

The bill includes a similar requirement. All benefits and services provided under the PRC program, regardless of whether they are required or additional, must be allowable uses of federal TANF funds and must not be assistance but rather benefits and services excluded from the federal definition of "assistance." However, the bill establishes one exception. Despite being excluded from assistance, work subsidies are not to be included in any required or additional benefit or service available under the PRC program. The bill also mandates that required and additional benefits and services have the primary purposes of (1) diverting families from participating in Ohio Works First (OWF) and (2) meeting an emergent need that, if not met, would threaten the safety, health, or well-being of one or more members of a family.

In addition to other rules discussed above, the Director is required by the bill to adopt rules specifying and establishing all of the following for the PRC program:

(1) Income and other eligibility requirements for required benefits and services and maximum eligibility requirements for additional benefits and services;

(2) The maximum amount of required benefits and services and additional benefits and services an eligible individual may receive in a year;

(3) Other requirements for CDJFSs' PRC program plans.

If a CDJFS includes additional benefits and services in its PRC program plan, it must establish eligibility requirements for the benefits and services that do not exceed the maximum eligibility requirements specified in the Director's rules.

The bill applies requirements to CDJFSs' PRC program plans that current law applies to their statements of policies. For example, as is required for a statement of policies, a PRC program plan must be consistent with (1) the plan of cooperation that continuing law requires boards of county commissioners to develop to enhance the administration of the PRC program and other programs, (2) the review and analysis of

[115] 45 C.F.R. 260.31(b).

the CDJFS's implementation of the PRC program and OWF that the county family services committee is required by continuing law to conduct, (3) federal and state laws and the state's TANF plan. The bill requires that a PRC program plan also be consistent with the rules that the Director is required to adopt.

Under current law, a CDJFS must do either of the following before the CDJFS director signs and dates the initial or updated statement of policies for the PRC program: provide the public and local government entities at least 30 days to submit comments on the statement or have the county family services planning committee review the statement. Current law exempts amendments to the statement of policies from this requirement. The bill requires a CDJFS to take either of those actions before the PRC program plan or any amendments are submitted to ODJFS.

Ohio Healthier Buckeye Advisory Council

(R.C. 5101.91 and 5101.92)

Current law establishes the Ohio Healthier Buckeye Advisory Council (OHBAC), which, among other duties, is tasked with developing means by which county healthier buckeye councils may reduce the reliance of individuals on publicly funded assistance programs. Several permissible activities for OHBAC are provided in current law, many of which the bill repeals. The bill repeals a provision authorizing OHBAC to recommend eligibility criteria, application processes, and maximum grant amounts for the Ohio Healthier Buckeye Grant Program (see "**Ohio Healthier Buckeye Grant Program**," below). Instead, it requires OHBAC to administer the Program.

The bill also repeals a provision authorizing OHBAC to submit recommendations, not later than December 1, 2015, concerning means to achieve coordination, person-centered case management, and standardization in public assistance programs. Instead, the bill requires OHBAC to do the following:

(1) Provide assistance establishing local healthier buckeye councils;

(2) Identify barriers and gaps to achieving greater financial independence and provide advice on overcoming those barriers and gaps;

(3) Collect, analyze, and report performance measure information.

The bill specifies that ODJFS will provide administrative support to OHBAC, and that members serve without compensation but are reimbursed for related expenses. The bill requires OHBAC to prepare an annual report of its activities.

Local healthier buckeye councils

(R.C. 103.412, 355.02, 355.03, and 355.04)

The bill requires that not later than December 15, 2015, each board of county commissioners adopt a resolution establishing a local healthier buckeye council. Under current law, it is permissive for boards of county commissioners to establish county healthier buckeye councils. The bill makes local healthier buckeye councils mandatory. The bill requires the resolution establishing the local council to specify the council's organization and to designate a member to serve as staffing agent, and if necessary, fiscal agent. The board may revise the council's organization as necessary by adopting a resolution.

Current law permits a board to invite any person or entity to become a member of the council, and the bill adds a nonexhaustive list of individuals and entities to be considered, including those with leadership experience, those receiving healthier buckeye programs and services, and representatives of public and private entities such as employers, local governments, health care providers, education providers, transportation providers, and housing providers. The bill also provides that if a county healthier buckeye council was established under current law, the board may designate the county council to serve as the local council mandated by the bill.

The bill authorizes multi-county councils to be formed through a written agreement between the boards of county commissioners of two or more counties. Each board entering into the agreement must ratify the agreement by a resolution and notify OHBAC. The agreement may set forth procedures and standards necessary for the joint local council to perform its duties and operate efficiently. Costs incurred in operating a joint local council shall be paid from a joint general fund created by the council unless the agreement provides otherwise.

The bill changes permissive grants of authority in current law for county healthier buckeye councils to mandates for local healthier buckeye councils, and adds several requirements. The bill requires local councils to promote a cooperative and effective environment in all communities to maximize opportunities for individuals and families to achieve and maintain optimal health in all aspects, thereby achieving greater productivity and reducing reliance on publicly funded assistance programs. Local councils must develop a Healthier Buckeye Plan to promote that objective and other objectives in current law. The Plan must be submitted to the board of county commissioners that created the plan and to OHBAC.

Local councils also must do all of the following:

(1) Convene at least once per year;

(2) Organize in accordance with applicable laws;

(3) Collect and analyze data regarding recipients of services and participants in programs provided by members;

(4) Beginning one year after the bill's effective date, submit an annual performance report to OHBAC.

Additionally, local councils may apply for, receive, and oversee the administration of grants.

The bill maintains a provision in current law that requires county councils to report certain information to the Joint Medicaid Oversight Committee, and also requires that information be submitted to OHBAC. The information includes:

(1) Notification the local council has been formed and information regarding the council's organization plan and activities;

(2) Information regarding enrollment or outcome data collected;

(3) Recommendations regarding best practices for administration and delivery of publicly funded assistance programs and services or programs provided by council members;

(4) Recommendations regarding best practices in care coordination.

Healthier Buckeye Grant Program

(R.C. 5101.93; Section 511.10 of H.B. 483 of the 130th General Assembly (repealed))

The bill repeals the existing uncodified Healthier Buckeye Grant Program (HBG Program) and reenacts it in the Revised Code. Under the bill, the HBG Program is administered by the Ohio Healthier Buckeye Advisory Council, with assistance from the Ohio Department of Job and Family Services, if requested. The HBG Program awards grants to local healthier buckeye councils, other public and private entities, and individuals. Funds for the grants come from the Healthier Buckeye Fund, which the bill creates in the state treasury. The Fund consists of moneys appropriated to it and any grants or donations received. Interest earned on money in the fund are to be credited to the fund.

The bill specifies that eligibility criteria established for the HBG Program must give priority to proposals that include the following factors:

(1) Prior effectiveness providing services that achieve lasting self-sufficiency for low-income individuals;

(2) Alignment and coordination of public and private resources to assist low-income individuals achieve self-sufficiency;

(3) Maintenance of continuous mentoring support for participants;

(4) Use of local matching funds;

(5) Use of volunteers and peer supports;

(6) Evidence of previous experience managing or providing similar services with public funds;

(7) Evidence of capability to effectively report relevant participant data;

(8) Creation through local assessment and planning processes;

(9) Collaboration between entities that participate in assessment and planning processes.

Evaluation of county departments of job and family services

(R.C. 5101.90 (repealed))

The bill repeals a provision that requires ODJFS, in consultation with representatives designated by the County Commissioners Association of Ohio and the Ohio Job and Family Services Directors Association, to establish an evaluation system that rates each CDJFS in terms of its success with helping public assistance recipients obtain employment that enables the recipients to cease relying on ODJFS- and CDJFS-administered programs that provide financial assistance or social services. Law repealed by the bill permits CDJFSs to implement an evaluation system established by ODJFS to evaluate an individual caseworker's success in helping a public assistance recipient obtain employment that enables the recipients to cease relying on public assistance programs.

Disability Financial Assistance eligibility determinations

(R.C. 5115.04)

The bill permits ODJFS to enter into an agreement with a state agency to have the state agency make eligibility determinations for the Disability Financial Assistance Program. Current law requires ODJFS to supervise and administer the Program, subject

to several exceptions. The bill adds an additional exception to permit another state agency to make eligibility determinations for the Program, and to require ODJFS to pay administrative costs incurred by the state agency to make the eligibility determinations. The bill defines "state agency" as every organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government.[116]

Military Injury Relief Fund Grant Program

(R.C. 5101.98 (5902.05), 4503.535, 5747.01, 5747.113, and 5902.02; Section 759.10)

The bill expands the scope of service members who are eligible to receive a grant under the Military Injury Relief Fund Grant Program. Currently, any service member injured while serving under Operation Iraqi Freedom, Operation New Dawn, or Operation Enduring Freedom is eligible. The bill expands this to make any service member who was injured while serving after October 7, 2001, eligible. This includes service members diagnosed with post-traumatic stress disorder while serving, or after having served, after October 7, 2001.

The bill requires the Department of Veterans Services (DVS) to administer the provision of grants from the Military Injury Relief Fund instead of ODJFS.

The Director of DVS must adopt rules necessary to administer the Grant Program. The bill specifies that the rules currently governing the Grant Program, which were adopted by the ODJFS Director, must be administered by the Director of DVS and that they remain effective until the Director of DVS adopts rules as required. All references made in the rules to ODJFS must be read as if they refer to DVS. Finally, in applying the rules, the Director of DVS must read the eligibility of an individual for a grant as if it had been expanded as explained above.

Removal of obsolete provision

The bill removes from existing law a provision that specifies that incentive grants, authorized by the federal Jobs for Veterans Act, may be contributed to the Military Injury Relief Fund. Federal law does not permit these grant funds to be used for that purpose.

[116] R.C. 117.01, not in the bill.

Audit Settlements and Contingency Fund

(R.C. 5101.073; Section 305.150)

Under existing law, the ODJFS General Services Administration and Operating Fund is used to pay for the expenses of the programs administered by ODJFS and its administrative expenses, including the costs of required audit adjustments and other related expenses. The bill renames that fund the ODJFS Audit Settlements and Contingency Fund and specifies that the Fund is to be used to pay for audits, settlements, contingencies, and other related expenses. As necessary, the ODJFS Director may request the Director of Budget and Management to transfer money from any of the funds used by ODJFS, except the GRF, to the Fund. Additionally, the Director of Budget and Management, in consultation with the ODJFS Director, may transfer money from the Fund to any fund used by ODJFS or to the GRF.

The bill also permits the Fund to hold earned federal revenue the final disposition of which is unknown.

Case management

(Section 305.190)

The bill states that it is the intent of the General Assembly that any publicly administered case management services made available to individuals regarding employment and training needs be governed at the county level and provided through county departments of job and family services and workforce development agencies.

Child placement level of care tool pilot program

(Section 305.120)

Pilot program

The bill requires ODJFS to implement and oversee the use of a Child Placement Level of Care Tool as a pilot program in up to ten counties that it selects. ODJFS must include, presumably from each county selected, at least one private child placing agency or private custodial agency. A selected county and agency must agree to participate in the pilot program. Also, the pilot program must be developed with the participating counties and agencies, and it must be acceptable to all those participating.

The pilot program must begin not later than 180 days after the program requirement takes effect and end not later than 18 months after it begins. The length of the pilot program must not include any time expended in preparation to implement the program or for any post-pilot-program evaluation activity.

Child Placement Level of Care Tool

Under the bill, the "child placement level of care tool" is an assessment tool to be used in the pilot program to assess a child's placement needs when the child must be removed from home and cannot be placed with a relative (who is not certified as a foster caregiver) that includes assessing a child's functioning, needs, strengths, risk behaviors, and exposure to traumatic experiences.

Pilot program evaluation

ODJFS, in accordance with Ohio law governing competitive selection for state government purchases of supplies or services,[117] must provide for an independent evaluation of the pilot program to rate its success in the following areas:

- Placement stability, length of stay, and other outcomes for children;
- Cost;
- Worker satisfaction;
- Any other criteria ODJFS determines will be useful in the consideration of statewide implementation.

The evaluation design must include a comparison of data to historical outcomes or control counties and a prospective data evaluation in each of the pilot counties.

Funding and rules

ODJFS is required to seek maximum federal financial participation to support the pilot program and evaluation. In addition, ODJFS must seek state funding to implement the pilot program and to contract for its evaluation, notwithstanding the limits on ODJFS use of the federal financial participation amounts withheld from amounts to be reimbursed to counties.[118] ODJFS may adopt rules under the Administrative Procedure Act (Chapter 119.) as necessary to carry out the purposes of the pilot program, its evaluation, and the securing of federal and state funding.

Exemption from certification for therapeutic wilderness camps

The bill exempts private, nonprofit therapeutic wilderness camps from a requirement that they be certified by ODJFS.[119] It defines "private, nonprofit therapeutic

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[117] R.C. 125.01 to 125.12, many of the sections in that range are in the bill.

[118] R.C. 5101.141(E), not in the bill.

[119] R.C. 5103.02.

wilderness camp" as a structured, alternative residential setting for children who are experiencing emotional, behavioral, moral, social, or learning difficulties at home or school in which (1) the children are placed by their parents or another relative with custody, (2) the children spend the majority of their time either outdoors or in a primitive structure, and (3) the camp accepts no public funds for use in its operations.

Under current law, with limited exceptions, any institution or association that receives or desires to receive and care for children for two or more consecutive weeks must be certified by ODJFS. It is likely that a private, nonprofit therapeutic wilderness camp is considered an institution or association and classified as a children's residential center under rules adopted by ODJFS.[120] Extensive ODJFS regulations establish the certification process for children's residential centers and the specific criteria that those centers must meet.[121] The bill exempts private, nonprofit therapeutic wilderness camps from ODJFS certification by excluding them from the definitions of "association" and "institution" in the certification law.[122]

Regulation of private, nonprofit therapeutic wilderness camps

License requirement

The bill requires the ODJFS Director to issue a license to a private, nonprofit therapeutic wilderness camp that meets the following minimum standards:[123]

- The camp must develop and implement a written policy that establishes the following:

  (1) Standards for hiring, training, and supervising staff;

  (2) Standards for behavioral intervention, including standards prohibiting the use of prone restraint and governing the use of other restraints or isolation;

  (3) standards for recordkeeping, including specifying information that must be included in each child's record, who may access records, confidentiality, maintenance, security, and disposal of records;

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[120] O.A.C. 5101:2-1-01(B)(47).

[121] O.A.C. 5101:2-9-02 through 5101:2-9-36.

[122] R.C. 5103.02.

[123] R.C. 5103.50.

(4) A procedure for handling complaints about the camp from the children attending the camp, their families, staff, and the public;

(5) Standards for emergency and disaster preparedness, including procedures for emergency evacuation and standards requiring that a method of emergency communication be accessible at all times;

(6) Standards that ensure the protection of children's civil rights; and

(7) Standards for the admission and discharge of children attending the camp, including standards for emergency discharge.

- The camp must cooperate with any request from the Director for an inspection or access to the camp's records or written policies.

A license issued pursuant to the bill is valid for five years (unless earlier revoked). A private, nonprofit therapeutic wilderness camp seeking license renewal must apply to the Director. If the camp meets the minimum standards described above, the Director must renew the license.[124]

Failure to meet minimum standards

If a licensed private, nonprofit therapeutic wilderness camp fails to meet the minimum standards for such a camp (see "**License requirement**," above), the ODJFS Director must notify the camp that the Director intends to revoke the license.[125] Unless the violation poses an imminent risk to the life, health, or safety of one or more children attending the camp, the Director must give the camp 90 days to come into compliance. If the violation does pose such an imminent risk or the camp fails to meet the minimum standards within 90 days after notice, the bill requires the Director to revoke the license. An order of revocation may be appealed pursuant to the Administrative Procedure Act (R.C. Chapter 119.).

Prohibition against operating without a license

The bill prohibits a private, nonprofit therapeutic wilderness camp from operating without a license.[126] If the ODJFS Director determines that a camp is operating without a license, the Director may petition the court of common pleas of the county in which the camp is located for an order enjoining its operation. The bill requires the

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[124] R.C. 5103.51.

[125] R.C. 5103.54.

[126] R.C. 5103.53.

court to grant the injunction upon a showing that the camp is operating without a license.

Inspections

The bill authorizes the ODJFS Director to inspect a private, nonprofit therapeutic wilderness camp at any time and to delegate this authority to a county department of job and family services. The Director may request access to the camp's records or its policies adopted under the bill. This authority also may be delegated to a county department.[127]

Criminal records check requirements

The bill adds employees of and other persons who care for children at private, nonprofit therapeutic wilderness camps to the list of persons who are required to undergo criminal records checks.[128]

Mandatory child abuse reporting

The bill adds administrators and employees of private, nonprofit therapeutic wilderness camps to the list of persons who are required to report suspected child abuse to a public children services agency or law enforcement official.[129]

Compulsory school attendance

The bill specifies that a parent of a child attending a private, nonprofit therapeutic wilderness camp is not relieved of the parent's legal obligations regarding compulsory school attendance.[130]

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[127] R.C. 5103.52.

[128] R.C. 2151.011(B)(29).

[129] R.C. 2151.421.

[130] R.C. 5103.55 and 3321.04, not in the bill.

- Changes the Division of Domestic Relations of the Stark County Court of Common Pleas to the Family Court Division.

Family Court Division of the Stark County Court of Common Pleas

(R.C. 2301.03)

The bill changes the Division of Domestic Relations of the Stark County Court of Common Pleas to the Family Court Division. The bill also specifies that on and after the effective date of the bill, all references in law to "the Division of Domestic Relations," "the Domestic Relations Division," "the Domestic Relations Court," "the judge of the Division of Domestic Relations," or the "judge of the Domestic Relations Division," must be construed, with respect to Stark County, as being references to "the Family Court Division" or "the judge of the Family Court Division."

- Repeals the requirement that the Legislative Service Commission maintain an Internet database of school district revenue and expenditure data.

Internet database of school district data

(R.C. 103.132 (repealed))

The bill repeals the law that requires the Legislative Service Commission (LSC) to maintain a database on the Internet detailing current and historical revenue and expenditure data of school districts. Drawn from data compiled by the Department of Education, LSC and Legislative Information Systems currently display this information via a query menu on the General Assembly's website.[131]

[131] https://www.legislature.ohio.gov/publications/education-topics. From the General Assembly's home page, click "School Funding and Report Cards" under "Quick Links."

STATE LOTTERY COMMISSION

- Requires one State Lottery Commission appointee to have experience or training in the areas of problem gambling or other addictions and in assistance to recovering gambling or other addicts.
- Authorizes the Director of the Commission to license a limited liability company or any other business entity as a lottery sales agent.
- Removes a provision prohibiting the Director from issuing a lottery sales agent license to a person to engage in the sale of lottery tickets as the person's sole occupation or business.
- Specifies that the Director has discretion to refuse to grant, or to suspend or revoke, a lottery sales agent license for any of several enumerated deficiencies.
- Makes managers and, in addition to corporations, other business entities liable for certain of the enumerated deficiencies as they apply in a business context.
- Abolishes the Charitable Gaming Oversight Fund.
- Clarifies the law regarding employees of the Auditor of State who are prohibited from being awarded a lottery prize.

Commission membership

(R.C. 3770.01)

The bill requires one person appointed as a member of the State Lottery Commission to have experience or training in the areas of problem gambling or other addictions and in assistance to recovering gambling or other addicts. Unlike the other Commission members, this member is not required to have prior experience or education in business administration, management, sales, marketing, or advertising.

Under current law, this member must represent an organization that deals with problem gambling and assists recovering gambling addicts.

Lottery sales agent licensing

(R.C. 3770.05)

The bill makes several revisions in the law pertaining to the licensing of lottery sales agents. First, the bill authorizes the Director of the Commission to license a limited liability company or any other business entity as a lottery sales agent. Under continuing law, a person, association, corporation, partnership, club, trust, estate, society, receiver, trustee, person acting in a fiduciary or representative capacity, state or political subdivision instrumentality, or any other combination of individuals can be licensed as a lottery sales agent. The bill removes the term "person" and replaces it with the term "individual" in this definition.[132]

Second, the bill removes a provision prohibiting the Director from issuing a lottery sales agent license to any person or group of persons to engage in the sale of lottery tickets as the person's or group's sole occupation or business.

Third, the bill specifies that the Director has discretion to refuse to grant, or to suspend or revoke, a lottery sales agent license for any of several enumerated deficiencies. Under current law, the Director is required to refuse to grant, or to suspend or revoke, a lottery sales agent license for any of these deficiencies. Examples of the deficiencies include having been convicted of a felony, having been convicted of an offense that involves illegal gambling, or, in a business context, it appears to the Director that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder, a lottery sales agent license would be inconsistent with the public interest, convenience, or trust.

In the enumeration of deficiencies that apply in a business context, the bill makes two further changes. Continuing law makes directors, officers, and controlling shareholders liable for some of the enumerated business deficiencies. The bill makes managers also liable for these deficiencies. Continuing law also makes corporations liable for some of the enumerated business deficiencies. The bill makes "other business entities" also liable for these deficiencies.

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[132] This change is technical because the law being described here enumerates most of the common business entities, most of which also are included in the general definition of "person." "Person," as so defined, also includes an individual. (R.C. 1.59(C), not in the bill.)

Charitable Gaming Oversight Fund

(R.C. 3770.061 (repealed))

The bill abolishes the Charitable Gaming Oversight Fund used by the Commission to provide oversight, licensing, and monitoring of charitable gaming activities in Ohio. The Fund consists of money received from the Attorney General's Office pursuant to an agreement under which the Commission is to carry out the duties of the Attorney General under the state Gambling Law (R.C. Chapter 2915.).

Auditor of State employees prohibited from receiving prize

(R.C. 3770.07)

The bill clarifies the law regarding employees of the Auditor of State who are prohibited from being awarded a lottery prize. Current law prohibits these employees who actively audit, coordinate, or certify commission drawings from being awarded a lottery prize. The bill removes the prohibition respecting these employees who "certify" drawings and replaces it with a prohibition on employees who "observe" the drawings. Auditor of State employees do not certify commission drawings, but may observe the drawings.

DEPARTMENT OF MEDICAID

State agency collaboration for health transformation initiatives

- Extends to fiscal years 2016 and 2017 provisions that authorize the Office of Health Transformation Executive Director to facilitate collaboration between certain state agencies for health transformation purposes, authorize the exchange of personally identifiable information between those agencies regarding a health transformation initiative, and require the use and disclosure of such information in accordance with operating protocols.

Medicaid third party liability

- Establishes a rebuttable presumption (rather than an automatic right) regarding the right to recover a portion of a medical assistance recipient's tort action or claim against a third party.

- Specifies that a third party's payment to the Department of Medicaid (ODM) or a Medicaid managed care organization (MCO) regarding a medical assistance claim is final two years after the payment is made.

- Authorizes a third party to seek recovery of all or part of an overpayment by filing a notice with ODM or the MCO before that date.

- If ODM or the MCO agrees that an overpayment was made, requires ODM or the MCO to pay the amount to the third party or authorize the third party to offset the amount from a future payment.

Continuing issues regarding creation of ODM

- Extends through June 30, 2017, the authority of the ODM and the Ohio Department of Job and Family Services (ODJFS) directors to establish, change, and abolish positions for their respective agencies and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote employees who are not subject to state law governing public employees' collective bargaining.

- Continues the authority of the ODJFS Director and boards of county commissioners to negotiate about amending or entering into a new grant agreement regarding the transfer of Medicaid, the Children's Health Insurance Program, and the Refugee Medical Assistance Program to ODM.

Integrated Care Delivery System

- Permits a medical transportation provider to submit a claim to Medicaid for a service provided to a participant of the Integrated Care Delivery System (ICDS) without Medicare first denying the claim if Medicaid is responsible for paying the claim.

- Requires ODM to ensure that each ICDS participant who is a Holocaust survivor receives, while enrolled in a Medicaid waiver program, home and community-based services (HCBS) that the participant would have received if enrolled in another HCBS Medicaid waiver program.

- For fiscal years 2016 and 2017, permits ODM to provide performance payments to Medicaid managed care organizations that provide care to ICDS participants, and requires ODM to withhold a percentage of the premium payments made to the organizations for the purpose of providing the performance payments.

Termination of waiver programs

- Addresses administrative issues regarding termination of Medicaid waiver programs.

Money Follows the Person

- Requires that federal payments made to Ohio for the Money Follows the Person demonstration project be deposited into the Money Follows the Person Enhanced Reimbursement Fund.

Behavioral health

- During fiscal years 2016 and 2017, permits Medicaid to cover state plan HCBS for Medicaid recipients of any age who have behavioral health issues and countable incomes not exceeding 150% of the federal poverty line.

Physician groups acting as outpatient hospital clinics

- Requires that certain amounts be used in fiscal years 2016 and 2017 to make Medicaid payments for certain services provided by a physician group practice that meets criteria specified in an existing administrative rule for enhanced payments.

Medicaid School Program

- Makes a qualified Medicaid school provider solely responsible for timely repaying any overpayment that the provider receives under the Medicaid School Program and that is discovered by a federal or state audit.

- Prohibits ODM, with regard to an overpayment, from paying the federal government to meet or delay the provider's repayment obligation and from assuming or forgiving the provider's repayment obligation.

- Requires each qualified Medicaid school provider to indemnify and hold harmless ODM for any cost or penalty resulting from a federal or state audit.

Optional Medicaid eligibility groups

- Prohibits Medicaid from covering optional eligibility groups that state statutes do not address whether Medicaid may cover.

- Permits Medicaid to continue covering an optional eligibility group that it covers on the effective date of this provision unless state statutes expressly prohibit Medicaid from covering the group.

- Specifies that, if the income eligibility threshold for an optional eligibility group is not specified in state statute, the threshold is to be a percentage of the federal poverty line not exceeding the percentage that is the group's threshold on the effective date of this provision.

- Eliminates a requirement that the Medicaid program set the income eligibility threshold for pregnant women at 200% of the federal poverty level.

- Eliminates a requirement that the Medicaid program cover the group consisting of women in need of treatment for breast or cervical cancer.

- Eliminates a requirement that the Medicaid program cover the group consisting of nonpregnant individuals who may receive family planning services and supplies.

Transitional Medicaid

- Repeals a requirement that the ODM Director implement a federal option that permits individuals to receive transitional Medicaid for a single 12-month period (rather than an initial 6-month period followed by a second 6-month period).

Medicaid ineligibility for transfer of assets

- Permits an institutionalized individual to enroll in Medicaid despite a transfer of assets for less than fair market value under an additional circumstance.

Medicaid for inmates pilot program

- Requires ODM to operate a two-year pilot program under which the suspension of a person's Medicaid eligibility ends when the person is to be confined only for 30 more days in a local correctional facility owned and operated by Montgomery or Jackson county.

- Requires that state funds be used for the Medicaid services provided under the pilot program.

Personal needs allowance

- Increases the monthly personal needs allowance for Medicaid recipients residing in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID).

Independent provider study

- States that it is the General Assembly's intent to study the issue of independent providers' Medicaid provider agreements and to resolve it not later than December 31, 2015.

Medicaid expansion group report

- Requires ODM to submit a report to the General Assembly evaluating the Medicaid program's effect on clinical care and outcomes for individuals included in the Medicaid expansion group (also referred to as Group 8).

Suspension of provider agreements

- Makes an indictment of a provider, or provider's owner, officer, authorized agent, associate, manager, or employee, for a Medicaid-related criminal charge a reason to suspend a Medicaid provider agreement on the basis of being a source of a credible allegation of fraud rather than a separate cause for suspending a provider agreement.

- Subjects hospitals, nursing facilities, ICFs/IID to the requirement to suspend a Medicaid provider agreement because of an indictment for a Medicaid-related charge.

- Permits ODM to suspend a Medicaid provider agreement when an owner, officer, authorized agent, associate, manager, or employee of a provider has another provider agreement suspended due to a credible allegation of fraud.

- Requires ODM, when a Medicaid provider agreement is suspended due to a credible allegation of fraud, to suspend all Medicaid payments to the provider.

- Permits a provider to submit to ODM, as part of a request to reconsider a Medicaid provider agreement suspension, information about mistaken identity instead of information about a mistake of fact.

- Permits ODM to suspend a Medicaid provider agreement before conducting an adjudication if ODM determines that a credible allegation exists that the provider has negatively affected the health, safety, or welfare of Medicaid recipients.

Nursing facilities' Medicaid payment rates

- Replaces, for the purpose of determining the regular Medicaid payment rate for nursing facility services beginning with fiscal year 2017, the quality incentive payment with a quality payment and eliminates the quality bonus.

- Provides for $16.44 (the maximum quality incentive payment under current law) to be added to the sum of a nursing facility's rates for the cost centers and, if applicable, its critical access incentive payment when determining the nursing facility's regular Medicaid payment rate.

- Provides for the amount determined above to be reduced by $1.79 and requires ODM to use all of the funds made available by this reduction to determine the amount of each nursing facility's quality payment.

- Requires ODM to add the quality payment to the regular payment rate of each nursing facility that meets at least one of five quality indicators and requires that the largest quality payment be paid to nursing facilities that meet all of the quality indicators.

- Provides for a new nursing facility to be paid a quality payment that is the mean quality payment rate determined for nursing facilities and that $14.65 be added to a new nursing facility's initial total rate.

- Provides for the per Medicaid day rate for nursing facility services provided to low resource utilization residents be (1) $115 per Medicaid day if ODM is satisfied that the nursing facility is cooperating with the Long-Term Care Ombudsman Program

to help such residents receive the most appropriate services or (2) $91.70 if ODM is not so satisfied.

- Requires ODM, when determining nursing facilities' case-mix scores, to use the grouper methodology designated by the federal government as the resource utilization group (RUG)-IV, 48 group model.

Medicaid rate for home health aide services

- Requires that the fiscal year 2016 and fiscal year 2017 Medicaid payment rates for home health aide services, other than such services provided by independent providers, be at least 10% higher than the rate in effect on June 30, 2015, for the services.

Medicaid care management system

- Prohibits alcohol, drug addiction, and mental health services from being included in any component of the Medicaid care management system.

HCAP

- Continues the Hospital Care Assurance Program (HCAP) for two additional years.

- Eliminates a requirement for a portion of the money generated by the HCAP assessments and intergovernmental transfers to be deposited into the Legislative Budget Services Fund.

- Abolishes the Fund when all the remaining money in the Fund has been spent.

Hospital franchise permit fees

- Continues the assessments (i.e., franchise permit fees) imposed on hospitals for two additional years.

- Sets the hospital franchise permit fee assessment rate at 4% for the two program years that begin during fiscal years 2016 and 2017.

Nursing home and hospital long-term care units

- Provides that a bed surrender does not occur for the purpose of the franchise permit fee charged nursing homes unless the bed is removed from a nursing home's licensed capacity in a manner that makes it impossible for the bed to ever be a part of any nursing home's licensed capacity.

- Provides that a bed surrender does not occur for the purpose of the franchise permit fee charged hospital long-term care units unless the bed is removed from registration as a skilled nursing facility bed or long-term care bed in a manner that makes it impossible for the bed to ever be registered as such a bed.

- Requires ODM to notify, electronically or by U.S. Postal Service, nursing homes and hospital long-term care units of (1) the amount of their franchise permit fees, (2) redeterminations of the fees triggered by bed surrenders, and (3) the date, time, and place of hearings to be held for appeals regarding the fees.

Home care services contracts

- Adds ODM to a provision of current law that requires, for contracts for home care services paid for with public funds, that the provider have a system for monitoring the delivery of services by the provider's employees.

Healthy Ohio Program

- Requires the Medicaid Director to establish the Healthy Ohio Program (HOP).

- Provides that, under HOP, certain Medicaid recipients, in lieu of Medicaid coverage through the Medicaid fee-for-service or managed care system, are required to enroll in a comprehensive health plan offered by a managed care organization under contract with the Ohio Department of Medicaid (ODM).

- Requires that an account, to be known as a Buckeye account, be established for each HOP participant and that the account consist of Medicaid funds and contributions made by and on behalf of the participant.

- Requires a health plan in which a HOP participant enrolls to (1) cover certain services, (2) pay the Medicare rate for a health professional service that is covered by the health plan and Medicare, (3) require copayments for services as long as there are funds in the core portion of the participant's Buckeye account (the portion of the account consisting of contributions made by or on behalf of the participant and amounts awarded to the account for achieving health care goals and satisfying health care benchmarks), (4) not begin to pay for services until the noncore portion of the participant's Buckeye account is zero, and (5) have a $300,000 annual payout limit and $1 million lifetime payment limit.

- Prohibits a Buckeye account from having more than $10,000.

- Requires, with certain exceptions, that $1,000 of Medicaid funds be deposited annually into an adult HOP participant's Buckeye account and $500 of Medicaid funds be deposited annually into a minor HOP participant's Buckeye account.

- Requires, with certain exceptions, that a HOP participant annually contribute to the participant's Buckeye account the greater of $1 or 2% of the participant's annual countable family income.

- Permits, with certain limitations, the following to make contributions to a HOP participant's Buckeye account on the participant's behalf: the participant's parent or caretaker relative (if the participant is a minor), the participant's employer, a not-for-profit organization, and the managed care organization that offers the health plan in which the participant enrolls.

- Prohibits an individual from beginning to participate in HOP until an initial contribution is made to the individual's Buckeye account unless the individual is exempt from the requirement to make contributions.

- Provides for all or part of the amount remaining in a HOP participant's Buckeye account at the end of a year to carry forward in the account for the next year and for the amount that the participant must contribute to the account that next year be reduced by the amount that carries forward.

- Specifies what a Buckeye account may be used for.

- Requires a managed care organization that offers the health plan in which a HOP participant enrolls to issue a debit swipe card to be used to pay only for (1) the costs of covered health care services provided to the participant as long as there are funds in the noncore portion of the participant's Buckeye account, (2) copayments, and (3) the costs of noncovered, medically necessary health care services.

- Requires that (1) the noncore portion of a HOP participant's Buckeye account be used to pay for covered health care services and (2) the core portion be used to pay for copayments and noncovered, medically necessary services.

- Requires the ODM Director to establish a system under which amounts are awarded to a HOP participant's Buckeye account if the participant (1) provides for the participant's contributions to the account to be made electronically, (2) achieves health care goals to be specified in rules, and (3) satisfies health care benchmarks set by one or more primary care physicians.

- Suspends a HOP participant's participation in HOP if the participant exhausts the annual payout limit and ends the suspension on the first day of the following year.

- Terminates a HOP participant's participation in HOP if (1) a monthly installment payment for the participant's contributions to his or her Buckeye account is 60 days late, (2) the participant, or if the participant is a minor, the participant's parent or caretaker relative, fails to submit documentation needed for a Medicaid eligibility redetermination before the 61st day after the documentation is requested, (3) the participant becomes eligible for Medicaid under a category not required to participate in HOP, (4) the participant becomes a ward of the state, (5) the participant ceases to be eligible for Medicaid, (6) the participant exhausts the lifetime payout limit, or (7) the participant, or if the participant is a minor, the participant's parent or caretaker relative requests that the participant's participation be terminated.

- Provides that a former HOP participant must wait at least 12 months before resuming participation in HOP if the former participant's participation was terminated because of a late installment payment or lack of eligibility redetermination documentation.

- Requires that a HOP participant's contributions to his or her Buckeye account be returned to the participant when the participant ceases to participate in HOP unless the amount in the account is transferred to a bridge account.

- Transfers to a bridge account the entire amount remaining in a HOP participant's Buckeye account if the participant ceases to qualify for Medicaid due to increased family countable income and the participant purchases a health insurance policy or obtains health care coverage under an eligible employer-sponsored health plan.

- Requires that a HOP participant be transferred to a catastrophic health care plan to be established in rules if the participant exhausts the annual or lifetime payout limits.

- Requires a county department of job and family services (CDJFS) to offer to refer to a workforce development agency each HOP participant who is an adult and either unemployed or employed for less than an average of 20 hours per week.

- Permits a HOP participant to refuse to accept the referral and to participate in workforce development activities without any effect on the participant's eligibility for, or participation in, HOP.

State agency collaboration for health transformation initiatives

(R.C. 191.04 and 191.06; R.C. 191.01 and 191.02, not in the bill)

H.B. 487 of the 129th General Assembly authorized the Office of Health Transformation (OHT) Executive Director or the Executive Director's designee to facilitate the coordination of operations and exchange of information between certain state agencies ("participating agencies") during fiscal year 2013. H.B. 487 specified that the purpose of this authority was to support agency collaboration for health transformation purposes, including modernization of the Medicaid program, streamlining of health and human services programs in Ohio, and improving the quality, continuity, and efficiency of health care and health care support systems in Ohio. In furtherance of this authority, H.B. 487 required the OHT Executive Director or the Executive Director's designee to identify each health transformation initiative in Ohio that involved the participation of two or more participating agencies and that permitted or required an interagency agreement. For each health transformation initiative identified, the OHT Executive Director or the Executive Director's designee had to, in consultation with each participating agency, adopt one or more operating protocols.

H.B. 487 also authorized a participating agency to exchange, during fiscal year 2013 only, personally identifiable information with another participating agency for purposes related to or in support of a health transformation initiative that had been identified as described above. If a participating agency used or disclosed personally identifiable information during fiscal year 2013, it was required to do so in accordance with all operating protocols adopted as described above that applied to the use or disclosure.

The main appropriations act of the 130th General Assembly, H.B. 59, extended the authorizations and requirements regarding the use and disclosure of personally identifiable information, described above, to fiscal years 2014 and 2015. The bill further extends these authorizations and requirements to fiscal years 2016 and 2017.

Medicaid third party liability

Portion of tort award subject to government right of recovery

(R.C. 5160.37)

An individual who receives medical assistance under Medicaid, the Children's Health Insurance Program (CHIP), or the Refugee Medical Assistance Program (RMA) gives an automatic right of recovery to the Department of Medicaid (ODM) or a county department of job and family services (CDJFS) against the liability of a third party for

the cost of medical assistance paid on the medical assistance recipient's behalf. If a recipient receives a tort recovery for injuries a third party caused the recipient, current law specifies that ODM or the appropriate CDJFS must receive no less than the lesser of (1) one-half of the amount remaining after attorneys' fees, costs, and other expenses are deducted from the recipient's total judgment, award, settlement, or compromise or (2) the actual amount of medical assistance paid on the recipient's behalf.

In 2013, the U.S. Supreme Court found that a North Carolina statute specifying that an irrebuttable presumption exists that one-third of a Medicaid recipient's tort recovery is attributable to medical expenses was pre-empted by the federal Medicaid anti-lien provision (42 U.S.C. 1396p(a)(1)).[133] The federal provision prohibits a state from making a claim to any part of a Medicaid recipient's tort recovery that is not designated for medical care.[134]

The bill responds to the Supreme Court decision by specifying that there is a rebuttable presumption (rather than a right) that ODM or a CDJFS is to receive (1) not less than one-half of a judgment, award, settlement, or compromise from a medical assistance recipient's tort action or claim against a third party, or (2) the actual amount of medical assistance paid on the recipient's behalf (whichever is less). The bill permits a party to rebut the presumption by a showing of clear and convincing evidence that a different allocation is warranted. The bill also specifies that the allocation of medical expenses pursuant to a settlement agreement between a medical assistance recipient and the third party may be considered by ODM or the CDJFS but it is not binding on either.

Recovery of overpayments

(R.C. 5160.401)

According to the federal Centers for Medicare & Medicaid Services (CMS), it is common for Medicaid recipients to have one or more additional sources of coverage for health care services. "Third party liability" refers to the legal obligation of third parties (e.g., certain individuals, entities, insurers, or programs) to pay part or all of the expenditures for medical assistance furnished under Medicaid. Under federal law, all

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[133] *Wos v. E.M.A.*, 133 S.Ct. 1391 (2013).

[134] 42 U.S.C. 1396p(a)(1).

other available third party resources must meet their legal obligation to pay claims before Medicaid pays for a Medicaid recipient's care.[135]

Current Ohio law reflects federal policy by requiring a responsible third party to pay a claim for payment of a medical item or service provided to an individual who receives medical assistance from Medicaid, the Children's Health Insurance Program, or the Refugee Medical Assistance Program.[136] The bill specifies that a payment a third party makes is final on the date that is two years after the payment was made to ODM or the applicable Medicaid managed care organization (MCO). After a claim is final, the claim is subject to adjustment only if the third party commences an action for recovery of an overpayment before the date the claim became final and the recovery is agreed to by ODM or the MCO.

The bill authorizes a third party that determines that it overpaid a claim for payment to seek recovery of all or part of the overpayment by filing a notice of its intent to seek recovery with ODM or the relevant MCO. The notice of recovery must be filed in writing before the date the payment is final and specify all of the following:

--The full name of the medical assistance recipient who received the medical item or service that is the subject of the claim;

--The date or dates on which the medical item or service was provided;

--The amount allegedly overpaid and the amount the third party seeks to recover;

--The claim number and any other number that ODM or the MCO has assigned to the claim;

--The third party's rationale for seeking recovery;

--The date the third party made the payment and the method of payment used;

--If payment was made by check, the check number; and

--Whether the third party would prefer to receive the amount being sought by payment from ODM or the MCO, either by check or electronic means, or by offsetting the amount from a future payment owed to ODM or the MCO.

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[135] U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, *Medicaid Third Party Liability and Coordination of Benefits*, available at http://medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/tpl-cob-page.html.

[136] R.C. 5160.40(A)(4).

The bill specifies that if ODM or the appropriate MCO determines that a notice of recovery was filed before the claim for payment is final and agrees to the amount sought by the third party, ODM or the MCO must notify the third party in writing of its determination and agreement. Thereafter, the third party's recovery must proceed by the method specified by the third party.

Continuing issues regarding creation of ODM

(Sections 327.20 and 327.30)

Medicaid assistance programs (Medicaid, CHIP, and RMA) were administered by the Office of Medical Assistance in the Ohio Department of Job and Family Services (ODJFS) before ODM was created. The biennial budget act enacted in 2013, H.B. 59 of the 130th General Assembly, created ODM.

Temporary authority regarding employees

H.B. 59 gave the ODM Director authority, during the period beginning July 1, 2013, and ending June 30, 2015, to establish, change, and abolish positions for ODM, and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all employees of ODM who are not subject to the state's public employees collective bargaining law. H.B. 59 gave the ODJFS Director corresponding authority regarding ODJFS employees as part of the transfer of medical assistance programs to ODM.

The authority described above includes assigning or reassigning an exempt employee to a bargaining unit classification if the ODM Director or ODJFS Director determines that the bargaining unit classification is the proper classification for that employee.[137] The actions of the ODM Director or ODJFS Director must comply with the requirements of a federal regulation establishing standards for a merit system of personnel administration. If an employee in the E-1 pay range is to be assigned, reassigned, classified, reclassified, transferred, reduced, or demoted to a position in a lower classification, the ODM Director or ODJFS Director, or in the case of a transfer outside ODM or ODJFS, the ODAS Director, must assign the employee to the appropriate classification and place the employee in Step X. The employee is not to receive any increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation. Actions the ODM Director, ODJFS Director, and ODAS Director take under this provision of the act are not subject to appeal to the State Personnel Board of Review.

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[137] An exempt employee is a permanent full-time or permanent part-time employee paid directly by warrant of the OBM Director whose position is included in the job classification plan established by the ODAS Director but who is not considered a public employee for purposes of Ohio's collective bargaining law. (R.C. 124.152.)

Under the bill, the ODM Director and ODJFS Director continue to have this authority until June 30, 2018.

New and amended grant agreements with counties

H.B. 59 permitted the ODJFS Director and boards of county commissioners to enter into negotiations to amend an existing grant agreement or to enter into a new grant agreement regarding the transfer of medical assistance programs to ODM. Any such amended or new grant agreement had to be drafted in the name of ODJFS. The amended or new grant agreement had to be executed before July 1, 2013, if the amendment or agreement did not become effective sooner than that date.

Under the bill, the ODJFS Director and boards of county commissioners continue to have this authority. An amended or new grant agreement may be executed before July 1, 2015, if the amendment or agreement does not become effective sooner than that date.

Integrated Care Delivery System

ODM is authorized under continuing law to implement a demonstration project to test and evaluate the integration of care received by individuals dually eligible for Medicaid and Medicare. In statute the project is called the Integrated Care Delivery System (ICDS).[138] It may be better known, however, as MyCare Ohio.

Claims for medical transportation services

(R.C. 5164.912)

The bill permits a medical transportation provider to submit a claim to the Medicaid program for a medical transportation service provided to an ICDS participant without the Medicare program first denying the claim if the Medicaid program is responsible for paying the claim.

Holocaust survivors in the ICDS Medicaid waiver program

(R.C. 5166.161 (primary) and 5166.16)

The bill requires ODM to ensure that each ICDS participant who is a Holocaust survivor receives, while enrolled in the part of the ICDS that is a Medicaid waiver program, home and community-based services (HCBS) of the type and in at least the amount, duration, and scope that the participant is assessed to need and would have

[138] R.C. 5164.91, not in the bill.

received if enrolled in another HCBS Medicaid waiver program operated by the Department of Aging (ODA) or ODM.

ICDS performance payments

(Section 327.70)

For fiscal years 2016 and 2017, the bill requires ODM, if it implements ICDS in a way that provides participants with care through Medicaid managed care organizations, to do both of the following:

(1) Develop quality measures designed specifically to determine the effectiveness of the health care and other services provided to participants by Medicaid managed care organizations;

(2) Determine an amount to be withheld from the Medicaid premium payments paid to Medicaid managed care organization for participants.

For purposes of the amount to be withheld from premium payments, the bill requires ODM to establish a percentage amount and apply the same percentage to all Medicaid managed care organizations providing care to ICDS participants. Each organization must agree to the withholding as a condition of receiving or maintaining its Medicaid provider agreement. The bill authorizes the ODM Director to use these amounts to provide performance payments to Medicaid managed care organizations providing care to ICDS participants in accordance with rules that the Director may adopt. The bill provides that an organization providing care under ICDS is not subject to withholdings under the Medicaid Managed Care Performance Payment Program for premium payments attributed to ICDS participants during fiscal years 2016 and 2017.

Administrative issues related to termination of waiver programs

(Section 327.100)

If ODM and ODA terminate the PASSPORT, Assisted Living, Ohio Home Care, or Ohio Transitions II Aging Carve-Out program, the bill provides that all applicable statutes, and all applicable rules, standards, guidelines, or orders issued by ODM or ODA before the program is terminated, are to remain in full force and effect on and after that date, but solely for purposes of concluding the program's operations, including fulfilling ODM's and ODA's legal obligations for claims arising from the program relating to eligibility determinations, covered medical assistance provided to eligible persons, and recovering erroneous overpayments. The right of subrogation for the cost of medical assistance and an assignment of the right to medical assistance continue to apply with respect to the terminated program and remain in force to the full

extent provided under law governing the right of subrogation and assignment. ODM and ODA are permitted to use appropriated funds to satisfy any claims or contingent claims for medical assistance provided under the terminated program before the program's termination. Neither ODM nor ODA has liability under the terminated program to reimburse any provider or other person for claims for medical assistance rendered under the program after it is terminated.

Money Follows the Person Enhanced Reimbursement Fund

(Section 327.110)

The bill provides for federal funds Ohio receives for the Money Follows the Person demonstration project to be deposited into the Money Follows the Person Enhanced Reimbursement Fund. The fund was created in 2008 by H.B. 562 of the 127th General Assembly after Ohio was first awarded a federal grant for the demonstration project. ODM is required to continue to use the money in the fund for system reform activities related to the demonstration project.

Home and community-based services regarding behavioral health

(Section 327.190)

During fiscal years 2016 and 2017, the bill permits Medicaid to cover state plan HCBS for Medicaid recipients of any age who have behavioral health issues and countable incomes not exceeding 150% of the federal poverty line. A Medicaid recipient is not required to undergo a level of care determination to be eligible for the HCBS. The bill authorizes the ODM Director to adopt rules as necessary to implement this provision.

Physician groups acting as outpatient hospital clinics

(Section 327.240)

An existing administrative rule[139] requires different Medicaid payment amounts (generally the regular Medicaid payment multiplied by 1.4) for physician group practices that meet both of the following criteria:

(1) The physician group practice is physically attached to a hospital that does not provide physician clinic outpatient services and the hospital and physician group practice have signed a letter of agreement indicating that the physician group practice provides the outpatient hospital clinic service for that hospital;

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[139] O.A.C. 5160-1-60.1.

(2) The state Medicaid provider utilization summary for calendar year 1990 establishes that the physician group practice, in that year, provided at least 40% of the total number of Medicaid physician visits provided in the county in which the physician group practice is located and an aggregate total of at least 10% of the physician visits provided in the contiguous counties.

The bill requires that $500,000 of the main appropriation for the Medicaid program (appropriation item 651525, Medicaid/Health Care Services) in fiscal year 2016 and $1 million of that appropriation in fiscal year 2017 be used to make Medicaid payments in accordance with the administrative rule for physician, pregnancy-related, evaluation, and management services provided by physician group practices that meet the rules' criteria for the enhanced rate.

Medicaid School Program

(R.C. 5162.365 (primary), 5162.01, 5162.36, 5162.361, and 5162.363)

Under the Medicaid School Program, a qualified Medicaid school provider may submit a claim to ODM for federal Medicaid funds for providing, in schools, services covered by the Medicaid School Program to Medicaid recipients who are eligible for the services. Continuing law requires ODM to enter into an interagency agreement with the Department of Education (ODE) that provides for ODE to administer the Medicaid School Program (other than aspects of the program that state law requires ODM to administer).

The following may obtain a Medicaid provider agreement to become a qualified Medicaid school provider: a board of education of a city, local, or exempted village school district; the governing authority of a community school; the State School for the Deaf; and the State School for the Blind. Generally, a qualified Medicaid school provider is subject to all conditions of participation in the Medicaid program that apply to other providers. Current law provides that the conditions expressly include conditions regarding audits and recovery of overpayments. The bill provides that the conditions also expressly include conditions regarding claims.

The bill makes a qualified Medicaid school provider solely responsible for timely repaying any overpayment that the provider receives under the Medicaid School Program and that is discovered by a federal or state audit. This is the case regardless of whether the audit's finding identifies the provider, ODM, or ODE as being responsible for the overpayment.

ODM is prohibited by the bill from doing any of the following regarding an overpayment that a qualified Medicaid school provider is responsible for repaying:

(1) Making a payment to the federal government to meet or delay the provider's repayment obligation;

(2) Assuming the provider's repayment obligation;

(3) Forgiving the provider's repayment obligation.

The bill requires each qualified Medicaid school provider to indemnify and hold harmless ODM for any cost or penalty resulting from a federal or state audit finding that a claim submitted by the provider did not comply with a federal or state requirement, including a requirement of a Medicaid waiver program.

Optional Medicaid eligibility groups

(R.C. 5163.03, 5163.04, 5163.06, and 5163.061 (repealed))

Federal law requires a state's Medicaid program to cover certain groups (mandatory eligibility groups). A state's Medicaid program is permitted to cover other groups (optional eligibility groups).

Current state law requires Medicaid to cover all optional eligibility groups that state statutes require Medicaid to cover. Medicaid is permitted to cover an optional eligibility group if state statutes expressly permit Medicaid to cover the group or if state statutes do not address whether Medicaid may cover the group. Medicaid is prohibited from covering an optional eligibility group if state statutes prohibit Medicaid from covering the group.

Under the bill, Medicaid continues to be required to cover all optional eligibility groups that state statutes require Medicaid to cover. The bill permits Medicaid to cover other optional eligibility groups only if (1) state statutes expressly permit Medicaid to cover the group or (2) Medicaid covers the group on the effective date of this provision of the bill. The bill prohibits Medicaid from covering an optional eligibility group if (1) state statutes expressly prohibit Medicaid from covering the group or (2) state statutes do not address whether Medicaid may cover the group.

The bill requires that the income eligibility threshold for an optional eligibility group be the percentage of the federal poverty line specified in state statute for the group. If state statutes do not specify the income eligibility threshold for an optional eligibility group, the income eligibility threshold is to be a percentage of the federal poverty line that does not exceed the percentage that is the group's income eligibility threshold on the effective date of this provision of the bill.

The bill eliminates requirements in state law that the Medicaid program cover the following optional eligibility groups:

(1) The group consisting of the following individuals who are not in comparable mandatory eligibility groups: (a) women during pregnancy and the 60-day period beginning on the last day of pregnancy with incomes not exceeding 200% of the federal poverty line, (b) infants, and (c) children;

(2) The group consisting of women in need of treatment for breast or cervical cancer;

(3) The group consisting of nonpregnant individuals who may receive family planning services and supplies.

Transitional Medicaid

(R.C. 5163.08 (repealed))

Federal law includes a provision for transitional Medicaid. This provision requires a state's Medicaid program to continue to cover, for an additional six months and, if certain requirements are met, up to another additional six months certain low-income families with dependent children that would otherwise lose Medicaid eligibility because of changes to their incomes. The requirements for the second 6-month period of eligibility include reporting and income requirements. Federal law gives states the option to provide the low-income families transitional Medicaid for a single 12-month period rather than an initial 6-month period followed by a second 6-month period.[140] The 12-month option enables the low-income families to receive transitional Medicaid for up to a year without having to meet the additional requirements for the second 6-month period.

The bill repeals a requirement that the ODM Director implement the option regarding the single 12-month eligibility period for transitional Medicaid.

Exception to Medicaid ineligibility for transfer of assets

(R.C. 5163.30)

Generally, an institutionalized individual is ineligible for nursing facility services, nursing facility equivalent services, and HCBS for a certain period of time if the individual or individual's spouse disposes of assets for less than fair market value

[140] 42 U.S.C. 1396r-6. This federal law is scheduled to expire March 31, 2015. Congress has extended the law when it was scheduled to expire on previous occasions.

on or after the look-back date. An institutionalized individual is (1) a nursing facility resident, (2) an inpatient in a medical institution for whom a payment is made based on a level of care provided in a nursing facility, or (3) an individual who would be eligible for Medicaid if the individual was in a medical institution, would need hospital, nursing facility, or Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) services if not for HCBS available under a Medicaid waiver program, and is to receive HCBS. The look-back date is the date that is a certain number of months before (1) the date an individual becomes an institutionalized individual if the Medicaid recipient is eligible for Medicaid on that date or (2) the date an individual applies for Medicaid while an institutionalized individual.

There are exceptions to this period of ineligibility. For example, an institutionalized individual may be granted a waiver of all or portion of the period of ineligibility if the ineligibility would cause an undue hardship for the individual.

The bill establishes a new exception. An institutionalized individual may be granted a waiver of all of the period of ineligibility if all of the assets that were disposed of for less than fair market value are returned to the individual or individual's spouse or if the individual or spouse receives cash or other personal or real property that equals the difference between what the individual or spouse received for the assets and the assets' fair market value. Unless the institutionalized individual is eligible for a waiver under another exception, no waiver of any part of the period of ineligibility is to be granted if the amount the individual or spouse receives is less than the difference between what the individual or spouse received for the assets and the assets' fair market value.

Medicaid for inmates pilot program

(Section 327.223)

Under federal law, states cannot receive federal Medicaid funds for medical assistance provided to inmates of a state or local correctional facility.[141] State law suspends the Medicaid eligibility of a person who is confined in a state or local correctional facility. No Medicaid payment is to be made for any care, services, or supplies provided to the person during the suspension. The suspension ends when the person is released.[142]

The bill requires ODM to operate a two-year pilot program with respect to local correctional facilities owned and operated by Montgomery or Jackson county. Under

[141] 42 U.S.C. 1396d(a).

[142] R.C. 5163.45, not in the bill.

the pilot program, a person's Medicaid eligibility suspension that results from confinement in such a local correctional facility is to end when the remainder of the period for which the person is to be confined is 30 days or less.

The bill specifies that the pilot program is not subject to continuing law that prohibits a component of the Medicaid program from being implemented without (1) federal approval (when needed), (2) sufficient federal Medicaid funds for the component, and (3) sufficient nonfederal funds for the component that qualify as funds needed to obtain matching federal Medicaid funds. Instead, only state funds are to be used for the Medicaid payments made for Medicaid services provided under the pilot program.

Monthly personal needs allowance for Medicaid recipients in ICFs/IID

(R.C. 5163.33)

The bill increases the monthly personal needs allowance for Medicaid recipients residing in ICFs/IID. Beginning January 1, 2016, the personal needs allowance is to be at least $50 per month for an individual resident and at least $100 for a married couple if both spouses are residents of an ICF/IID and their incomes are considered available to each other rather than $40 or an amount determined by ODM. This personal needs allowance is the same that applies to residents of nursing facilities.

Independent provider study

(Section 751.10)

The bill states that it is the intent of the General Assembly to study the issue of Medicaid provider agreements with independent providers and to resolve the issue not later than December 31, 2015. The bill defines "independent provider" as an individual who personally provides one or more of the following services on a self-employed basis and does not employ, directly or through contract, another individual to provide any of those services:

(1) The following aide services: home health aide services available under the Medicaid program's home health services benefit, home care attendant services available under a Medicaid waiver program covering HCBS, and personal care aide services available under Medicaid waiver program covering HCBS;

(2) The following nursing services: nursing services available under the Medicaid program's home health services benefit, private duty nursing services, and nursing services available under a Medicaid waiver program covering HCBS;

(3) Services covered by a Medicaid waiver program covering HCBS;

(4) Services covered by the Helping Ohioans Move, Expanding (HOME) choice demonstration program.

The U.S. Department of Labor (DOL) recently adopted a regulation extending federal minimum wage and overtime protection to most home care workers, including independent providers who provide certain services to Medicaid recipients.[143] DOL has stated that it will not bring enforcement actions against employers for violations before July 1, 2015. From July 1, 2015 to December 31, 2015, DOL will exercise prosecutorial discretion in determining whether to bring enforcement actions, with particular consideration given to good faith efforts to bring home care programs into compliance with the regulation;[144] however, a federal trial court recently found the regulation to be invalid and vacated it. That decision is currently on appeal.[145] If the regulation is determined to be valid, employers of home care workers, which could include states or state agencies overseeing Medicaid programs, will be responsible for ensuring the federal requirements are met.[146]

Medicaid expansion group report

(Section 751.20)

The bill requires ODM to submit a report to the General Assembly evaluating the Medicaid program's effect on clinical care and outcomes for individuals included in the Medicaid expansion group (also referred to as Group 8). The report is to be submitted by January 1, 2017, and is to include information on the Medicaid program's effects on physical and mental health, health care utilization and access, and financial hardship.

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[143] 29 C.F.R. 552.6.

[144] Application of the Fair Labor Standards Act to Domestic Service; Announcement of Time-Limited Non-Enforcement Policy, 79 Fed. Reg. 60,974 (October 9, 2014).

[145] *Home Care Ass'n of Am. v. Weil,* Case No. 14-cv-967, 2014 WL 7272406 (December 22, 2014); *Home Care Ass'n of Am. v. Weil,* Case No. 14-cv-967, 2015 WL 1817120 (January 14, 2015).

[146] Joint letter from the U.S. Department of Justice and U.S. Department of Health and Human Services, December 15, 2014, available at: www.hhs.gov/ocr/civilrights/resources/specialtopics/community/2014hhsdojdearcolleagueletter.pdf.

Suspension of Medicaid provider agreements

(R.C. 5164.36 (primary), 173.391, 5164.01, 5164.37 (repeal and new enact), 5164.38, and 5164.57)

Credible allegation of fraud and indictments

Current law includes a statute that generally requires ODM to suspend a Medicaid provider agreement on determining there is a credible allegation of fraud against the provider for which an investigation is pending under the Medicaid program. There is a separate statute in current law that requires ODM to suspend a Medicaid provider agreement on receiving notice and a copy of an indictment charging the provider (unless the provider is a hospital, nursing facility, or ICF/IID), or the provider's owner, officer, authorized agent, associate, manager, or employee, with committing an act that would be a felony or misdemeanor under Ohio's laws and relates to or results from (1) furnishing or billing for Medicaid services or (2) participating in the performance of management or administrative services relating to furnishing Medicaid services. The bill consolidates and revises these statutes.

Under the bill, an indictment of a person who is a provider or a provider's owner, officer, authorized agent, associate, manager, or employee constitutes a credible allegation of fraud for which ODM must suspend a Medicaid provider agreement if the indictment charges the person with a committing an act that would be a felony or misdemeanor under Ohio's laws or the laws in the jurisdiction in which the act is committed and relates to, or results from, one or more of the following:

(1) Furnishing, ordering, prescribing, or certifying Medicaid services;

(2) Billing for Medicaid services;

(3) Referring a person to Medicaid services;

(4) Participating in the performance of management or administrative services related to furnishing Medicaid services.

In contrast to current law, the bill provides that such an indictment is grounds for suspending any Medicaid provider agreement, including hospitals, nursing facilities, and ICFs/IID. The bill maintains current law that prohibits ODM from suspending a provider agreement if the provider or provider's owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

The bill permits ODM, when it suspends a provider's (provider A's) Medicaid provider agreement because of a credible allegation of fraud, to suspend the provider agreement of any other provider (provider B) of which provider A is an owner, officer, authorized agent, associate, manager, or employee. However, this does not apply if provider B or provider B's owner can demonstrate through the submission of written evidence that provider B or the owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee (provider A) that resulted in the credible allegation of fraud.

Current law requires ODM, when it suspends a Medicaid provider agreement because of a credible allegation of fraud or indictment, to terminate Medicaid payments to the provider for services rendered subsequent to the date on which ODM sends the provider or owner notice of the suspension. Claims for payment of services rendered before the notice is issued may be subject to prepayment review procedures whereby ODM reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes or rules, and are otherwise complete. The bill requires ODM, when it suspends a Medicaid provider agreement because of a credible allegation of fraud (including an indictment) to suspend all Medicaid payments to the provider for services the provider provided before, or provides after, the suspension of the provider agreement.

Under current law, a Medicaid provider agreement's suspension resulting from a credible allegation of fraud is to continue in effect until (1) ODM or a prosecuting authority determines that there is insufficient evidence of fraud by the provider or (2) the proceedings in any related criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty. The bill provides for the suspension also to cease if ODM or a prosecuting authority determines that there is insufficient evidence of fraud by a provider's owner, officer, authorized agent, associate, manager, or employee.

If ODM commences a process to terminate a Medicaid provider agreement that is suspended due to a credible allegation of fraud or indictment, the suspension must continue in effect until the termination process is concluded. The bill provides that the termination process includes any judicial appeal.

Current law prohibits a provider and the provider's owner, officer, authorized agent, associate, manager, or employee from doing any of the following while a Medicaid provider agreement is suspended: (1) owning, or providing services to, any other Medicaid provider or risk contractor or (2) arranging, rendering, or ordering services for any other Medicaid provider, a risk contractor, or a Medicaid recipient. Under the bill, these persons are also prohibited, during the suspension, from referring, prescribing, or certifying services to or for any other Medicaid provider, a risk

contractor, or Medicaid recipient. However, the bill provides that the prohibition applies to a provider's owner, officer, authorized agent, associate, manager, or employee only if such a person's actions resulted in the credible allegation of fraud.

Continuing law permits a provider or provider's owner to request reconsideration of a Medicaid provider agreement suspension. Written information and documents pertaining to certain matters must be submitted with the request. Current law specifies that the written information and documents may pertain to whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of an indictment. The bill specifies instead that the written information and documents may pertain to whether the suspension determination was based on mistaken identity.

Health, safety, and welfare of Medicaid recipients

The bill permits ODM to suspend a Medicaid provider agreement before conducting an adjudication under the Administrative Procedure Act (R.C. Chapter 119.) if ODM determines that a credible allegation exists that the provider, by act or omission, has negatively affected the health, safety, or welfare of one or more Medicaid recipients. When ODM suspends a provider agreement for this reason, ODM (1) is required to also suspend all Medicaid payments to the provider for Medicaid services the provider provided before, or provides after, the provider agreement's suspension and (2) may also suspend the provider agreement of any other provider of which the provider is an owner, officer, authorized agent, associate, manager, or employee. "Owner" is defined as any person having at least 5% ownership in a Medicaid provider.

ODM is required by the bill to notify a provider not later than five days after suspending the provider's provider agreement. The notice must also inform the provider about the suspension of Medicaid payments.

Not later than ten days after suspending a provider's provider agreement, ODM must notify the provider of ODM's intent to terminate the provider's provider agreement. The notice must be provided as part of the adjudication continuing law requires ODM to conduct when terminating a provider agreement. It must state that the provider agreement is to be terminated because of the allegation that the provider negatively affected the health, safety, or welfare of one or more Medicaid recipients. The notice may state additional reasons for the termination.

A Medicaid provider agreement suspension and suspension of Medicaid payments is to continue in effect until the process to terminate the suspended provider agreement, including any judicial appeal, is concluded. However, if ODM fails to provide notice about the suspension or notice about ODM's intent to terminate the

provider agreement by the deadline, the suspension is to be lifted on the day immediately following the deadline.

The bill provides that this provision does not limit ODM's authority under any other statute to suspend or terminate a provider agreement or Medicaid payments to a provider.

Nursing facilities' Medicaid payment rates

(R.C. 5165.15 (primary), 173.47, 5165.151, 5165.152, 5165.192, 5165.23, and 5165.25 (new); R.C. 5165.25 and 5165.26 (repealed); Section 812.10)

Quality payments

A nursing facility's regular total Medicaid payment rate under current law is the sum of (1) each of its rates for the cost centers (ancillary and support costs, capital costs, direct care costs, and tax costs), (2) its critical access incentive payment (if applicable), and (3) its quality incentive payment. ODM is also required by current law to pay a qualifying nursing facility a quality bonus in addition to its regular total rate. The bill replaces the quality incentive payment with a quality payment and eliminates the quality bonus. The changes are to take effect July 1, 2016.

Current law sets the maximum quality incentive payment at $16.44 per Medicaid day. A nursing facility can receive the maximum payment if it meets at least five accountability measures, including at least one accountability measure regarding moderate pain, pressure ulcers, physical restraints, urinary tract infections, hospital admissions, and vaccinations.

As part of the provision that replaces the quality incentive payment with a quality payment, the bill provides for the amount of the current maximum quality incentive payment ($16.44) to be added to the sum of a nursing facility's rates for the cost centers and, if applicable, its critical access incentive payment when determining the nursing facility's regular total Medicaid payment rate. From that amount, $1.79 is to be subtracted. ODM is required to use all of the funds made available by this reduction to determine the amount of each nursing facility's quality payment. These changes result in the following formula that is to be used to determine a nursing facility's regular total per Medicaid day payment rate:

(1) Determine the sum of the nursing facilities' rates for each cost center and, if applicable, its critical access incentive payment (see "**Critical access incentive payment**," below);

(2) Add $16.44 to the amount determined under (1);

(3) Subtract $1.79 from the amount determined under (2);

(4) Add the nursing facility's quality payment to the amount determined under (3).

To qualify for a quality payment under the bill, a nursing facility must meet at least one of five quality indicators. The largest quality payment is to be paid to nursing facilities that meet all of the quality indicators for the measurement period. The following is the measurement period:

(1) For fiscal year 2017, the period beginning July 1, 2015, and ending December 31, 2015;

(2) For each subsequent fiscal year, the calendar year immediately preceding the fiscal year.

The bill establishes the following quality indicators for the purpose of the quality payment:

(1) Not more than a target percentage of a nursing facility's short-stay residents (residents who have resided in the nursing facility for less than 100 days) had new or worsened pressure ulcers and not more than a target percentage of long-stay residents (residents who have resided in the nursing facility for at least 100 days) at high risk for pressure ulcers had pressure ulcers. ODM is required to specify the target percentages and the amount specified for short-stay residents may differ from the amount specified for long-stay residents.

(2) Not more than a target percentage of the nursing facility's short-stay residents newly received antipsychotic medication and not more than a target percentage of the nursing facility's long-stay residents received an antipsychotic medication. ODM is to specify the target percentages. The amount specified may differ for short-term residents and long-term residents. The amount specified also may be different from the target percentages specified for the quality indicator regarding pressure ulcers.

(3) The number of the nursing facility's residents who had avoidable inpatient hospital admissions did not exceed a target rate that ODM is to specify.

(4) The nursing facility's employee retention rate is at least a target rate that ODM is to specify.

(5) The nursing facility utilized the nursing home version of the Preferences for Everyday Living Inventory for all of its residents.

The bill provides that if a nursing facility undergoes a change of operator during a fiscal year, the amount of the quality payment rate to be paid to the new operator for the period beginning on the effective date of the change of operator and ending on the last day of the fiscal year is to be the same as the amount of the quality payment rate in effect on the day immediately preceding the effective date of the change of operator. For the immediately preceding fiscal year, the quality payment rate is to be the following:

(1) If the effective date of the change of operator is on or before the first day of October of the calendar year immediately preceding the fiscal year, the amount determined pursuant to the normal method discussed above;

(2) If the effective date of the change of operator is after the first day of that October, the mean quality payment rate for all nursing facilities for the fiscal year.

Critical access incentive payment

To qualify for a critical access incentive payment, a nursing facility must (1) be located in an area that, on December 31, 2011, was designated an empowerment zone under federal law, (2) have an occupancy rate of at least 85%, (3) have a Medicaid utilization rate of at least 65%, and (4) have met at least five accountability measures for the purpose of the quality incentive payment, including at least one of the accountability measures regarding moderate pain, pressure ulcers, physical restraints, urinary tract infections, and vaccinations. Under the bill, a nursing facility no longer has to meet the fourth requirement to qualify for a critical access incentive payment. The bill also revises how the amount of the critical access incentive payment is to be determined. Under current law, a nursing facility's critical access incentive payment is to equal 5% of the sum of its rates for each of the cost centers and quality incentive payment. With the elimination of the quality incentive payment, a nursing facility's critical access incentive payment is to equal 5% of the sum of its rates for each of the cost centers.

New nursing facilities

A new nursing facility is not paid the regular Medicaid rate for the first fiscal year (or part thereof) that it participates in Medicaid. For example, a new nursing facility is paid the mean quality incentive payment for all nursing facilities instead of a quality incentive payment determined specifically for the new nursing facility. As part of the provision that replaces the quality incentive payment with a quality payment, the bill provides for a new nursing facility to be paid a quality payment that is the mean quality payment rate determined for nursing facilities and that $14.65 be added to a new nursing facility's initial total rate.

Low resource utilization residents

The regular Medicaid rate also is not paid for nursing facility services provided to low resource utilization residents. A low resource utilization resident is a Medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's Medicaid payment rate for direct care costs, is placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data.[147]

Under current law, the total per Medicaid day payment rate for nursing facility services provided to low resource utilization residents is $130. The bill provides that the per Medicaid day rate is to be the following:

(1) $115 if ODM is satisfied that the nursing facility is cooperating with the Long-Term Care Ombudsman Program in efforts to help the nursing facility's low resource utilization residents receive the services that are most appropriate for such residents' level of care needs;

(2) $91.70 if ODM is not so satisfied.

Case-mix scores

ODM is required to determine case-mix scores for nursing facilities as part of the process of determining their Medicaid payment rates. When determining case-mix scores, ODM must use certain data and, except as provided in ODM's rules, the case-mix values established by the U.S. Department of Health and Human Services (USDHHS). Under current law, ODM also must use, except as modified in ODM's rules, the grouper methodology used on June 30, 1999, by the USDHHS for the prospective payment of skilled nursing facilities under the Medicare program. The bill requires that ODM instead use, except as modified in ODM's rules, the grouper methodology designated by the USDHHS as the resource utilization group (RUG)-IV, 48 group model.

Medicaid rate for home health aide services

(Sections 327.250 and 327.260)

The bill requires that the fiscal year 2016 and fiscal year 2017 Medicaid payment rates for home health aide services, other than services provided by independent providers, be at least 10% higher than the rate in effect on June 30, 2015, for the services. An independent provider is a provider who personally provides home health aide

[147] R.C. 5165.01, not in the bill.

services and is not employed by, under contract with, or affiliated with another entity that provides those services.

Behavioral health exclusion from care management system

(R.C. 5167.03)

Continuing law requires ODM to establish a care management system as part of the Medicaid program. Medicaid managed care is part of the care management system.

Current law prohibits alcohol, drug addiction, and mental health services from being included in any component of the care management system ***when the nonfederal share of the cost of the services is provided by a board of alcohol, drug addiction, and mental health services (ADAMHS board) or a state agency other than ODM***. The bill prohibits alcohol, drug addiction, and mental health services from being included in any component of the care management system regardless of who provides the nonfederal share of the cost of the services.

Before the enactment of the main operating budget act for fiscal years 2012 and 2013,[148] ADAMHS boards, the Ohio Department of Mental Health (ODMH), and the Ohio Department of Alcohol and Drug Addiction Services (ODADAS) were responsible for the nonfederal share of Medicaid payments for services provided under a component of the Medicaid program that ODMH or ODADAS administered. (ODMH and ODADAS have been combined into a single department called the Ohio Department of Mental Health and Addiction Services.) Under current law, ODM is responsible for the nonfederal share of such payments.[149]

HCAP

(R.C. 5168.01, 5168.06, 5168.07, 5168.10, 5168.11, and 5168.12 (repealed); Sections 610.10 and 610.11)

The bill continues the Hospital Care Assurance Program (HCAP) for two additional years. HCAP is scheduled to end October 16, 2015, but under the bill, is to continue until October 16, 2017. Under HCAP, hospitals are annually assessed an amount based on their total facility costs and government hospitals make annual intergovernmental transfers. ODM distributes to hospitals money generated by the assessments and intergovernmental transfers along with federal matching funds generated by the assessments and transfers. A hospital compensated under HCAP must

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[148] H.B. 153 of the 129th General Assembly.

[149] R.C. 5162.371, not in the bill.

provide, without charge, basic, medically necessary, hospital-level services to Ohio residents who are not recipients of Medicare or Medicaid and whose income does not exceed the federal poverty line.

The bill eliminates a requirement for a portion of the money generated by the HCAP assessments and intergovernmental transfers to be deposited into the Legislative Budget Services Fund and repeals the law creating the fund. Under current law, ODM is required to deposit into that fund an amount equal to the amount by which the biennial appropriation from the fund exceeds the amount of unexpended, unencumbered money in the fund. The money for the deposits is to come from the first installment of the HCAP assessments and intergovernmental transfers made during each year.

The bill requires that any money remaining in the Legislative Budget Services Fund on the date that the law creating the fund is repealed be used solely for the purpose stated in that law. The law states that the fund can be used solely to pay the expenses of LSC's Legislative Budget Office. The bill abolishes the fund when all the money in it has been spent.

Hospital franchise permit fees

(Sections 327.93, 610.10, and 610.11)

The bill continues the assessments imposed on hospitals for two additional years, ending October 1, 2017, rather than October 1, 2015. The assessments are in addition to HCAP, but like HCAP, they raise money to help pay for the Medicaid program. To distinguish the assessments from HCAP, the assessments are sometimes called hospital franchise permit fees.

The bill requires that the assessment rate for the two program years that begin during the period beginning July 1, 2015, and ending June 30, 2017, be 4%. For the purpose of the hospital assessments, a program year runs from the period beginning October 1 and ending on September 30 of the immediately following year. Under current law, the amount of the assessment rate is set in rules adopted by the Medicaid Director.

Nursing homes' and hospital long-term care units' franchise permit fees

(R.C. 5168.40, 5168.44, 5168.45, 5168.47, 5168.48, 5168.49, and 5168.53)

The bill revises the law governing the annual franchise permit fees that nursing homes and hospital long-term care units are assessed. The fees are a source of revenue

for nursing facilities and HCBS covered by the Medicaid program and the Residential State Supplement program.

Bed surrenders

Under continuing law, ODM is required to redetermine each nursing home's and hospital long-term care unit's franchise permit fee for a year if one or more bed surrenders occur during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made. Current law defines "bed surrender" as the following:

(1) In the case of a nursing home, the removal of a bed from a nursing home's licensed capacity in a manner that reduces the total licensed capacity of all nursing homes;

(2) In the case of a hospital, the removal of a hospital bed from registration as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered as skilled nursing facility beds or long-term care beds.

The bill revises what constitutes a bed surrender. In the case of a nursing home, a bed surrender does not occur unless a bed's removal from its licensed capacity is done in a manner that, in addition to reducing the total licensed capacity of all nursing homes, makes it impossible for the bed to ever be a part of any nursing home's licensed capacity. In the case of a hospital long-term care unit, a bed surrender does not occur unless a bed's removal from registration as a skilled nursing facility bed or long-term care bed is done in a manner that, in addition to reducing the total number of hospital beds registered as such, makes it impossible for the bed to ever be registered as a skilled nursing facility bed or long-term care bed.

Notices of fees and redeterminations

Under current law, ODM is required to mail each nursing home and hospital long-term care unit notice of the amount of its franchise permit fee for a year not later than the first day of each October. ODM must mail each nursing home and hospital long-term care unit notice of its redetermined franchise permit fee due to bed surrenders not later than the first day of each March. If a nursing home or hospital long-term care unit requests an appeal regarding its franchise permit fee, ODM must mail a notice of the date, time, and place of the hearing to the nursing home or hospital.

The bill requires that these notices be provided electronically or by the U.S. Postal Service.

Home care services contracts

(R.C. 121.36)

For contracts for home care services paid for with public funds, the bill adds ODM to a provision of current law that requires the provider to have a system for monitoring the delivery of the services by the provider's employees. Current law requires the Departments of Developmental Disabilities, Aging, Job and Family Services, and Health to ensure that this requirement is met. ODM did not exist at the time the provision was originally enacted.[150]

Healthy Ohio Program

(R.C. 5166.52 to 5166.5210)

HOP established

The bill requires the ODM Director to establish a Medicaid waiver program to be known as the Healthy Ohio Program (HOP). An individual, unless a ward of the state, must participate in HOP if eligible for Medicaid on the basis of being included in the eligibility group identified by ODM as covered families with children or in the expansion eligibility group authorized by the Patient Protection and Affordable Care Act (i.e., Group VIII). A HOP participant is not to receive Medicaid services under the fee-for-service system or participate in Medicaid managed care.

Comprehensive health plan

A HOP participant must enroll in a comprehensive health plan offered by a managed care organization under contract with ODM. All of the following apply to the health plan:

(1) It must cover physician, hospital inpatient, hospital outpatient, pregnancy-related, mental health, pharmaceutical, laboratory, and other health care services the ODM Director determines necessary.

(2) In the case of a health professional service also covered by the Medicare program, it must have the same payment rate as the Medicare payment rate for the health professional service.

(3) It must not begin to pay for any services it covers until the amount of the noncore portion of the participant's Buckeye account is zero. (See "**Buckeye accounts**" and "**Core and noncore portions of Buckeye accounts**" below.)

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[150] See H.B. 59 of the 130th General Assembly.

(4) It must require copayments for services covered by the health plan, except that a participant's copayments are to be waived whenever the amount of the core portion of the participant's Buckeye account is zero.

(5) It must have a $300,000 annual payout limit and a $1,000,000 lifetime payout limit.

Buckeye accounts

The bill requires that a Buckeye account be established for each HOP participant. A participant's Buckeye account is to consist of (1) Medicaid funds deposited into the account each year ($1,000 if the participant is an adult and $500 if the participant is a minor) and (2) contributions made by and on behalf of the participant. (See "**Participants' contributions**" below.) However, a Buckeye account is not to have more than $10,000 in it at one time. The initial deposit of Medicaid funds is not to be made until the initial contribution by or on behalf of the participant is made, unless the participant is not required to make contributions. (See "**Amounts in Buckeye account to carry forward to next year**" below.)

Participants' contributions

With certain exceptions, a HOP participant must contribute each month to the participant's Buckeye account the greater of the following:

(1) 2% of the participant's monthly countable family income;

(2) $1.[151]

The following are permitted to make contributions to a participant's Buckeye account on the participant's behalf:

(1) If the participant is a minor, the participant's parent or caretaker relative;

(2) The participant's employer, but only up to 50% of the contributions the participant is required to make;

(3) A not-for-profit organization, but only up to 75% of the contributions the participant is required to make;

(4) The managed care organization that offers the health plan in which the participant enrolls under HOP, but such contributions (a) are to be used only to pay for

[151] An individual is not to begin participating in HOP until the initial contribution to the Buckeye account is made, unless the individual is not required to make a contribution.

the participant to participate in a health-related incentive available under the health plan (such as completion of a risk assessment or participation in a smoking cessation program and (b) cannot reduce the amount the participant is required to contribute.

Contributions made on behalf of a participant by an employer or not-for-profit organization must be coordinated in a manner so that the participant, or if the participant is a minor, the participant's parent or caretaker relative, makes at least 25% of the contributions the participant is required to make.

Core and noncore portions of Buckeye accounts

The bill distinguishes between the core and noncore portions of a HOP participant's Buckeye account. The core portion consists of the contributions made by or on behalf of the participant and amounts awarded to the account when the participant satisfies certain health care goals and benchmarks. (See "**Amounts awarded to HOP debit swipe cards**" below.) The remaining portion of the Buckeye account is the noncore portion.

Amounts in Buckeye account to carry forward to next year

The bill provides for a portion of the amount that remains in a participant's Buckeye account at the end of a year to carry forward in the account the next year. If the participant satisfies requirements regarding preventative health services the ODM Director is to establish in rules, the entire amount is to carry forward.[152] If the participant does not satisfy the requirements regarding preventative health services, only the amount representing the contributions made by or on behalf of the participant is to carry forward. The amount of contributions that must be made to the participant's Buckeye account for a year are to be reduced by the amount that is carried forward. If the amount carried forward is at least the amount of contributions that would otherwise have been required to be made by or on behalf of the participant for the year, no contributions are required to be made for the participant that year.

Use of Buckeye accounts

The bill provides that a Buckeye account is to be used only for the following:

(1) To pay for the expenses for which a HOP debit swipe card may be used (see "**HOP debit swipe card**" below);

[152] The rules may establish different requirements regarding preventative health services for HOP participants of different ages and genders.

(2) Other purposes the ODM Director is to specify in rules.[153]

Monthly statements

ODM is required to provide for a HOP participant to receive monthly statements showing the current amount in the participant's Buckeye account and the previous month's expenditures from the account. The statement must specify how much of the amount in the account is the core portion and how much is the noncore portion. ODM is permitted to arrange for the statements to be provided in an electronic format.

HOP debit swipe card

The bill requires a managed care organization that offers a health plan in which a HOP participant enrolls to issue a debit swipe card to be used to pay only for the following:

(1) Until the amount of the noncore portion of the participant's Buckeye account is zero, the costs of health care services that are covered by the health plan and provided to the participant by a provider participating in the health plan;

(2) The participant's copayments under the health plan;

(3) Subject to rules the ODM Director is to adopt, the costs of health care services that are medically necessary for the participant but not covered by the health plan.

A HOP participant's debit swipe card is to be credited one point for each of the following:

(1) Each dollar of Medicaid funds deposited into the participant's Buckeye account;

(2) Each dollar that is contributed to the account by or on behalf of the participant;

(3) Each point awarded to the participant for providing for the participant's contributions to the account to be made by electronic funds transfers and satisfying certain health care goals and benchmarks. (See "**Amounts awarded to HOP debit swipe cards**" below.)

Each time a HOP participant uses the debit swipe card, the amount for which the card is used must be deducted from the number of points on the card as follows:

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[153] The rules must also establish the means for using a Buckeye account for the additional purposes.

(1) If the card is used for the costs of health care services that are covered by the participant's health plan, the deduction is to come from the points representing the noncore portion of the participant's Buckeye account.

(2) If the card is used for the other allowable purposes, the deduction is to come from the points representing the core portion of the participant's account.

The bill requires that a HOP participant's debit swipe card do all of the following:

(1) Verify the participant's eligibility for HOP;

(2) Determine whether the service the participant seeks is covered by the participant's health plan;

(3) Determine whether the provider is a participating provider under the health plan;

(4) Be linked to the participant's Buckeye account in a manner that enables the participant to know at the point of service what will be deducted from the noncore portion and core portion of the account for the service and how much will remain in each portion after the deduction.

Amounts awarded to HOP debit swipe cards

The bill requires the ODM Director to establish a system under which points are awarded to HOP participants' debit swipe cards. One dollar of Medicaid funds is to be deposited into a participant's Buckeye account for each point awarded.

The ODM Director must provide a one-time award of 20 points to a HOP participant who provides for the participant's contributions to his or her Buckeye account to be made by electronic funds transfers from the participant's checking or savings account. Twenty points are to be deducted if the participant terminates the electronic funds transfers.

The ODM Director is permitted to award up to 200 points annually to a HOP participant who achieves health care goals. The points must be awarded in accordance with rules the Director is to adopt. The rules must specify the goals that qualify for points and the number of points each goal is worth. The number of points may vary for different goals. A participant is not to be awarded more than 200 points per year regardless of the number of goals the participant achieves that year.

Up to 100 points may be awarded annually to a HOP participant by one or more primary care physicians who verify that the participant has satisfied health care

benchmarks set by the physicians. A participant is not to be awarded more than 100 points per year regardless of how many primary care physicians award points to the participant that year and the number of points the primary care physicians award the participant that year.

Suspension and termination of participation

A participant's participation in HOP is to be suspended if the participant exhausts the annual $300,000 payout limit. The suspension ends on the first day of the following year.

Participation is to cease if any of the following applies:

(1) A monthly installment payment to the participant's Buckeye account is 60 days late.

(2) The participant, or if the participant is a minor, the participant's parent or caretaker relative, fails to submit documentation needed for a Medicaid eligibility redetermination before the 61st day after the documentation is requested.

(3) The participant becomes eligible for Medicaid on a basis other than being included in the covered families and children eligibility group or Group VIII.

(4) The participant becomes a ward of the state.

(5) The participant ceases to be eligible for Medicaid.

(6) The participant exhausts the $1,000,0000 lifetime payout limit.

(7) The participant, or if the participant is a minor, the participant's parent or caretaker relative, requests that the participant's participation be terminated.

A participant who ceases to participant because of a late monthly installment payment or failure to timely submit documentation needed for an eligibility redetermination cannot resume participation in HOP earlier than 12 months after the participation ceases.

Except when a transfer to a bridge account is to be made, a participant is to be provided the contributions that are in the participant's Buckeye account when the participant ceases to participate in HOP. (See "**Buckeye account transferred to bridge account**" below.) If the participant is a minor, the contributions are to be provided to the participant's parent or caretaker relative.

Catastrophic health care plan

If a HOP participant exhausts the $300,000 annual or $1,000,000 lifetime payout limits, the participant is to be transferred to a catastrophic health care plan established in rules the ODM Director is to adopt.

Buckeye account transferred to bridge account

If a HOP participant ceases to qualify for Medicaid due to increased family countable income and purchases a health insurance policy or obtains health care coverage under an eligible employer-sponsored health plan, the amount remaining in the participant's Buckeye account is to be transferred to a bridge account. The amount transferred may be used only to pay for the following:

(1) If the participant has purchased a health insurance policy, the participant's costs in purchasing the policy and paying for the participant's out-of-pocket expenses under the policy for health care services and prescription drugs covered by the policy;

(2) If the participant obtained health care coverage under an eligible employer-sponsored health plan, the participant's out-of-pocket expenses under the plan for health care services and prescription drugs covered by the plan.

Only the amount remaining in a participant's Buckeye account at the time the participant ceases to participate in HOP is to be deposited into a bridge account. The bridge account must be closed once the amount transferred is exhausted.

The ODM Director is required to notify a participant when a bridge account is established for the participant.

Referrals to workforce development agencies

The bill requires each CDJFS to offer to refer to a workforce development agency each HOP participant who resides in the county served by the CDJFS, is an adult, and is either unemployed or employed for less than an average of 20 hours per week. The referral must include information about the workforce development activities available from the workforce development agency. A participant is permitted to refuse to accept the referral and to participate in the workforce development activities without any effect on the participant's eligibility for, or participation in, HOP.

STATE MEDICAL BOARD

Suspension of certificate

- Eliminates provisions that result in the automatic suspension of a certificate to practice for failure to renew or register the certificate, including failure to complete continuing education requirements, and instead permits the State Medical Board to suspend the certificate.

- Provides that an adjudication hearing is not required if the Board imposes a civil penalty for failure to complete continuing education requirements but does not take any other action.

Condition for restoring or issuing certificates

- Authorizes the Board to impose, before restoring or issuing certain certificates to practice, additional terms and conditions on applicants, including physical examinations and skills assessments.

- Provides that an adjudication hearing is not required if the Board imposes a civil penalty for failure to complete continuing education requirements but does not take any other action.

Continuing education requirements

- Clarifies continuing education requirements for physicians but does not make substantive changes to the requirements.

Expedited certificates

- Requires that the Board's secretary and supervising member, as opposed to the Board, review and make eligibility determinations concerning expedited certificates to practice medicine and surgery or osteopathic medicine and surgery by endorsement.

- Requires that if the requirements for an expedited certificate are not met, the secretary and supervising member must treat the application as an application for a certificate to practice medicine and surgery or osteopathic medicine and surgery.

Civil penalties

- Authorizes the Board to impose a civil penalty on a professional who violates the law administered by the Board.

- Requires the Board to adopt guidelines regarding the amounts of civil penalties that may be imposed and specifies that the amount of a civil penalty cannot exceed $20,000.

Physician's report of illegal drug use

- Authorizes a physician to report a patient's known or suspected illegal drug use to a drug task force or law enforcement agency.

Prescribing based on remote examination

- Codifies, with certain changes, an administrative rule governing when a physician may prescribe or dispense a prescription drug to a person on whom the physician has never conducted a medical evaluation.

Immunity for certain volunteers

- Provides immunity to certain medical professionals who volunteer services at therapeutic camps.

- Provides an exception to having an Ohio medical license.

Disciplinary rule clarification

- Makes a clarification related to the Board's disciplinary statute.

Suspension of certificate for failure to renew or register

(R.C. 4730.14 and 4731.281)

Under current law, the failure of a physician (including a podiatrist) or physician assistant to renew or register a certificate to practice operates to suspend the certificate automatically. The law specifies procedures to (1) reinstate a certificate that has been suspended for two years or less or (2) restore a certificate that has been suspended for more than two years.

The bill eliminates the automatic suspension and instead allows the State Medical Board to suspend a certificate for a failure to renew or register.

In general, the bill permits the Board to reinstate or restore a certificate under the same terms and conditions as existing law. However, in the case of a physician (including a podiatrist), the bill increases the reinstatement fee from $50 to $100 and the restoration fee from $100 to $200. The fees for a physician assistant remain the same.

If the Board finds that a certificate holder has failed to complete continuing education requirements, current law permits the Board to impose a civil penalty of not more than $5,000, in addition to or instead of any other authorized action. The bill maintains this civil penalty and specifies that, if the Board imposes only a civil penalty and takes no other disciplinary action, it cannot conduct an adjudication under the Administrative Procedure Act.

Conditions for restoring or issuing certificates

(R.C. 4731.222)

Skills assessments

Under existing law, the Board may restore a certificate to practice that has been in a suspended or inactive state for more than two years. The Board may also issue a certificate to practice to an applicant who has not been engaged in practice for more than two years as an active practitioner or a student. Before restoring or issuing a certificate, the Board may impose terms and conditions, including (1) requiring the applicant to pass an examination to determine fitness to resume practice, (2) requiring the applicant to obtain additional training and pass an examination, or (3) restricting or limiting the applicant's practice.

The bill authorizes the Board to impose additional terms and conditions before restoring or issuing a certificate to practice. These include:

(1) Requiring an assessment of the applicant's physical skills for purposes of determining whether the applicant's coordination, fine motor skills, and dexterity are sufficient for performing medical evaluations and procedures in a manner that meets the minimal standards of care;

(2) Requiring an assessment of the applicant's skills in recognizing and understanding diseases and conditions;

(3) Requiring the applicant to undergo a comprehensive physical examination, which may include an assessment of physical abilities, evaluation of sensory capabilities, or screening for the presence of neurological disorders.

Conforming and clarifying changes

The provisions regarding the Board's authority to restore or issue certificates to practice are part of the law governing physicians (including podiatrists) and practitioners of the limited branches of medicine, which consist of cosmetic therapy,

massage therapy, naprapathy, and mechanotherapy.[154] For consistency within these provisions, the bill includes references to podiatrists and practitioners of limited branches of medicine where the references are currently omitted.

In addition to the changes made for consistency, the bill specifies that the Board is authorized to impose one or more of the terms and conditions included in either existing law or the bill. Current law provides that the Board may impose any of the specified terms and conditions, but it does not expressly authorize the Board to impose more than one of them.

Continuing education requirements

(R.C. 4730.14, 4731.15, 4731.22, 4731.281, 4731.282, 4731.283 (repealed), 4731.293, 4731.295, 4731.296, 4731.297, 4778.06, and 5903.12)

If the Board finds that a physician (including a podiatrist) or physician assistant has failed to complete continuing education requirements, current law permits the Board to impose a civil penalty of not more than $5,000, in addition to or instead of any other authorized action. The bill maintains this civil penalty and specifies that, if the Board imposes only a civil penalty and takes no other disciplinary action, it cannot conduct an adjudication under the Administrative Procedure Act.

The bill clarifies continuing education requirements for physicians (including podiatrists) by requiring that physicians complete 100 hours of continuing medical education, rather than requiring physicians to certify to the State Medical Board that they have completed 100 hours of continuing medical education. It does not make substantive changes to the requirements.

Expedited certificate to practice by endorsement

(R.C. 4731.299)

Current law authorizes the Board to issue, without examination, an expedited certificate to practice medicine and surgery or osteopathic medicine and surgery by endorsement. Individuals seeking an expedited certificate must file a written application with the Board. The bill specifies that the secretary and supervising member of the Board must review all applications for expedited certificates. The bill also provides that, if the secretary and supervising member determine that an applicant has met all of the necessary requirements, the Board must issue the certificate. Under the bill, if the secretary and supervising member determine that an applicant has not met all

[154] R.C. 4731.15 and 4731.151, not in the bill.

of the requirements, the application must be treated as an application for a certificate to practice medicine and surgery or osteopathic medicine and surgery.

Civil penalties imposed by the Board

(R.C. 4730.252, 4731.225, 4731.24, 4760.133, 4762.133, 4774.133, and 4778.141)

The bill generally authorizes the Board to impose a civil penalty on a professional who violates the law administered by the Board. The bill applies to the following professionals: physicians, podiatrists, physician assistants, massage therapists, cosmetic therapists, naprapaths, mechanotherapists, anesthesiologist assistants, oriental medicine practitioners, acupuncturists, radiologist assistants, and genetic counselors. Existing law does not generally authorize a civil penalty.

If the Board imposes a civil penalty, it must do so pursuant to an adjudication under the Administrative Procedure Act and an affirmative vote of not fewer than six Board members. The amount of a civil penalty must be determined by the Board in accordance with guidelines adopted by the Board. The civil penalty may be in addition to any other disciplinary action that current law permits the Board to take.

The bill requires the Board to adopt, and authorizes it to amend, guidelines regarding the amounts of civil penalties to be imposed. At least six Board members must approve the adoption or amendment of the guidelines. Under the guidelines, the amount of a civil penalty cannot exceed $20,000.

The bill provides that amounts received from payment of civil penalties must be deposited by the Board to the credit of the existing State Medical Board Operating Fund. With respect to civil penalties imposed for violations involving drug, alcohol, or substance abuse, the Board must use the amounts received solely for investigations, enforcement, and compliance monitoring.

Physician's report of patient's illegal drug use

(R.C. 4731.22 and 4731.62)

The bill authorizes a physician who is acting in a professional capacity and who knows or has reasonable cause to suspect that a patient is illegally using a dangerous drug, controlled substance, controlled substance analog, or metabolite of a controlled substance, or is using deception or fraud to obtain one of those items, to report that knowledge or suspicion to a drug task force in the county in which the patient resides or in which the knowledge or suspicion is acquired. If there is no drug task force in the county, the physician may report to the police department of the municipal corporation or the sheriff of the county in which patient resides or in which the knowledge or

suspicion is acquired. A report is not a breach of physician-patient confidentiality and does not subject a physician to civil liability for harm allegedly resulting from the report.

Prescribing based on remote examination

(R.C. 4731.74)

The bill codifies, with certain changes, an administrative rule[155] governing when a physician may prescribe or dispense a prescription drug to a person on whom the physician has never conducted a medical evaluation.

Drugs that are not controlled substances

The bill authorizes a physician to prescribe or dispense a prescription drug that is not a controlled substance to a patient in a remote location, on whom the physician has never conducted a medical evaluation, if the physician does all of the following:

(1) In a manner consistent with the standard for in-person care by a physician, completes and documents a medical evaluation of the patient and collects clinical data as needed to establish a diagnosis, identify any underlying conditions, and identify any contraindications to the treatment recommended or provided;

(2) Examines the patient using appropriate technology, unless the bill's exception is met (see "**Technology requirements and exception**," below);

(3) Documents speaking to the patient regarding treatment options and the risks and benefits of treatment in order that that patient can provide informed consent to treatment;

(4) Maintains a contemporaneous medical record that is readily available to the patient and to the patient's other health care providers;

(5) Includes the electronic prescription information as part of the patient's medical record;

(6) Follows-up with the patient to assess the therapeutic outcome, as necessary.

Technology requirements and exception

The bill generally prohibits a physician from prescribing or dispensing a prescription drug that is not a controlled substance to a patient on whom the physician

[155] O.A.C. 4731-11-09.

has never conducted a medical evaluation unless the physician meets the requirements above, including examination of the patient using appropriate technology. The bill specifies that the technology must be capable of all of the following:

(1) Transmitting images of the patient's physical condition in real time;

(2) Transmitting information regarding the patient's physical condition and other relevant clinical data and vital signs as needed to establish a diagnosis, identify underlying conditions, and identify any contraindications to the treatment recommended or provided;

(3) Being adjusted for better image quality and definition.

The bill contains an exception to permit prescribing or dispensing a prescription drug that is not a controlled substance without the use of technology in circumstances where the patient has a designated primary care physician, or the patient designates a primary care physician with the assistance of the remote physician. In those circumstances, the remote physician may examine the patient over the telephone without the use of technology if the following requirements are met:

(1) The remote physician is physically located in Ohio;

(2) The remote physician has received credentials to provide telehealth services pursuant to a process certified by the National Committee for Quality Assurance;

(3) The remote physician forwards the patient's electronic health record to the patient's designated primary care physician;

(4) The remote physician is available to follow up with the patient after the consultation as necessary.

Controlled substances

The bill also specifies several situations in which a physician may prescribe or dispense a prescription drug, including a controlled substance, to a patient on whom the physician has never conducted a medical evaluation:

(1) The person is a patient of a colleague of the physician and the drugs are provided pursuant to an on call or cross coverage arrangement between the physicians.

(2) The physician is consulting with another physician or health care provider who is authorized to practice in Ohio, is acting within the scope of the physician or health care provider's professional license, and has prescriptive authority, but only if the other physician or health care provider has an ongoing professional relationship

with the patient, has agreed to supervise the patient's use of the drug or drugs provided, and, if appropriate, has a supervision agreement or standard care arrangement with the physician.

(3) The physician is the medical director of licensed hospice care program or is the attending physician of a hospice care patient enrolled in a licensed hospice program and the drugs are prescribed, dispensed, or otherwise provided to the hospice patient.

(4) The person has been admitted as an inpatient to, or is a resident of, an institutional facility.

Professional standards

The bill states that it does not imply that a single in-person medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the course of professional practice.

Therapeutic recreation camps

Immunity of health care professionals

(R.C. 2305.231)

The bill provides immunity to health care professionals volunteering services to therapeutic camps. Under the bill, physicians and registered nurses who volunteer at a therapeutic recreation camp are not liable in damages in a civil action for administering medical care, emergency care, or first aid treatment to a camp participant. Immunity does extend to acts of the health care professional that constitute willful or wanton misconduct.

The bill defines "therapeutic recreation" to mean adoptive recreation services to persons with illnesses or disabling conditions in order to restore, remediate, or rehabilitate, to improve functioning and independence, or to reduce or eliminate the effects of illness or disability.

Under continuing law physicians, dentists, and registered nurses are given immunity from civil liability when volunteering services to school athletic programs when providing first aid or emergency care, except in situations of willful or wanton misconduct.

Practicing without an Ohio medical certificate at free therapeutic camps

(R.C. 4731.41)

The bill provides an exception to the requirement that any person practicing medicine have a certificate from the State Medical Board. The bill provides that a physician licensed and in good standing in another state and that provides the proper documentation may volunteer medical services to a free-of-charge camp accredited by The SeriousFun Children's Network that specializes in providing therapeutic recreation for individuals with chronic illnesses, as long as all the following apply:

(1) The physician provides documentation to the medical director of the camp that the physician is licensed and in good standing to practice medicine in another state;

(2) The physician provides services only at the camp or in connection with camp events or activities that occur off the grounds of the camp;

(3) The physician receives no compensation for services;

(4) The physician provides services within Ohio for no more than 30 days per calendar year;

(5) The camp has a medical director who holds an Ohio medical license.

Clarification regarding the Board's disciplinary statute

(Section 747.10)

With respect to the statute that establishes grounds and procedures for disciplinary actions taken by the Board (R.C. 4731.22), the bill provides that the inclusion of that statute in the repeal clause of H.B. 394, from the 130th General Assembly, as an outright repeal was a typographical error. The bill further provides that the intent of the General Assembly was to amend the statute, rather than repeal it outright.

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Recovery housing

- Defines "recovery housing" to include housing for individuals recovering from alcoholism as well as drug addiction.

Prohibition on discriminatory practices

- Prohibits an alcohol, drug addiction, and mental health services (ADAMHS) board or community addiction or mental health services provider from discriminating in the provision of addiction and mental health services, in employment, or under a contract based on religion or age (in addition to race, color, creed, sex, national origin, or disability, as specified in existing law).

Joint state plan to improve access

- Eliminates certain requirements relating to a joint state plan designed to improve access to alcohol and drug addiction services for individuals a public children services agency identifies as being in need of those services.

Confidentiality of records

- Eliminates the confidentiality of specified mental health records identifying a patient who has been deceased for 50 years or longer.

Mental health service provider noncompliance

- Permits the Department of Mental Health and Addiction Services (ODMHAS) to suspend the admission of patients to a hospital treating mentally ill persons or a community addiction services provider offering overnight accommodations under certain circumstances.

- Authorizes ODMHAS to refuse to renew a hospital's license to treat the mentally ill for specified reasons.

Residential facilities

- Amends the definition of "residential facility" to create different classes of residential facilities based on the size of the facility and the types of services offered by the facility.

- Expands the reasons ODMHAS may suspend admissions to a residential facility, refuse to issue or renew, or revoke a facility's license.

- Modifies the requirements regarding the operation of residential facilities.

Rules

- Modifies ODMHAS's rule-making authority.

Social Security Residential State Supplement eligibility

- Makes changes to the eligibility requirements for the Residential State Supplement Program.
- Limits the referral requirements under the Residential State Supplement Program.
- Removes the current law requirement that ODMHAS maintain a waiting list for the Residential State Supplement Program.
- Permits the Department of Medicaid to (1) determine whether an applicant meets eligibility requirements and (2) notify each denied applicant of the applicant's right to a hearing.

Probate court reimbursement

- Eliminates the requirement of sending a probate court's transcript of proceedings to the mentally ill person's county of residence in order for the committing court to be reimbursed for its expenses and instead requires the sending of a certified copy of the commitment order.

Office of Support Services Fund

- Renames the "Office of Support Services Fund" used by ODMHAS to be the "Ohio Pharmacy Services Fund."

Drug court pilot program

- Creates a pilot program to provide addiction treatment to persons who are offenders in the criminal justice system and are dependent on opioids, alcohol, or both.
- Requires certified community addiction services providers to provide specified treatment to the participants in the pilot program based on the individual needs of each participant.
- Requires a research institute to prepare a report on the pilot program's findings and to submit the report to the Governor and other specified persons.

Bureau of Recovery Services

- Transfers the Bureau of Recovery Services in the Department of Rehabilitation and Correction to ODMHAS.

Technical changes

- Makes technical corrections to existing provisions governing the duties of ADAMHS boards, ODMHAS, and community addiction and mental health services providers.

Recovery housing

(R.C. 340.01, 340.03, and 340.034; Section 812.40)

Under existing law, recovery housing must be included in the array of treatment services and support services for all levels of opioid and co-occurring drug addiction. The bill defines "recovery housing" to include housing for individuals recovering from alcoholism as well as drug addiction. Under the bill, a "residential facility" is a publicly or privately operated home or facility that falls into one of three categories (see ""**Residential facility**" **definition**,"" below).[156]

Prohibition on discriminatory practices

(R.C. 340.12)

The bill prohibits an alcohol, drug addiction, and mental health services (ADAMHS) board or community addiction or mental health services provider from discriminating in the provision of addiction and mental health services, in employment, or under a contract on the basis of religion or age. Those practices are currently prohibited on the basis of race, color, creed, sex, national origin, or disability.

Joint state plan to improve access to alcohol and drug addiction services

(R.C. 5119.161)

The bill eliminates two requirements relating to a joint state plan administered by the Department of Mental Health and Addiction Services (ODMHAS), in conjunction with the Ohio Department of Job and Family Services (ODJFS), to improve access to alcohol and drug addiction services for individuals a public children services agency identifies as being in need of those services. First, the bill eliminates the requirement

[156] R.C. 5119.34.

that the plan address the need and manner for sharing information and include a request for an appropriation to pay for alcohol and drug addiction services for caregivers of at-risk children. Second, the bill eliminates the requirement that ODMHAS and ODJFS submit a biennial report to the Governor and certain other public officials of the progress made under the plan.

Confidentiality of mental health records

(R.C. 5119.28 and 5122.31)

The bill sets a time limit with respect to the confidentiality of mental health records in certain circumstances. First, the bill specifies that all records and reports pertaining to an individual's mental health condition maintained in connection with services certified by ODMHAS that identifies the individual are no longer confidential once the individual has been deceased for 50 years or longer. Second, the bill specifies that all certificates, applications, records, and reports from a hospitalization or commitment due to mental illness that directly or indirectly identify an individual are no longer confidential once the individual has been deceased for 50 years or longer.

Mental health service provider noncompliance

(R.C. 5119.33 and 5119.36 with conforming changes in R.C. 5119.99)

Suspension

The bill permits ODMHAS to suspend the admission of patients to a hospital treating mentally ill persons or a community addiction services provider offering overnight accommodations if it finds either of the following:

(1) That the hospital or provider is not in compliance with ODMHAS rules;

(2) The hospital or provider was cited for repeated violations during previous license or certification periods.

Refusal to renew

The bill also permits ODMHAS to refuse to renew, in addition to revoke under existing law, a hospital's license to treat the mentally ill for any of the following reasons:

(1) The hospital is no longer a suitable place for the care or treatment of mentally ill persons.

(2) The hospital refuses to be subject to ODMHAS inspection or on-site review.

(3) The hospital has failed to furnish humane, kind, and adequate treatment and care.

(4) The hospital fails to comply with the ODMHAS licensure rules.

Licensing and operation of residential facilities

(R.C. 5119.34 with conforming changes in R.C. 340.03, 340.05, 5119.341, 5119.41, and 5123.19)

"Residential facility" definition

The bill replaces the definition of "residential facility" with a new definition that creates different classes of publicly or privately operated residential facilities based on the size of the facility and the types of services offered by the facility. These classes parallel current groups included, with the major difference being the removal of the requirement of a referral.

- Class one facilities provide accommodations, supervision, personal care services, and mental health services for one or more unrelated adults with mental illnesses, or one or more unrelated children or adolescents with severe emotional disturbances.

- Class two facilities provide accommodations, supervision, and personal care services to (1) one or two unrelated persons with mental illness, (2) one or two unrelated adults who are receiving Residential State Supplement payments, and (3) three to 16 unrelated adults.

- Class three facilities provide room and board for five or more unrelated adults with mental illness.

The bill removes from current law's exclusions from the definition of "residential facility" the current exclusion of certified alcohol or drug addiction services. The bill also excludes from the definition the residence of a relative or guardian of a person with mental illness and an institution maintained, operated, managed, and governed by ODMHAS for the hospitalization of mentally ill persons.

Under current law, "residential facility" means a publicly or privately operated home or facility that provides one of the following:

(1) Accommodations, supervision, personal care services, and community mental health services for one or more unrelated adults with mental illness or severe mental disabilities or to one or more unrelated children and adolescents with a serious emotional disturbance or who are in need of mental health services who are referred by

or are receiving community mental health services from a community mental health services provider, hospital, or practitioner.

(2) Accommodations, supervision, and personal care services to any of the following: (a) one or two unrelated persons with mental illness or persons with severe mental disabilities who are referred by or are receiving mental health services from a community mental health services provider, hospital, or practitioner, (b) one or two unrelated adults who are receiving Residential State Supplement payments, or (c) three to 16 unrelated adults.

(3) Room and board for five or more unrelated adults with mental illness or severe mental disability who are referred by or are receiving community mental health services from a community mental health services provider, hospital, or practitioner.

Residential facility suspensions and licensure discipline

Additionally, the bill expands the reasons ODMHAS may suspend admissions to a residential facility, refuse to issue or renew, or revoke a facility's license to also include:

(1) The facility has been cited for a pattern of serious noncompliance or repeated violations during the current licensing period or a pattern of serious noncompliance during the previous licensing period.

(2) ODMHAS finds that an applicant or licensee submitted false or misleading information as part of an application, renewal, or investigation.

Such a suspension remains in effect during the pendency of licensure proceedings.

Rules

(R.C. 5119.34 and 5119.36)

The bill changes ODMHAS's rule-making authority:

The bill requires ODMHAS to adopt rules establishing procedures for conducting background investigations of nonresidential occupants of residential facilities who may have direct access to facility residents. Under current law, criminal records checks are only required for prospective or current operators, employees, and volunteers.

The bill also removes ODMHAS' duty to adopt rules governing procedures for obtaining an affiliation agreement between a residential facility and a community mental health services provider.

Finally, in the provision requiring ODMHAS to adopt rules establishing certification standards for mental health services and addiction services, the bill replaces references to "conditional" certifications for addiction service and mental health service providers with "probationary and interim" certifications. These rules address standards and procedures for granting these types of certifications and the limitations to be placed on a provider that is granted such a certification.

Social Security Residential State Supplement eligibility

(R.C. 5119.41 and 5119.411 (repealed))

The bill makes three changes to the eligibility requirements for the Social Security Residential State Supplement Program. First, the bill removes from the list of residences eligible for the residential state supplement an apartment or room certified and approved under Ohio law to provide community mental health housing services. Second, the bill permits an individual residing in a living arrangement housing more than 16 individuals to be eligible for the Program if the ODMHAS Director waives the size limitation with respect to that individual (and an individual with such a waiver as of October 1, 2015, remains eligible for the Program as long as the individual remains in that living arrangement). Third, the bill removes the eligibility requirement that a residential state supplement administrative agency have determined that an individual's living environment is appropriate for the individual's needs.

The bill also limits the referral requirements so that a residential state supplement administrative agency must refer an enrolled individual for an assessment with a community mental health services provider only if the agency is aware that the individual has mental health needs. Current law requires the agency to refer an individual for an assessment if the individual is eligible for Social Security payments, Supplemental Security Income payments, or Social Security Disability insurance benefits because of a mental disability.

The bill removes the current law requirement that ODMHAS maintain a waiting list for the Residential State Supplement Program.

The bill also changes the authority under which the ODMHAS Director adopts rules for the Program from R.C. 111.15 rules to Administrative Procedure Act rules.

Finally, the bill permits the Department of Medicaid, in addition to the county department of job and family services, to (1) determine whether an applicant meets eligibility requirements and (2) notify each denied applicant of the applicant's right to a hearing. Under current law, only the county department can engage in those activities. In addition, the hearing is to be held under the general Ohio Department of Job and Family Services appeals procedure, rather than under the APA as under current law.

Probate court reimbursement for fees for commitment of mentally ill

(R.C. 5122.36)

The bill changes the documents required to be sent by a probate court that is ordering the hospitalization of a mentally ill person whose temporary residence is in that court's county in order for the ordering court's fees and expenses for such hospitalization to be paid by the county of the person's legal residence. Under the bill, the ordering court must send to the probate court of the person's county of legal residence a certified copy of the ordering court's commitment order. Under current law, the ordering court must send a certified transcript of all proceedings in the ordering court. The bill requires the receiving court to enter and record the commitment order and provides that the certified commitment order is prima facie evidence of the person's residence.

Office of Support Services Fund

(R.C. 5119.44)

The bill renames the "Office of Support Services Fund" used by ODMHAS to be the "Ohio Pharmacy Services Fund."

Addiction treatment program

(Section 331.90)

ODMHAS is required to conduct a program to provide addiction treatment, including medication-assisted treatment, to persons who are offenders within the criminal justice system who are eligible to participate in an addiction treatment program. Participants in the program are to be selected because of their dependence on opioids, alcohol, or both. In conducting the program, ODMHAS is required to collaborate with the Ohio Supreme Court, the Department of Rehabilitation and Correction, and any agency of the state that ODMHAS determines may be of assistance in accomplishing the objectives of the program. ODMHAS also may collaborate with the ADAMHS board that serves the county in which a participating court is located and with the local law enforcement agencies serving that county.

"Addiction treatment program" means a session of a common pleas court, municipal court, or county court, or any division of these courts, that holds initial or final certification from the Ohio Supreme Court as a specialized docket program for drugs. ODMHAS is required to conduct the program in those courts of Adams, Allen, Butler, Clinton, Crawford, Delaware, Fairfield, Franklin, Gallia, Hamilton, Hardin, Hocking, Jackson, Lawrence, Lucas, Mercer, Montgomery, Noble, Summit, and Warren

counties that are conducting addiction treatment programs. However, if any of these counties do not have a court conducting an addiction treatment program, ODMHAS is required to conduct an addiction treatment program in another county. In addition to conducting the program in the courts that are conducting programs in the counties described above, ODMHAS may conduct the program in any court that is conducting an addiction treatment program in another county.

In order to ensure that funds appropriated to support the addiction treatment program are used in the most efficient manner with a goal of enrolling the maximum number of participants, the Medicaid Director, with major Ohio healthcare plans, is required to develop plans consistent with (1) to (4), below. There may be no prior authorizations or step therapy for medication-assisted treatment for participants in the addiction treatment program. The plans developed under this provision must ensure all of the following:

(1) The development of an efficient and timely process for review of eligibility for health benefits for all offenders selected to participate in the addiction treatment program;

(2) A rapid conversion to reimbursement for all healthcare services by the participant's health insurance company following approval for coverage of healthcare benefits;

(3) The development of a consistent benefit package that provides ready access to and reimbursement for essential healthcare services including, but not be limited to, primary healthcare, alcohol and opiate detoxification services, appropriate psychosocial services, and medication for long-acting injectable antagonist therapies and partial agonist therapies;

(4) The development of guidelines that require the provision of all treatment services, including medication, with minimal administrative barriers and within a timeframe that meets the requirements of individual patient care plans.

Selection of persons to participate in the addiction treatment program

An addiction treatment program is required to select criminal offenders to participate in the program who meet the legal and clinical eligibility criteria for the addiction treatment program and who are active participants in the program. The total number of offenders participating in a program at any time is limited to 1,500, except that ODMHAS may authorize additional persons to participate in circumstances that it considers to be appropriate. After being enrolled in an addiction treatment program, a participant must comply with all of the program's requirements.

Treatment provided

Only a certified community addiction services provider[157] is eligible to provide treatment in an addiction treatment program. The addiction services provider is required to do all of the following:

(1) Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the provider;

(2) Conduct professional, comprehensive substance abuse and mental health diagnostic assessments of a person under consideration as a program participant, to determine whether the person would benefit from substance abuse treatment and monitoring;

(3) Determine, based on the above assessment, the treatment needs of the participants served by the provider;

(4) Develop individualized goals and objectives for the participants served by the provider;

(5) Provide access to long-lasting antagonist therapies, partial agonist therapies, or both, that are included in the program's medication-assisted treatment;

(6) Provide other types of therapies, including psychosocial therapies, for both substance abuse and any disorders that are considered by the provider to be co-occurring disorders;

(7) Provide detoxification services;

(8) Provide participants with transportation to the treatments and therapies;

(9) Monitor program compliance through the use of regular drug testing, including urinalysis, of the participants being served by the provider.

A "prescriber" is any of the following individuals who are authorized by law to prescribe drugs or dangerous drugs or drug therapy related devices in the course of the individual's professional practice: (1) a dentist, (2) a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe drugs and therapeutic devices, (3) an optometrist, (4) a physician authorized to practice

[157] R.C. 5119.36, not in the bill.

medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, (5) a physician assistant, or (6) a veterinarian.[158]

In the case of medication-assisted treatment provided under the program, all of the following conditions apply:

(1) A drug may only be used if the drug has been approved by the U.S. Food and Drug Administration for use in treating dependence on opioids, alcohol, or both, or for preventing relapse into the use of opioids, alcohol, or both.

(2) One or more drugs may be used, but each drug that is used must constitute long-acting antagonist therapy or partial agonist therapy.

(3) If a drug constituting partial agonist therapy is used, the program is required to provide safeguards to minimize abuse and diversion of the drug, including such safeguards as routing drug testing of program participants.

Report

ODMHAS must select a nationally recognized research institution with experience in evaluating multiple court systems across jurisdictions in both rural and urban regions within 90 days after the effective date of the bill's section establishing the requirement. The research institution must have demonstrated experience evaluating the use of agonist and antagonist medication assisted treatment in drug courts, a track record of scientific publications, experience in health economics, and ethical and patient selection and consent issues. The research institution also must have an internal institutional review board.

The research institution is required to prepare a report on the findings obtained from the addiction treatment pilot program established by Section 327.120 of H.B. 59 of the 130th General Assembly. The report must include data derived from the drug testing and performance measures used in the program. The research institution must complete its report no later than December 31, 2016. The institution, upon its completion of the report, must submit the report to the Governor, Chief Justice of the Ohio Supreme Court, President of the Senate, Speaker of the House of Representatives, ODMHAS, Department of Rehabilitation and Correction, and any other state agency that ODMHAS collaborates with in conducting the pilot program.

[158] R.C. 4729.01(I), not in the bill.

Bureau of Recovery Services

(Section 331.100)

On July 1, 2015, the bill abolishes the Bureau of Recovery Services (BRS) in the Department of Rehabilitation and Correction (DRC) and transfers all of its functions, assets, and liabilities to ODMHAS. Any BRS business that is not completed by DRC on that date must be subsequently completed by ODMHAS; ODMHAS is the successor to BRS.

Beginning on the date of transfer, any rules, orders, and determinations pertaining to BRS continue in effect until modified or rescinded by ODMHAS. Additionally, any reference to BRS is deemed to refer to ODMHAS or its director, as appropriate.

The bill requires all BRS employees be transferred to ODMHAS and retain their current positions and benefits, subject to the layoff provisions pertaining to state employees under continuing law.

Finally, the bill specifies both of the following:

(1) No right, obligation, or remedy is lost or impaired by the transfer, and must be administered by ODMHAS.

(2) No pending proceeding is affected by the transfer, and must be prosecuted or defended in the name of ODMHAS or its director.

Technical changes

(R.C. 121.372, 340.03, 340.07, 340.15, 737.41, 2151.3514, 2925.03, 2929.13, 2935.33, 2951.041, 2981.12, 2981.13, 4511.191, 5107.64, 5119.01, 5119.11, 5119.186, 5119.21, 5119.23, 5119.25, 5119.31, 5119.36, 5119.361, 5119.365, and 5119.94)

The bill makes technical corrections to existing provisions governing the duties of ADAMHS boards, ODMHAS, and community addiction and mental health services providers, as well as conforming changes associated with the technical changes. A substantial number of the corrections fix errors that resulted from merging the Ohio Departments of Mental Health and Alcohol and Addiction Services in H.B. 59 of the 130th General Assembly, the main appropriations act for fiscal years 2014 and 2015. The bill also replaces incorrect references to "involuntary commitment" with references to "court-ordered treatment" to conform provisions to law enacted by S.B. 43 of the 130th General Assembly.

OHIO MILITARY FACILITIES COMMISSION

- Establishes the Ohio Military Facilities Commission for the purpose of developing and implementing a program to finance or assist in the financing of infrastructure capital improvements on military and defense installations in the state.
- Specifies that the financial assistance may be in the form of grants, loans, and loan guarantees.

Creation of the Commission

(R.C. 193.15, 193.16, and 193.17)

The bill creates the Ohio Military Facilities Commission for the purpose of developing and implementing a program to finance or assist in the financing of infrastructure capital improvements on military and defense installations in the state, including those facilities operated by the U.S. Department of Veterans Affairs, the Ohio Department of Veterans Services, NASA, and the Ohio National Guard. The term "infrastructure capital improvement" includes projects involving buildings, utilities, roadways, runways, railways, ramps, gates, fencing, and facilities other than buildings, including new construction, renovations, energy conservation measures, security upgrades, site preparation, land acquisition, clearance, demolition, removal, furnishings, equipment, design, engineering, and planning studies.

The Commission is to consist of the following members: (1) three members of the House of Representatives appointed by the Speaker of the House, two of whom are members of the majority party and one of whom is a member of the minority party, (2) three members of the Senate appointed by the Senate President, two of whom are members of the majority party and one of whom is a member of the minority party, (3) the Adjutant General or the Adjutant General's designee, (4) the Director of Budget and Management or the Director's designee, and (5) the Director of Administrative Services or the Director's designee. Initial appointments must be made not later than December 31, 2015. The appointed members are to serve four-year terms. The bill directs the Development Services Agency to provide administrative assistance to the Commission.

The financial assistance provided under the program may be in the form of grants, loans, and loan guarantees. It may also be provided for rental or lease payments that enable new construction in support of the Commission's purposes.

Upon receipt of an application, the Commission must examine the proposed infrastructure capital improvement to determine if it will support job creation, increase opportunities for long-term economic development, or increase the military value of the installation as described in the federal Defense Base Closure and Realignment Act of 1990.[159] Only those improvements that meet at least one of those conditions are eligible to receive financial assistance under the program.

[159] See Section 2913 of Public Law Number 101-510.

DEPARTMENT OF NATURAL RESOURCES

Sale, transfer, or use of Department property and water

- Requires the Director of Natural Resources to obtain the Governor's approval only for specified types of property transactions in an amount of $50,000 or more rather than generally requiring both the Governor's and Attorney General's approval of any such transaction in any amount as in current law.

- Generally requires any such transaction, regardless of the amount, to be executed in accordance with a provision of the Conveyances and Encumbrances Law that requires specific actions to be taken regarding conveyances of state real estate, including drafting by the Auditor of State and signature by the Governor.

Department notices

- Requires the Department to publish notices regarding certain activities, projects, or improvements as contemplated in the general newspaper publication statute.

Mining operation annual reports

- Transfers the responsibility to prepare and publish certain mining operation reports from the Chief of the Division of Geological Survey or the Chief of the Division of Mineral Resources Management to the Director or the Director's designee.

- Authorizes the Director or the Director's designee to require the Division of Mineral Resources Management to perform the reporting duties currently performed by the Division of Geological Survey.

Streams and wetlands restoration by coal mining operators

- Requires a permitted coal mining and reclamation operator to restore on the permit area streams and wetlands affected by mining operations unless the Chief of the Division of Mineral Resources Management approves mitigation activities off the permit area without a coal mining and reclamation permit, provided that the Chief first must make certain determinations.

- Requires the operator, if the Chief approves restoration off the permit area, to complete all mitigation construction or other activities required by the mitigation plan.

- Specifies that performance security for reclamation activities on the permit area must be released pursuant to current law, except that any release of the remaining

portion of performance security must not be approved prior to the construction of required mitigation activities off the permit area.

Coal mining permit applications

- Requires an applicant for a coal mining permit to submit with the application an accurate map or plan clearly showing the land for which the applicant will acquire the legal right to enter and commence coal mining operations during the term of the permit.

- Requires an applicant to submit with an application either a notarized statement describing the applicant's legal right to enter and commence coal mining operations or copies of the documents on which the applicant's legal right to enter and commence coal mining operations is based rather than only the latter.

- States that an application cannot be denied or considered incomplete by reason of right of entry documentation if the applicant documents the applicant's legal right to enter and mine at least 67% of the total area for which coal mining operations are proposed.

- Requires documents or a notarized statement forming the basis of an applicant's legal right to enter and commence coal mining operations on land located within an area covered by the permit and legally acquired subsequent to the permit's issuance to be submitted with an application for a permit revision.

- Stipulates that a permit must prohibit the commencement of coal mining operations on land located within an area covered by the permit if the permittee has not provided documents forming the basis of the permittee's legal right to enter and conduct coal mining operations on the land.

Wildlife Boater Angler Fund

- Revises the uses of the Wildlife Boater Angler Fund by allowing its use for maintenance and repair of dams and impoundments, rather than unspecified maintenance, and acquisitions, including lands and facilities for boating access, in addition to its existing uses.

- Specifies that the activities for which the Fund may be used must occur on waters, rather than only on lakes, on which the operation of gasoline-powered watercraft is permissible.

- Increases from $200,000 to $500,000 the amount of annual expenditures from the Fund that may be used to pay for related equipment and personnel costs.

Deer permits; hunting licenses

- Revises existing law requiring the procurement of a $23 deer permit to hunt deer by establishing a nonresident deer permit, the fee for which is $99, and a resident deer permit, the fee for which is $23.

- Retains existing law providing either half-price or free deer permits for Ohio residents who are at least 66 years old, and specifies that the fee for the existing youth deer permit remains ½ of the regular resident deer permit fee regardless of residency.

- Revises existing law requiring a person on active military duty who is either stationed in Ohio or on leave or furlough to obtain a deer permit by requiring such a person to obtain a resident deer permit and specifying that the person is eligible to obtain a resident deer permit regardless of residency.

- Increases the nonresident hunting license fee and the apprentice nonresident hunting license fee from $124 to $149.

Oil and Gas Law

Application of Law

- Applies the Oil and Gas Law to any form of business organization or entity recognized by Ohio law by including that description in the definition of "person" in that Law.

- Applies to public land provisions in the Law governing minimum distances of wells from boundaries of tracts, voluntary and mandatory pooling, special drilling units, establishment of exception tracts to which minimum acreage and distance requirements do not apply, unit operation of a pool, and revision of an existing tract by a person holding a permit under that Law.

- Accomplishes the change by revising the definition of "tract" in that Law by including land that is not taxed.

Definition of "condensate"

- Revises the definition of "condensate" in the Law, and thus for purposes of the bill's severance tax provisions, to mean liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system or by, rather than prior to, gas processing.

Application fee for permit to plug back existing well

- Requires an application for a permit to plug back an existing oil or gas well to be accompanied by a nonrefundable fee by removing the exemption in current law under which such an application need not be accompanied by a fee.

Emergency planning reporting

- Requires all persons that are regulated under the Law and rules adopted under it, rather than only owners or operators of facilities that are regulated under the Law, to submit specified information to the Chief of the Division of Oil and Gas Resources Management for inclusion in a database.

- Modifies provisions to be included in the rules governing the database by requiring the rules to ensure both of the following:

  --That the Emergency Response Commission, the local emergency planning committee of the emergency planning district in which a facility is located, and the fire department that has jurisdiction over a facility, rather than the Commission and every local emergency planning committee and fire department in Ohio as in current law, have access to the database; and

  --That the information submitted for the database be made immediately available, rather than available via the Internet or a system of computer disks as in current law, to the above entities.

- Revises current law by stipulating that an owner or operator is deemed to have satisfied all of the inventory requirements established under the Emergency Planning Law by complying with the bill's submission requirements rather than by filing a log and production statement with the Chief as in current law.

Notification of emergencies

- Requires an owner, a person issued an order under the Oil and Gas Law or rules, a registered brine transporter, or a surface applicator of brine to notify the Division of Oil and Gas Resources Management within 30 minutes after becoming aware of any of seven specified types of emergency occurrences unless notification within that time is impracticable under the circumstances.

- Requires a contractor performing services on behalf of a person who is required to provide such notice to notify that person within 30 minutes after the contractor becomes aware of any of the specified emergency occurrences unless notification within that time is impracticable under the circumstances.

- Prohibits a person from failing to comply with the above provisions, and states that a person violating the prohibition is subject to civil penalties, but not criminal penalties.

Mandatory pooling

- Authorizes the owner who has the right to drill to request a mandatory pooling order under the Law rather than the owner of the tract of land who is also the owner of the mineral interest as in current law.

- Allows an application for a mandatory pooling order to be submitted if a tract or tracts, rather than a single tract of land, are of insufficient size or shape to meet the statutory minimum acreage requirements for drilling a proposed well rather than for drilling a well.

- Revises that Law regarding mandatory pooling to distinguish between mineral rights owners and surface rights owners, including by requiring the Chief to notify all mineral rights owners of tracts within the area proposed to be pooled and included in the drilling unit of the filing of the application for a mandatory pooling order and their right to a hearing rather than all owners of land within that area.

Civil penalties for violations

- Increases civil penalties for certain violations of the Law.

Response costs and liability

- States that a person who violates the general permit requirements of the Law and provisions of that Law governing a permit for recovery operations, or any term or condition of a permit or order, is liable for damage or injury caused by the violation and for the actual cost of rectifying the violation and conditions caused by it.

- Establishes that a person may be subject to both a civil penalty and a term of imprisonment under the Law for the same offense.

Sale, transfer, or use of Department property and water

(R.C. 1501.01)

The bill requires the Director of Natural Resources to obtain the Governor's approval only for specified types of property transactions in an amount of $50,000 or more. Those property transactions are the sale, lease, or exchange of portions of lands or

real or personal property of the Department of Natural Resources; grants of easements or licenses for the use of the lands or property; and agreements for the sale of water from lands and waters under the Department's administration or care. Current law instead requires both the Governor's and Attorney General's approval of any such transaction in any amount unless that approval is not required for leases and contracts made under the Water Improvements Law and under the statutes governing public service facilities in state parks and the operation and maintenance of canals and canal reservoirs owned by the state.

The bill then requires any such transaction to be executed in accordance with a provision in the Conveyances and Encumbrances Law, if applicable, that generally requires all conveyances of real estate sold on behalf of the state to be drafted by the Auditor of State, executed in the name of the state, signed by the Governor, countersigned by the Secretary of State, sealed with the state seal, and entered by the Auditor of State in records kept by the Auditor for that purpose.

Department notices

(R.C. 1501.011)

The bill requires the Department to publish notices regarding certain activities, projects, or improvements as contemplated in the general newspaper publication statute. Continuing law requires the Department to supervise the design and construction of, and to make contracts for the construction, reconstruction, improvement, enlargement, alteration, repair, or decoration of, certain projects such as dam repairs, waterway safety improvements, and Division of Wildlife improvements.

The general newspaper publication statute requires that the first publication of a notice be made in its entirety in a newspaper of general circulation, but the second publication may be made in abbreviated form in a newspaper of general circulation and on the newspaper's Internet website if the newspaper has one. That statute also authorizes a state agency or political subdivision to eliminate any further newspaper publications, provided that the second, abbreviated notice meets all of the following requirements:

(1) It is published in the newspaper of general circulation in which the first publication of the notice was made and is published on that newspaper's Internet website if the newspaper has one.

(2) It is published on the state public notice website.

(3) It includes a title, followed by a summary paragraph or statement that clearly describes the specific purpose of the notice, and includes a statement that the notice is

posted in its entirety on the state public notice website. The notice also may be posted on the state agency's or political subdivision's Internet website.

(4) It includes the Internet addresses of the state public notice website and of the newspaper's and state agency's or political subdivision's Internet website if the notice or advertisement is posted on those websites and the name, address, telephone number, and electronic mail address of the state agency, political subdivision, or other party responsible for publication of the notice.

A notice published on an Internet website must be published in its entirety.

Mining operation annual reports

(R.C. 1505.10 and 1561.04)

The bill transfers the responsibility to prepare and publish mining operation annual reports from the Chief of the Division of Geological Survey to the Director or the Director's designee. The Director or the Director's designee may require the Division of Mineral Resources Management to perform the duties currently performed by the Division of Geological Survey regarding preparation and publishing of the reports. Continuing law requires the reports to include lists of operators and extraction operations in Ohio, information regarding commodities extracted, employment, and tonnage extracted at each location, and information regarding the production, use, distribution, and value of Ohio's mineral resources.

The bill also transfers the responsibility to submit an annual mining report to the Governor from the Chief of the Division of Mineral Resources Management to the Director or the Director's designee. Continuing law requires the report to include all of the following:

(1) A summary of the activities and of the reports of deputy mine inspectors;

(2) A statement of the condition and the operation of Ohio mines; and

(3) A statement of the number of accidents in and about the mines, the manner in which they occurred, and any other data and facts bearing on the prevention of accidents and the preservation of life, health, and property and any suggestions relative to the better preservation of the life, health, and property of those engaged in the mining industry.

The bill also transfers to the Director or the Director's designee the requirement to mail a copy of the report to each coal operator in Ohio and a representative of the miners at each mine as well as other persons identified by the Director. Finally, under

the bill, the Director or the Director's designee, rather than the Chief, must prepare and publish quarterly reports containing the above information.

Streams and wetlands restoration by coal mining operators

(R.C. 1513.16)

The bill requires a permitted coal mining and reclamation operator to restore on the permit area streams and wetlands affected by mining operations unless the Chief of the Division of Mineral Resources Management approves mitigation activities off the permit area without a coal mining and reclamation permit instead of restoration on the permit area, provided that the Chief first makes all of the following written determinations:

(1) A hydrologic and engineering assessment demonstrates that restoration on the permit area is not possible;

(2) The proposed mitigation plan under which mitigation activities described in item (3), below, will be conducted is limited to a stream or wetland, or a portion of a stream or wetland, for which restoration on the permit area is not possible;

(3) Mitigation activities off the permit area, including mitigation banking and payment of in-lieu mitigation fees, will be performed pursuant to a permit issued under the Federal Water Pollution Control Act or a state isolated wetland permit or pursuant to a no-cost reclamation contract for the restoration of water resources affected by past mining activities; and

(4) The proposed mitigation plan and mitigation activities comply with the performance standards that apply to operators.

The bill also requires the operator, if the Chief approves restoration off the permit area, to complete all mitigation construction or other activities required by the mitigation plan. In addition, the bill specifies that performance security for reclamation activities on the permit area must be released pursuant to current law, except that any release of the remaining portion of performance security must not be approved prior to the construction of required mitigation activities off the permit area.

Coal mining permit applications

(R.C. 1513.07)

The bill requires an applicant for a coal mining permit to submit with the application an accurate map or plan, to an appropriate scale, clearly showing the land for which the applicant will acquire the legal right to enter and commence coal mining

operations during the term of the permit. It then requires an applicant to submit with an application either a notarized statement describing the applicant's legal right to enter and commence coal mining operations or copies of the documents on which the applicant's legal right to enter and commence coal mining operations is based rather than only the latter as in current law. Under the bill, an application cannot be denied or considered incomplete by reason of right of entry documentation if the applicant documents the applicant's legal right to enter and mine at least 67% of the total area for which coal mining operations are proposed.

The bill also requires documents or a notarized statement forming the basis of an applicant's legal right to enter and commence coal mining operations on land located within an area covered by the permit and legally acquired subsequent to the issuance of the permit for the area to be submitted with an application for a permit revision. Finally, the bill stipulates that a permit must prohibit the commencement of coal mining operations on land located within an area covered by the permit if the permittee has not provided documents forming the basis of the permittee's legal right to enter and conduct coal mining operations on the land.

Wildlife Boater Angler Fund

(R.C. 1531.35)

The bill revises the uses of the Wildlife Boater Angler Fund by allowing its use for maintenance and repair of dams and impoundments, rather than unspecified maintenance as in current law, and acquisitions, including lands and facilities for boating access, in addition to its existing uses for boating access construction and improvements and to pay for equipment and personnel costs involved with those activities. The bill also specifies that the above activities must occur on waters, rather than only on lakes, on which the operation of gasoline-powered watercraft is permissible and increases from $200,000 to $500,000 the amount of annual expenditures from the Fund that may be used to pay for equipment and personnel costs.

Deer permits; hunting licenses

(R.C. 1533.10, 1533.11, and 1533.12)

The bill revises existing law requiring the procurement of a $23 deer permit to hunt deer by establishing a nonresident deer permit, the fee for which is $99, and a resident deer permit, the fee for which is $23. It retains and slightly revises existing law under which an Ohio resident who is at least 66 years old, unless the person was born on or before December 31, 1937, may obtain a senior resident deer permit, the fee for which is ½ of the resident deer permit fee. The bill similarly retains existing law that allows an Ohio resident who was born on or before December 31, 1937, to be issued a

free deer permit. Under the bill, a nonresident who is at least 66 years old must obtain the nonresident deer permit established by the bill rather than the general deer permit required in existing law. The bill also specifies that the fee for a youth deer permit established in current law is ½ of the regular resident deer permit fee regardless of residency.

In addition, the bill revises existing law requiring a person on active duty in the U.S. Armed Forces who is either stationed in Ohio or on leave or furlough to obtain a deer permit by requiring such a person to obtain a resident deer permit and specifying that the person is eligible to obtain a resident deer permit regardless of whether the person is a resident of Ohio. It retains existing law under which such a person need not obtain a hunting license in order to obtain a deer permit.

Finally, the bill increases the fee for a nonresident hunting license and an apprentice nonresident hunting license from $124 to $149.

Oil and Gas Law

Application of Law

(R.C. 1509.01)

The bill applies the Oil and Gas Law to any form of business organization or entity recognized by Ohio law by including that description in the definition of "person" in that Law.

Additionally, the bill applies to public land provisions in the Law governing minimum distances of wells from the boundaries of tracts, voluntary and mandatory pooling, special drilling units, establishment of exception tracts to which minimum acreage and distance requirements do not apply, unit operation of a pool, and revision of an existing tract by a person holding a permit under that Law. The bill accomplishes the change by revising the definition of "tract" to mean a single, individual parcel of land or a portion of a single, individual parcel of land rather than a single, individually taxed parcel of land appearing on the tax list as in current law.

Definition of "condensate"

(R.C. 1509.01(D))

The bill revises the definition of "condensate" in the Law to mean liquid hydrocarbons separated at or near the well pad or along the gas production or gathering system or by gas processing rather than prior to gas processing as in current law. The term is used in the statute governing unitization as revised by the bill and also in continuing law authorizing the Chief of the Division of Oil and Gas Resources

Management to adopt rules establishing requirements to prevent and contain surface and subsurface discharges of condensates. Additionally, "condensate" as defined in the Law is used in the bill's provisions revising the severance tax.

Application fee for permit to plug back existing well

(R.C. 1509.06)

The bill requires an application for a permit to plug back an existing oil or gas well to be accompanied by a nonrefundable fee as follows:

(1) $500 for a permit to conduct activities in a township with a population of fewer than 10,000;

(2) $750 for a permit to conduct activities in a township with a population of 10,000 to 14,999; or

(3) $1,000 for a permit to conduct activities in either a township with a population of 15,000 or more or a municipal corporation regardless of population.

The bill accomplishes the change by removing the exemption in current law under which such an application need not be accompanied by a fee.

Emergency planning reporting

(R.C. 1509.11, 1509.23, 1509.231, 3750.081, and 3750.13)

The bill revises certain requirements governing the reporting of hazardous materials associated with oil and gas operations. Under current law, persons regulated under the Law must report to the Division of Oil and Gas Resources Management specified information regarding hazardous materials that is required to be reported by the federal Emergency Planning and Community Right-to-Know Act (EPCRA). The Chief of the Division, in consultation with the Emergency Response Commission, must adopt rules that specify the information that must be included in an electronic database that the Chief creates and hosts. The information must be information that the Chief considers to be appropriate for the purpose of responding to emergency situations that pose a threat to public health or safety or the environment.

The bill requires all persons that are regulated under the Law and rules adopted under it, rather than only owners or operators of facilities that are regulated under the Law, to submit the above information to the Chief. As a result, the bill requires the information to be filed with the Chief on or before March 1 of each year rather than as part of an owner or operator's statement of production of oil, gas, and brine for a specified period of time as provided in current law.

The bill retains, with certain modifications, provisions to be included in the rules governing the database and the information submitted for it. Specifically, the bill's modifications require the Chief's rules to do all of the following:

(1) Require that the information be consistent with the information that a person regulated under the Law is required to submit under EPCRA;

(2) Ensure that the Emergency Response Commission, the local emergency planning committee of the emergency planning district in which a facility is located, and the fire department that has jurisdiction over a facility, rather than the Commission and every local emergency planning committee and fire department in Ohio as in current law, have access to the database;

(3) Ensure that the information submitted for the database be made immediately available, rather than available via the Internet or a system of computer disks as in current law, to the above entities; and

(4) Ensure that the information includes the information required to be reported under the Emergency Planning Law and rules adopted under it governing the submission of an emergency and hazardous chemical inventory form.

As a result of the modification discussed in item (1), above, the bill eliminates current law that requires, at a minimum, the information in the database to include the information that a person that is regulated under the Law is required to submit under EPCRA.

For purposes of the above provisions, the bill applies the definition of "facility" in the Emergency Planning Law. Under that Law, a facility is all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and that are owned or operated by the same person or by any person who controls, is controlled by, or is under common control with that person.

The bill then revises a requirement governing the filing of information under the state Emergency Planning Law. Under the bill, an owner or operator of a facility that is regulated under the Oil and Gas Law generally is deemed to have satisfied all of the inventory requirements established under the Emergency Planning Law by complying with the requirements established by the bill. Current law instead specifies that any such owner or operator who has filed a log and production statement with the Chief in accordance with the Oil and Gas Law is generally deemed to have satisfied all of the submission and filing requirements established under the Emergency Planning Law.

Finally, the bill makes conforming changes.

Notification of emergencies

(R.C. 1509.232)

The bill requires an owner, a person to whom an order is issued under the Oil and Gas Law or rules adopted under it, a person to whom a registration certificate to transport brine is issued, or a person engaged in the surface application of brine to notify the Division of Oil and Gas Resources Management by means of a toll free telephone number designated by the Chief of the Division or by electronic means designated by the Chief within 30 minutes after becoming aware of specified emergency occurrences unless notification within that time is impracticable under the circumstances. The specified emergency occurrences requiring such notification are the following:

(1) An uncontrolled or unplanned release of gas associated with a production operation or other activity regulated under that Law or rules adopted under it in an amount determined, in good faith, to equal or exceed 100 MCF;

(2) A release of oil outside a containment area associated with a production operation or other activity regulated under that Law or rules adopted under it if the release is in an amount determined, in good faith, to exceed 210 U.S. gallons or as specified by rule adopted by the Chief;

(3) A release of brine, drill cuttings, or other regulated drilling wastes outside the boundary of a site or facility regulated under that Law or rules adopted under it;

(4) A release of hydrogen sulfide associated with a production operation or other activity regulated under that Law or rules adopted under it in an amount determined, in good faith, to exceed 20 parts per million;

(5) A discharge or spill of a liquid, solid, or semisolid substance or material associated with a production operation or other activity regulated under that Law or rules adopted under it in an amount determined, in good faith, to exceed a reportable quantity as defined in rules adopted under the Emergency Planning Law, excluding a discharge or spill consisting solely of fresh water or storm water;

(6) A fire or explosion associated with a production operation or other activity regulated under that Law or rules adopted under it, excluding flaring or controlled burns authorized under the Oil and Gas Law or rules adopted under it or by the terms and conditions of a permit issued under the Law; or

(7) The response by a fire department or a person providing emergency medical services to the location of, and for the purpose of responding to, an occurrence specified above.

Under the bill, a contractor performing services on behalf of a person who is required to provide notice as discussed above must notify that person within 30 minutes after becoming aware of any of the above emergency occurrences unless notification within that time is impracticable under the circumstances.

The bill prohibits anyone from failing to comply with the notification requirements. A person that violates the prohibition is subject to civil penalties, but not criminal penalties. The bill authorizes the Chief to adopt rules that are necessary for the administration of the notification provisions.

Mandatory pooling

(R.C. 1509.27)

The bill authorizes the owner who has the right to drill to request a mandatory pooling order under the Law rather than the owner of the tract of land who is also the owner of the mineral interest as in current law. In addition, the bill allows an application for a mandatory pooling order to be submitted if a tract or tracts, rather than a single tract of land as in existing law, are of insufficient size or shape to meet the statutory minimum acreage requirements for drilling units for drilling a proposed well rather than for drilling a well as in existing law.

The bill also revises that Law regarding mandatory pooling to distinguish between mineral rights owners and surface rights owners as follows:

(1) Requires the Chief to notify all mineral rights owners of tracts within the area proposed to be pooled by an order and included in the drilling unit of the filing of the application for a mandatory pooling order and of their right to a hearing rather than all owners of land within that area;

(2) Requires a mandatory pooling order to allocate on a surface acreage basis a pro rata portion of the production to each tract pooled by the order rather than to the owner of each such tract, and requires the pro rata portion to be in the same proportion that the percentage of the tract's acreage, rather than the owner's acreage, is to the state minimum acreage requirements;

(3) Requires a mandatory pooling order to specify the basis on which each mineral rights owner of a tract, rather than each owner of a tract, pooled by the order must share all reasonable costs and expenses of drilling and producing if the mineral

rights owner, rather than the owner of a tract, elects to participate in the drilling and operation of the well;

(4) Prohibits surface operations or disturbances to the surface of the land from occurring on a tract pooled by an order without the written consent of or a written agreement with the surface rights owner of the tract rather than the owner of the tract; and

(5) Provides that a mineral rights owner of a tract pooled by a mandatory pooling order who does not elect to participate in the risk and cost of the drilling and operation of a well must be designated as a nonparticipating owner in the drilling and operation and is not liable for actions or conditions associated with the drilling or operation rather than applying those provisions to the owner of a tract.

Civil penalties for violations

(R.C. 1509.33)

The bill increases civil penalties for certain violations of the Law as follows:

Type of violation	The bill	Current law
Violations of provisions of the Oil and Gas Law, including violations of any rules or orders and terms or conditions of a permit or registration certificate, for which no specific penalty is provided.	A civil penalty of not more than $10,000 for each offense.	A civil penalty of not more than $4,000 for each offense.
Violations of permitting requirements for the exploration for or extraction of minerals or energy other than oil or natural gas.	A civil penalty of not more than $10,000 for each violation.	A civil penalty of not more than $2,500 for each violation.

Response costs and liability

(R.C. 1509.33(G))

Under the bill, anyone who violates the general permit requirements of the Law or the provisions of that Law requiring a permit for additional and secondary recovery operations, or any term or condition of a permit or order issued by the Chief of the Division of Oil and Gas Resources Management, is liable for any damage or injury caused by the violation and for the actual cost of rectifying the violation and conditions

caused by it. The bill retains current law that imposes such liability on anyone who violates the provisions of that Law governing brine storage and brine transportation.

The bill also provides that a person may be subject to a civil penalty and a term of imprisonment for the same offense by revising current law to state that a person cannot be subject to both a civil penalty and a fine imposed as part of a criminal penalty under the Law for the same offense. Current law instead provides that a person cannot be subject to both a civil penalty and a criminal penalty, including both a fine and a term of imprisonment, under that Law for the same offense.

OHIO BOARD OF NURSING

- Removes the requirement that the Board of Nursing collect a $5 fee for written verification of licensure or certification.
- Modifies the structure of the course in advanced pharmacology and related topics that a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner must complete to obtain a certificate to prescribe.

Fees

(R.C. 4723.08 and 4723.88)

The bill removes the requirement that the Board of Nursing collect a $5 fee for written verification of licensure or certification.

Pharmacology course for nurses

(R.C. 4723.06, 4723.482, and 4723.50)

The bill modifies the structure of the course in advanced pharmacology and related topics that a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner must complete to obtain a certificate to prescribe. The bill removes the requirement that the course consist of planned classroom and clinical instruction. Under law unchanged by the bill, the course must consist of at least 45 contact hours and be approved by the Board.

- Modifies the requirements for continuing education regarding contact lens dispensing that a spectacle dispensing optician must complete.
- Requires a spectacle dispensing optician to complete two hours of study in contact lens dispensing before being authorized to dispense prepackaged soft contact lenses.
- Requires the Ohio Optical Dispensers Board to approve continuing education programs that are conducted in person or through electronic means.
- Specifies that "optical dispensing" does not include placing an order for the delivery of an optical aid.

Licensed spectacle dispensing optician

(R.C. 4725.40, 4725.411, and 4725.51)

The bill repeals a provision specifying that a spectacle dispensing optician's continuing education regarding contact lens dispensing is to be limited to education in the dispensing of prepackaged soft contact lenses and the action of matching the packaging description to a written prescription. Additionally, a spectacle dispensing optician must complete two hours of contact lens dispensing education approved by the Optical Dispensers Board before being authorized to dispense prepackaged soft contact lenses. The bill requires the Board to permit continuing education programs to be conducted either in person or through electronic means. This provision applies to all continuing education programs that require Board approval.

The bill specifies that "optical dispensing" does not include placing an order for the delivery of an optical aid, thereby excluding that action from any licensing requirements.

- Expressly provides that the Pharmacy Board is authorized to refuse to grant a registration certificate to operate as a wholesale distributor of dangerous drugs.
- Requires certain prescribers to hold a license as a terminal distributor of dangerous drugs for actions involving drugs that are compounded or used for compounding or controlled substances containing buprenorphine used for treating drug dependence or addiction.
- Requires the Board to provide the Ohio Automated Rx Reporting System (OARRS) information to the Director of Health for duties related to the Ohio Violent Death Reporting System.
- Requires the Board to provide to a Medicaid managed care organization's pharmacy director information from OARRS relating to enrolled Medicaid recipients.
- Repeals a provision under which a prescriber or pharmacist who provides OARRS information to a patient or patient's personal representative is not subject to the prohibition against disseminating OARRS information.

Dangerous drugs distributor licensure

(R.C. 4729.51, 4729.53, 4729.541, and 4729.56)

Refusal to grant registration certificate

The bill expressly provides that the State Board of Pharmacy is authorized to refuse to grant a registration certificate to operate as a wholesale distributor of dangerous drugs. Ohio law requires the registration in order to sell prescription drugs at wholesale. Current law prohibits the Board from registering a person as a wholesale distributor unless the applicant for registration furnishes satisfactory proof to the Board that the applicant meets specified criteria. Existing law further provides that the Board may refuse to register the applicant if the Board determines that granting the registration is not in the public interest. Under the bill, the Board may refuse to grant a registration certificate on the same grounds that current law permits the Board to refuse to renew a certificate.

License required for certain prescribers

The bill requires a prescriber who does not practice as a specified business entity to hold a license as a terminal distributor of dangerous drugs as a condition of being authorized to possess and distribute (including authorization to personally furnish) either of the following: (1) compounded drugs or drugs used for compounding or (2) drugs containing buprenorphine used for treating drug dependence or addiction. Current law generally permits a prescriber to possess prescription drugs without a license. Existing law also permits specified business entities to possess and distribute certain prescription drugs without a license. However, at present, such business entities must hold a license in order to possess and distribute the following: (1) compounded drugs or drugs used for compounding or (2) drugs containing buprenorphine used for treating drug dependence or addiction.

OARRS information

(R.C. 4729.80 and 4729.86)

OARRS, the Ohio Automated Rx Reporting System, is the drug database established and maintained under current law by the State Board of Pharmacy. Rules adopted by the Board require that when a reported drug (a controlled substance or tramadol) is dispensed by a pharmacy or personally furnished by a dentist, optometrist, or physician to an outpatient, this information must be reported to OARRS on a daily basis.

Existing law requires or authorizes the Board to provide information from OARRS to specified individuals. The bill adds both the Director of Health and a pharmacy director of a Medicaid managed care organization to the list of those to whom the Board is required to provide OARRS information under certain conditions.

Current law also prohibits the specified individuals to whom the Board provides information from OARRS from disseminating that information, except in limited circumstances. The bill repeals a provision under which a prescriber or pharmacist who provides OARRS information to a patient or patient's personal representative is not subject to the existing prohibition on disseminating OARRS information.

ODH Director

With respect to the Director of Health, the bill requires the Board, on receipt of a request from the Director, to provide to the Director information from OARRS relating to the duties of the Director or the Department of Health in implementing the Ohio Violent Death Reporting System (OH-VDRS). OH-VDRS is a reporting system that

collects information from multiple sources in an attempt to better understand the circumstances surrounding violent deaths.[160]

Pharmacy director

In the case of a Medicaid managed care organization, the bill requires the Board, on receipt of a request from a pharmacy director of an organization that has entered into a contract with the Department of Medicaid (ODM) and a data security agreement with the Board, to provide to the director information from OARRS relating to a Medicaid recipient enrolled in the organization. Under the bill, the information provided from OARRS includes information related to prescriptions for the recipient that were not covered or reimbursed under a program administered by ODM. Current law already requires the Board to provide OARRS information to a medical director of the Medicaid managed care organization.

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[160] Ohio Department of Health, *Ohio Violent Death Reporting System (OH-VDRS),* available at www.healthy.ohio.gov/vipp/ohvdrs.aspx.

- Eliminates the requirement that historical motor vehicles display a front license plate, thus requiring those vehicles to display only a rear plate.
- Requires the State Board of Emergency Medical, Fire, and Transportation Services to establish an Expedited Veterans Paramedic Certification Program, whereby a veteran who received paramedic training in the armed forces receives credit for the training toward an Ohio paramedic certificate.
- Permits the Multi-Agency Radio Communications System (MARCS) Steering Committee to establish a subcommittee to represent local government MARCS users, and permits the chairperson of the subcommittee to serve as a member of the Steering Committee.

Front license plates on historical motor vehicles

(R.C. 4503.181)

The bill eliminates the requirement that historical motor vehicles that display license plates issued by the Registrar of Motor Vehicles display a front license plate, thus requiring those vehicles to display only a rear license plate.

Expedited paramedic certification for veterans

(R.C. 4765.161)

The bill requires the State Board of Emergency Medical, Fire, and Transportation Services to adopt rules to establish an Expedited Veterans Paramedic Certification Program for any person who, while serving in the armed forces, received training as what Ohio categorizes as a paramedic. The program must provide for a method to evaluate the veteran to determine the extent of the training received in the armed forces. If the evaluation indicates that the training was such that the veteran is eligible to be issued a certificate to practice as a paramedic, the Board must issue the veteran a certificate upon payment of the appropriate fee.

If the evaluation indicates that the training was such that the veteran is not eligible for a paramedic certificate, the veteran must receive credit for the training the veteran did receive, and must be required to successfully complete only the additional training or instruction necessary to be issued a certificate.

MARCS Steering Committee

(Sections 610.20 and 610.21)

The bill permits the Multi-Agency Radio Communications System (MARCS) Steering Committee to establish a subcommittee to represent local government MARCS users. If the Committee establishes the subcommittee, the chairperson of the subcommittee also may serve as a member of the Steering Committee.

PUBLIC UTILITIES COMMISSION

Telecommunications

Withdrawal or abandonment of basic local exchange service

- Would lift the current prohibition against an incumbent local exchange carrier withdrawing or abandoning basic local exchange service (BLES) in an exchange area if the carrier were to withdraw the interstate-access component of its BLES in accordance with an order of the Federal Communications Commission.

- Requires a carrier withdrawing or abandoning BLES to give 120 days' notice to the Public Utilities Commission of Ohio (PUCO) and affected customers.

Voice service for customers who petition the PUCO (or are identified)

- Permits a residential customer who will be unable to obtain reasonable and comparatively priced voice service upon the withdrawal or abandonment of BLES to petition the PUCO to find a willing provider of such service, and permits a collaborative process at the PUCO to identify customers in similar positions.

- Permits the willing provider to use any technology or service arrangement to provide the voice service.

- Permits the PUCO to order the withdrawing or abandoning carrier to provide a reasonable and comparatively priced voice service to a customer described above for one year at the customer's residence if, after an investigation, no willing provider is identified.

- Permits the carrier subject to an order to provide the voice service using any technology or service arrangement.

- Permits the order described above to be extended for one additional year if no alternative reasonable and comparatively priced voice service is available, upon further evaluation.

- Permits the PUCO, at the end of the second year, to issue a new order under which the carrier must *continue* to provide a reasonable and comparatively priced voice service to the customer (perhaps no longer at the customer's residence) if no alternative reasonable and comparatively priced voice service is available.

- Permits a carrier subject to the new order to provide the voice service using any technology or service arrangement.

Transition to an Internet-protocol network

- Requires the PUCO to use its appropriation in part to plan for the transition from the current public switched telephone network to an Internet-protocol network.

- Requires the PUCO to establish a collaborative process with incumbent and competitive local exchange carriers, the Office of the Ohio Consumers' Counsel, cable operators, and other invited members to focus on the Internet-protocol-network transition process and related consumer issues.

Existing carrier agreements not affected

- Ensures that an incumbent local exchange carrier that withdraws or abandons BLES under the bill would still be subject to the PUCO's oversight of the rates, terms, and conditions for carrier access, pole attachments, and conduit occupancy.

- States that the bill does not affect any contractual obligation, including agreements under the federal Telecommunications Act of 1996, as amended, or any right or obligation under federal law or rules.

Intermodal equipment

- Grants the PUCO the authority to regulate intermodal equipment providers and requires the PUCO to adopt rules with respect to the use and interchange of intermodal equipment (e.g. a semi-trailer transporting a ship container).

- Defines "intermodal equipment," "intermodal equipment provider," and related terms the same as those terms are defined in federal motor carrier safety rules.

Broadened subpoena power relating to motor carriers

- Broadens PUCO subpoena power, currently limited to the production of documents and other materials relating to hazardous materials transportation, by expanding its application to the production of all books, contracts, records, and documents relating to compliance with motor carrier law and rules.

Natural gas company SiteOhio economic development projects

- Permits a natural gas company to file an application with the PUCO for approval of an economic development project if the project has been submitted to (instead of certified by) the Director of Development Services for the SiteOhio certification program.

Telecommunications

(R.C. 4905.71, 4927.01, 4927.02, 4927.07, 4927.10, 4927.101, 4927.11, and 4927.15; Sections 363.20, 363.30, and 749.10)

Withdrawal or abandonment of basic local exchange service

The bill would lift the current prohibition against an incumbent local exchange carrier withdrawing or abandoning basic local exchange service (BLES) in an exchange area if:

(1) The Federal Communications Commission (FCC) allows the carrier to withdraw the interstate-access component of its basic local exchange service;

(2) The carrier withdraws that component in the exchange area; and

(3) The carrier gives at least 120 days' prior notice to the Public Utilities Commission (PUCO) and to its affected customers.

Along the same lines, if (1) and (2) above occurred and the notice requirement was met, the bill would relieve the carrier of its carrier-of-last-resort obligation with regard to that exchange area. The carrier-of-last-resort obligation is the requirement that an incumbent local exchange carrier must provide BLES to all persons or entities in its service area requesting BLES (and that BLES must be provided on a reasonable and nondiscriminatory basis).

Under current law, there are also customer-service requirements for the provision of BLES, such as requirements for service installation and reliability. These requirements would not apply to a carrier's service in an exchange area where the carrier withdraws or abandons BLES under the bill, since the requirements apply only to the provision of BLES.[161] The bill expressly states that any "voice service" to which customers are transitioned following the withdrawal of BLES is *not* BLES. Therefore, voice service would not be subject to any requirements governing BLES. "Voice service" is defined as including "all of the applicable functionalities" described in federal regulations. These regulations describe eligibility requirements for federal universal service support in rural, insular, and high-cost areas. The regulations require the provision of voice grade access to the public switched network or its functional equivalent, minutes of use for local service provided at no additional charge to end

[161] R.C. 4927.08, not in the bill.

users, access to emergency service, and toll limitation services to qualifying low-income consumers.[162]

Terminology explained

"Incumbent local exchange carrier" (ILEC)

An incumbent local exchange carrier (commonly called an "ILEC") is, under continuing law, the local exchange carrier that, on February 8, 1996 (the date of enactment of the federal Telecommunications Act of 1996), (1) provided telephone exchange service in an area and (2) was deemed to be a member of the Exchange Carrier Association under federal regulations or, since February 8, 1996, became a successor or assign of a member of the Exchange Carrier Association. According to the PUCO, as of 2012 there were 43 ILECs in Ohio.[163]

"Interstate-access component"

The bill defines "interstate-access component" as the portion of carrier access that is within the jurisdiction of the FCC. "Carrier access" is defined under continuing law as access to and usage of telephone company-provided facilities that enable end user customers originating or receiving voice grade, data, or image communications, over a local exchange telephone company network operated within a local service area, to access interexchange or other networks and includes special access.

"Basic local exchange service"

The bill defines BLES as residential-end-user access to and usage of telephone-company-provided services over a single line or small-business-end-user access to and usage of such services over the primary access line of service, which in both cases are not bundled or packaged services, that enables the customer to originate or receive voice communications within a local service area as that area existed on September 13, 2010, or as that area is changed with the PUCO's approval. BLES includes services such as local dial tone service, flat-rate telephone exchange service (for residential end users), touch tone dialing service, access to and usage of 9-1-1 services, and other basic services.

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[162] 47 C.F.R. 54.101(a).

[163] "Telephone Service Areas in Ohio: 2012," available at www.puco.ohio.gov/puco/index.cfm/utility-maps/#sthash.DlRcF2R6.dpbs (click the link for "8.5 x 11 (PDF)" under "Telephone Maps.")

PUCO process for identifying providers of voice service

If a residential customer receives notice of a BLES withdrawal or abandonment, and the customer will be unable to obtain "reasonable and comparatively priced" voice service upon the withdrawal or abandonment, the bill permits the customer to petition the PUCO.

The bill requires the PUCO to define "reasonable and comparatively priced voice service" to include service that provides voice grade access to the public switched network or its functional equivalent, access to 9-1-1, and that is **competitively priced, when considering all the alternatives in the marketplace and their functionalities**. The language in bold is the more crucial provision. The other language is arguably redundant because the bill's definition of "voice service" already includes, through reference to federal regulations, voice grade access to the public switched network or its functional equivalent and access to emergency service (see "**Withdrawal or abandonment of basic local exchange service**," above).

The petition must be filed not later than 90 days prior to the effective date of the withdrawal or abandonment. The PUCO must then issue an order disposing of the petition not later than 90 days after the petition's filing. If the PUCO determines after an investigation that no reasonable and comparatively priced voice service will be available to the customer at the customer's residence, the PUCO must attempt to identify a willing provider of a reasonable and comparatively priced voice service. The willing provider may utilize any technology or service arrangement to provide the voice service.

ILECs may be ordered to provide voice service

If no willing provider is identified under the process described above, the PUCO may order the withdrawing or abandoning ILEC to provide a reasonable and comparatively priced voice service to the customer at the customer's residence for 12 months. The ILEC may utilize any technology or service arrangement to provide the voice service.

The PUCO must evaluate, during any 12-month period in which an ILEC has been ordered to provide a reasonable and comparatively priced voice service, whether an alternative reasonable and comparatively priced voice service exists for the affected customer. If no alternative voice service is available, the PUCO may extend the order for one additional 12-month period.

ILECs may be ordered to continue to provide voice service

After an ILEC has been ordered to provide voice service for 12 months and the order has been extended for an additional 12 months, the bill permits the PUCO to order the ILEC to *continue* to provide a reasonable and comparatively priced voice service to the affected customer under a new, distinct order. Under this new order, the ILEC would still be required to provide voice service using any technology or service arrangement, but it appears that the ILEC would no longer be required to provide service at the customer's residence. This is not explicit in the bill. But the lack of the phrase "at the customer's residence" is the only significant difference between the language governing the first order and the new order. (See the table below for a comparison of the two provisions.) It is also unclear how, under the new order, the service could be provided to a customer without being provided at the customer's residence.

Language comparison	
Original order	**New order**
"the withdrawing or abandoning carrier to provide a reasonable and comparatively priced voice service to the customer **at the customer's residence**" (R.C. 4927.10(B)(1)(b))	"the withdrawing or abandoning carrier to **continue** to provide a reasonable and comparatively priced voice service to the **affected** customer" (R.C. 4927.10(B)(2))

Similar to the original order, the new order may be issued if, at the end of the 12-month extension period, no alternative reasonable and comparatively priced voice service is available.

Collaborative process to address the network transition

The bill requires the PUCO, not later than 90 days after the provision's effective date, to establish a collaborative process to address the Internet-protocol-network transition, with all of the following:

- ILECs;
- Any competitive local exchange carriers that are affected by the transition;
- The Office of the Ohio Consumers' Counsel;
- Cable operators;
- At the invitation of the PUCO, other interested parties and members of the General Assembly.

The collaborative process must focus on the Internet-protocol-network transition processes underway at the FCC and the issues of universal connectivity, consumer protection, public safety, reliability, expanded availability of advanced services, affordability, and competition (including wholesale competition). The process must ensure that public education concerning the transition is thorough.

The process must include a review of the number and characteristics of BLES customers in Ohio, an evaluation of what alternatives are available to them, including both wireline and wireless alternatives, and the prospect for the availability of alternatives where none "currently" exist. The process must also embark on an education campaign plan for those customers' eventual transition to advanced services.

If the collaborative process identifies residential BLES customers who will be unable to obtain "voice service" upon the withdrawal or abandonment of basic local exchange service (the bill does not use the phrase "reasonable and comparatively priced" here), the PUCO may find those customers to be eligible for the process described above (see "**PUCO process for identifying providers of voice service**") regardless of whether they have filed petitions with the PUCO. The bill states that any customers identified through the collaborative process must be treated as though they filed timely petitions under the bill's provisions.

The collaborative process must, pursuant to the PUCO's rules, respect the confidentiality of any data shared with those involved in the process.

Transition to an Internet-protocol network

The bill requires the PUCO to use its appropriation for Utility and Railroad Regulation in part to plan for the transition, consistent with the directives and policies of the FCC, from the current public switched telephone network to an Internet-protocol network that will stimulate investment in the Internet-protocol network in Ohio and that will expand the availability of advanced telecommunications services to all Ohioans. The transition plan must include a review of statutes or rules that may prevent or delay an appropriate transition. The bill requires the PUCO to report to the General Assembly on any further action required to be taken by the General Assembly to ensure a successful and timely transition.

Rulemaking

The bill requires the PUCO, not later than 180 days after the effective date of the requirement, to adopt rules to implement the bill's provisions related to the withdrawal or abandonment of BLES, and to bring its rules into conformity with the relevant provisions of the bill. Rules adopted or amended must include provisions for reasonable customer notice of the steps to be taken during, and the actions resulting

from, the transition plan described above (see "**Transition to an Internet-protocol network**"). Rules adopted or amended must be consistent with the FCC's rules.

If the PUCO fails to comply with these rulemaking requirements before the FCC adopts an order permitting the withdrawal of the interstate-access component of BLES, the bill states that any rule of the PUCO that is inconsistent with that order shall not be enforced.

Rights and obligations not affected by the bill

Contractual obligations and federal rights and obligations

The bill states that it does not affect any contractual obligation, including agreements under the federal Telecommunications Act of 1996, as amended, or any right or obligation under federal law or rules.

Carrier access, pole attachments, and conduit occupancy

The bill ensures that an ILEC that withdraws or abandons BLES under the bill would still be subject to the PUCO's oversight of the rates, terms, and conditions for carrier access, pole attachments, and conduit occupancy. Current law on this subject generally requires that the rates, terms, and conditions for carrier access, pole attachments, and conduit occupancy, provided in Ohio by a telephone company *that is a public utility*, be approved and tariffed as prescribed by the PUCO. The bill adds that this requirement also applies when an ILEC provides carrier access, pole attachments, or conduit occupancy. The reason for the addition is that an ILEC is not a public utility with respect to its provision of certain advanced and newer services. So, if an ILEC were to withdraw or abandon BLES and instead provide only an advanced service, that ILEC would no longer be a public utility. Therefore, without the bill's addition, that ILEC could be considered no longer subject to the PUCO's regulation of carrier access, pole attachments, and conduit occupancy.

The bill makes parallel changes in two other provisions of law governing pole attachments and conduit occupancy:

- The bill requires ILECs, in addition to telephone companies that are public utilities, to permit pole attachments and conduit occupancy upon reasonable terms and conditions and the payment of reasonable charges.

- The bill requires an ILEC, in addition to a telephone company that is a public utility, to obtain PUCO approval before withdrawing a tariff for pole attachments or conduit occupancy, or abandoning the service of providing pole attachments or conduit occupancy.

Finally, the bill states that its provisions related to the withdrawal or abandonment of BLES do not affect carrier-access requirements under Ohio law, or rights or obligations under Ohio law governing pole attachments and conduit occupancy.[164]

Intermodal equipment

(R.C. 4905.81, 4923.04, and 4923.041)

Providers

The bill expressly authorizes the PUCO to regulate the safety of operation of each intermodal equipment provider, in addition to regulating the safety of operation of each motor carrier as required in current law. Though not explained in the bill, intermodal equipment is generally considered equipment for combination transport where the freight is not handled when it changes modes of transport. A semi-trailer transporting a ship container would be an example.

Rules

The bill also requires the PUCO to adopt rules with respect to the use and interchange of intermodal equipment.

Definitions

"Intermodal equipment," "intermodal equipment provider," and related terms are given the same definitions in the bill as those terms currently have in federal rules. Intermodal equipment means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, including trailers and chassis. An intermodal equipment provider is any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment. Interchange is the act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider. Interchange does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations.[165]

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[164] R.C. 4905.02(A)(5), not in the bill.

[165] 49 C.F.R. 390.5.

Broadened subpoena power relating to motor carriers

The bill broadens the PUCO's subpoena power relating to motor carriers. Under the bill, the PUCO may issue a subpoena to compel the production of all books, contracts, records, and documents that relate to compliance with the state's motor carrier laws and rules. Current law limits the power to compelling the production of all books, contracts, records, and documents that relate to the transportation and offering for transportation of hazardous materials.

Natural gas company SiteOhio economic development projects

(R.C. 4929.164)

The bill specifies that a natural gas company may apply to the PUCO for approval of an economic development project that has been *submitted to* the Director of Development Services for the SiteOhio certification program. Current law permits an application for PUCO approval of such projects, if they have been *certified by* the Director.[166] Infrastructure development costs of approved projects are paid for by an infrastructure development rider approved by the PUCO.[167]

As specified in ongoing law, the purpose of the SiteOhio certification program is to "certify and market" eligible projects in Ohio. An eligible project is one that, upon completion, will be primarily intended for commercial, industrial, or manufacturing use and does not include projects intended primarily for residential, retail, or government use. The Director of Development Services sets criteria for certification of a SiteOhio project by rule.[168]

A natural gas company is a public utility that supplies natural gas to its Ohio consumers for lighting, power, or heating purposes.[169] "Infrastructure development costs" means investment to which both of the following apply: (1) the investment is for any deposit required by the company, as defined in the line-extension provision of the company's tariff, less any contribution in aid of construction received from the owner or developer of the project and (2) the investment is in constructing extensions of transmission or distribution facilities that the company owns and operates.[170]

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[166] R.C. 4929.164(A).

[167] R.C. 4929.161, not in the bill.

[168] R.C. 122.9511, not in the bill.

[169] R.C. 4929.01, not in the bill.

[170] R.C. 4929.16, not in the bill.

PUBLIC WORKS COMMISSION

- Establishes a District Administration Costs Program for natural resource assistance councils representing public works districts.

District Administration Costs Program

(Section 365.10)

The bill authorizes the Director of the Public Works Commission to create a District Administration Costs Program for public works districts that are represented by natural resource assistance councils. The Program is to be used by the councils to pay the direct costs of council administration. Participating councils may be eligible for as much as $15,000 per fiscal year from the allocation to the corresponding public works district from the Clean Ohio Conservation Fund (a fund consisting of proceeds from the sale of general obligation bonds of the state issued to pay the costs of conservation projects). Under the Program, the Director must define allowable and nonallowable administration costs. The bill provides that nonallowable costs include indirect costs, elected official salaries and benefits, and project-specific costs.

Under continuing law, there are 19 public works districts, each with a district public works integrating committee.[171] Each district committee is required to appoint a natural resource assistance council.[172] Councils have the job of reviewing and either approving or disapproving applications for grants (of the district's allocation of Clean Ohio Conservation Fund money) for open space acquisition and related projects and to protect and enhance riparian corridors and watersheds.[173]

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[171] R.C. 164.03 and 164.04, not in the bill.

[172] R.C. 164.21, not in the bill.

[173] R.C. 164.22, not in the bill.

- Eliminates the Ohio Quarter Horse Development Fund and specifies that funds currently paid into the Fund instead must be paid into the Ohio Thoroughbred Race Fund to support quarter horse development and purses.
- Increases the amount of moneys paid to the Tax Commissioner by thoroughbred racing permit holders that the Tax Commissioner must pay into the Ohio Thoroughbred Race Fund.
- Abolishes the Ohio Quarter Horse Development Commission.
- Requires the State Racing Commission to adopt rules regarding the maintenance and use of money collected for quarter horse development and purses.
- Requires corporations formed to establish a thoroughbred or harness horsemen's health and retirement fund to include in its articles of incorporation that video lottery terminal revenue paid to the corporation under Ohio law be used to establish and administer health, retirement, and other benefits.

Quarter Horse Development Fund

(R.C. 3769.03, 3769.08, 3769.083, 3769.086 (repealed), 3769.087, and 3769.101)

The bill eliminates the Ohio Quarter Horse Development Fund, the current purpose of which is to "advance and improve the breeding of racing quarter horses in Ohio." The funds currently paid into the Fund, five-eighths of one percent of moneys wagered, instead must be paid into the Ohio Thoroughbred Race Fund to support quarter horse development and purses.

The bill increases the amount of additional moneys retained and paid to the Tax Commissioner by thoroughbred racing permit holders, from one-twelfth to one-sixth, that the Tax Commissioner must pay into the Ohio Thoroughbred Race Fund.

The Quarter Horse Development Commission, which currently administers the Quarter Horse Development Fund, is eliminated by the bill. The State Racing Commission is required to adopt rules regarding the maintenance and use of money collected for quarter horse development and purses.

Video lottery terminal revenue use

(R.C. 3769.21)

The bill requires a corporation formed to establish a thoroughbred horsemen's health and retirement fund and a corporation formed to establish a harness horsemen's health and retirement fund to include in its articles of incorporation that the video lottery terminal revenue paid to the corporation under Ohio law must be used exclusively to establish and administer the health and retirement fund and to finance benefits paid to the horsemen under the corporation's benefit plan.

Current law allows nonprofit corporations to be formed to establish thoroughbred and harness horsemen's health and retirement funds to be administered for the benefit of horsemen. Certain requirements must be in the corporations' articles of incorporation, including the use of certain moneys paid to the corporations from racetracks as required under law.

- Authorizes a court, on its own motion, to grant judicial release to an offender in a state correctional institution on compassionate medical grounds if the offender has not been sentenced to death or imprisonment for life.

- Allows the Division of Parole and Community Services to expend up to one-half percent of the annual appropriation made for halfway house programs and community-based correctional facility programs for goods or services that benefit those programs.

- Specifies that a term in a halfway house is not considered imprisonment.

- Removes the requirement that the Office of Budget and Management approve prices fixed by the Department of Rehabilitation and Correction (DRC) for labor and services performed, agricultural products produced, and articles manufactured in correctional and penal institutions.

- Modifies fallback provisions for DRC permanent classified employees, including adding reasons for which the employee may be reinstated to the classified position and specifying reasons for which the employee forfeits the right of reinstatement.

- Eliminates a current law requirement that the managing officer of each DRC institution must file a monthly report with the DRC Director outlining all appointments, resignations, and discharges.

- Limits the ability of employees of community-based correctional facilities and district community-based correctional facilities who were subject to a collective bargaining agreement on June 1, 2005, to collectively bargain with their public employers to allow them to do so only if the public employer only elects.

- Makes these community-based correctional facilities employees ineligible to serve on the Ohio Elections Commission.

Fund closures

- The bill abolishes the Confinement Cost Reimbursement Fund and the Laboratory Services Fund.

Judicial release on compassionate medical grounds

(R.C. 2929.20)

The bill authorizes a sentencing court to grant judicial release to an offender in a state correctional institution who is in imminent danger of death, terminally ill, or medically incapacitated and who is neither on death row nor serving a life sentence. The court may grant the release on its own motion when the Director of Rehabilitation and Correction certifies to the court that the offender is in imminent danger of death, terminally ill, or medically incapacitated, so long as the court determines that the release would not create undue risk to public safety. The court may request health care records from the Department of Rehabilitation and Correction (DRC) to verify the certification.

A motion made by the court to release an offender on compassionate medical grounds is subject to all of the notice, hearing, and other procedural requirements that apply to judicial release generally. However, the court may waive the offender's appearance due to the offender's condition and grant the motion without a hearing if the prosecutor and the victim or victim's representative indicate that they do not wish to participate or present relevant information.

After granting judicial release, the court must place the offender under an appropriate community control sanction and under the supervision of the Adult Parole Authority or the court's probation department. The period of the community control must not expire earlier than the date on which all of the offender's mandatory prison terms expire. If the offender violates the community control sanction, the court may revoke the judicial release.

If the offender's health improves so that the offender is no longer terminally ill, medically incapacitated, or in imminent danger of death, the court must revoke the judicial release upon its own motion and specify its findings on the record. The court must hold a hearing concerning the revocation unless the offender waives the hearing. If the court holds a hearing, the court must allow all of the following individuals to present written and oral information relevant to the motion:

- The offender and the offender's attorney;
- The prosecutor;
- The victim or the victim's representative;
- Any other person the court determines is likely to present additional relevant information.

Halfway house and community-based correctional facility programs

(R.C. 1.05, 2967.14, and 5120.112)

DRC or the Adult Parole Authority may require or allow a parolee, a releasee, or a prisoner otherwise released from a state correctional institution to reside in a halfway house or other suitable community residential center. Any county that has a population of 200,000 or more is eligible to formulate a community-based correctional proposal that, upon implementation, would provide a community-based correctional facility and program for the use of that county's common pleas court.[174] The biennial operating budget historically includes an appropriation for halfway house programs and community-based correctional facility programs. The bill allows the Division of Parole and Community Services to expend up to one-half percent of the annual appropriation made for halfway house programs and community-based correctional facility programs for goods or services that benefit those programs.

The bill also specifies that a term in a halfway house is not considered imprisonment.

Ohio penal industry prices

(R.C. 5120.28)

The bill removes the requirement that the Office of Budget and Management approve the prices fixed by DRC at which all labor and services performed, agricultural products produced, and articles manufactured in correctional and penal institutions are furnished to the state, its political subdivisions, and public institutions, and to private persons.

Classified employee fallback rights

(R.C. 5120.38, 5120.381, and 5120.382)

Continuing law allows a DRC employee who moves from a classified position to an unclassified position (as a managing officer, deputy warden, or otherwise), to resume the classified position held by the employee immediately prior to the move. The bill expands these "fallback rights" to allow the employee to resume the classified position (or a substantially equal position, as certified by the DRC Director and approved by the Director of Administrative Services (DAS)) even if the employee has held multiple unclassified positions since the move. If the employee's prior classified position has been placed in the unclassified service or is otherwise unavailable, the DRC

[174] R.C. 2301.51, not in the bill.

Director must appoint the employee to a classified DRC position that is comparable in compensation to the prior position, as certified by the DAS Director.

Triggering fallback rights

Under the bill, fallback rights for DRC employees are triggered only when the employee is demoted to a pay range lower than the employee's current pay range or when the DRC Director revokes the employee's appointment to the unclassified service. And an employee forfeits the right to resume the classified position if the employee is removed from the unclassified position due to incompetence; inefficiency; dishonesty; drunkenness; immoral conduct; insubordination; discourteous treatment of the public; neglect of duty; a violation of DRC law or DRC or DAS rules; any other failure of good behavior; any other acts of misfeasance, malfeasance, or nonfeasance in office; or a conviction of or plea of guilty to a felony. An employee who transfers to a different agency also loses any right to resume a classified position with DRC upon that transfer.

Currently, fallback rights are triggered when an employee is relieved of the employee's duties in the unclassified service. Current law does not specify employee behavior that may result in a forfeiture of the rights.

Treatment of a DRC employee who exercises fallback rights

If a DRC employee utilizes the bill's fallback rights, the bill requires that the employee's unclassified DRC service be counted toward that employee's service in the prior classified position. Under current law, only service in an unclassified position held pursuant to the appointment from the classified service is counted toward the employee's service in the prior classified position. The bill also entitles a DRC employee using these fallback provisions to all rights and benefits and any status that the classified position accrued during the employee's unclassified service. Current law instead entitles such an employee to the rights and emoluments accrued during that time.

Monthly personnel report

(R.C. 5120.38)

The bill eliminates a current law requirement that the managing officer of each DRC institution file with the DRC Director a monthly report of all appointments, resignations, and discharges.

Community-based correctional officer collective bargaining

(R.C. 4117.01(C))

The bill limits the ability of employees of community-based correctional facilities and district community-based correctional facilities who were subject to a collective bargaining agreement on June 1, 2005, to collectively bargain with their public employers. Under the bill, these employees can collectively bargain with their public employer only if the public employer elects to do so, similar to current law with respect to community-based correctional facility employees who were not covered by a collective bargaining agreement on that date. The public employer cannot be compelled to bargain with these employees.

Currently, these employees have the right to collectively bargain with their public employer, and thus the public employer is required to do so if certain procedures contained in continuing law are satisfied.[175]

Membership on the Ohio Elections Commission

Because the community-based correctional facilities employees described under "**Community-based correctional officer collective bargaining**" above under the bill are no longer considered to be public employees for purposes of collective bargaining, those employees also become ineligible to serve on the Ohio Elections Commission. Under continuing law, a person or employee excluded from the definition of "public employee" under the Public Employees' Collective Bargaining Law cannot be a Commission member.[176]

Fund closures

(R.C. 2929.18, 2969.14, and 5120.135)

Current law requires offenders to reimburse DRC for certain costs it incurs in operating prisons or other facilities used to confine offenders. Those reimbursements are deposited into the Confinement Cost Reimbursement Fund and used by DRC to fund the operation of those prisons and facilities. The bill abolishes the Fund but retains the reimbursement requirement.

The bill also abolishes the Laboratory Services Fund, which consists of payments made by state agencies, local governments, and other entities for laboratory services provided to them by DRC, and removes the payment requirement.

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[175] R.C. 4117.03, not in the bill.

[176] R.C. 3517.152, not in the bill.

STATE BOARD OF SANITARIAN REGISTRATION

- Increases the renewal fee and late application fee to register as a sanitarian or sanitarian-in-training.

Fee changes for renewals and late fees

(R.C. 4736.12)

The bill increases the renewal fee to register as a sanitarian or sanitarian-in-training to $90 from $80. The bill also increases the late fee assessed for a late application to register as a sanitarian or sanitarian-in-training to $75 from $50.

- Creates the Absent Voter's Ballot Application Mailing Fund, which the Secretary of State must use to pay the cost of printing and mailing unsolicited applications for absent voter's ballots if funds have been appropriated for that mailing.
- Eliminates the Information Systems Fund and redirects certain revenues of that Fund to the credit of the Corporate and Uniform Commercial Code Filing Fund.

Absent Voter's Ballot Application Mailing Fund

(R.C. 111.31)

The bill creates the Absent Voter's Ballot Application Mailing Fund, which the Secretary of State must use to pay the cost of printing and mailing unsolicited applications for absent voter's ballots if the General Assembly has appropriated funds for that mailing. The fund consists of moneys transferred to it by the Controlling Board upon the request of the Secretary of State. Under the bill, the Controlling Board must transfer any unused moneys in the fund to the proper appropriation item.

Continuing law permits the Secretary of State to mail unsolicited applications for absent voter's ballots to individuals only for a general election and only if the General Assembly has made an appropriation for that particular mailing.[177]

Elimination of Information Systems Fund

(R.C. 111.181 (repealed) and 1309.528)

The bill eliminates the Information Systems Fund, currently used by the Secretary of State's office for information technology-related expenses. The bill redirects revenues from fees charged to customers for special database requests currently received into the Information Systems Fund to the Corporate and Uniform Commercial Code Filing Fund.

[177] R.C. 3501.05, not in the bill.

DEPARTMENT OF TAXATION

Income tax

- Reduces income tax rates in all brackets by 6.3% over two years.
- Restricts the state income tax deduction for Social Security and Tier One railroad retirement benefits to taxpayers whose federal adjusted gross income (FAGI) is not more than $100,000.
- Restricts the retirement income credit, the lump-sum retirement credit, the lump-sum distribution credit, and the senior citizen credit to taxpayers whose individual or joint adjusted gross income (less personal exemptions) for the taxable year is less than $100,000.
- Makes permanent the 75% business income tax deduction for individual income tax taxpayers.
- Repeals the income tax credit for monetary contributions to campaign committees of candidates for statewide elected offices, the General Assembly, or the State Board of Education.

Other state taxes

- Modifies the date the Treasurer of State is required to issue a domestic insurance premium tax bill, the due date for payment by the insurance company, and the computation of penalties for late payment.
- Eliminates a requirement that counties and transit authorities compensate vendors for the expense of adjusting cash registers when a county or transit authority sales and use tax rate is increased or a new tax is imposed.
- Specifies that a company that generates electricity but donates all of that electricity to a political subdivision is not subject to the kilowatt-hour tax or public utility personal property tax.
- Authorizes a nonrefundable credit against the petroleum activity tax (PAT) on the basis of PAT remitted by another supplier that sells blend stocks to the taxpayer, provided the taxpayer incorporates the blend stocks into blended fuel.
- Extends by two years a provision temporarily authorizing owners of a historic rehabilitation tax credit certificate to claim the credit against the commercial activity tax (CAT) if the owner cannot claim the credit against another tax.

- Extends the Ohio Grape Industries earmark of wine excise tax revenue (2%) for two more years.

- Earmarks 2% of beer excise tax revenue, up to $1 million annually, for grants to attract sporting events to local communities.

- Limits information the Tax Commissioner may require a person to verify for the purpose of confirming the person's identity.

- Requires the Tax Commissioner to evaluate and report to the General Assembly on the effectiveness of identity-verification measures employed to reduce personal income tax fraud.

- Establishes a six-member commission to review Ohio's tax structure and policies and make recommendations to the General Assembly on how to maximize Ohio's competitiveness by the year 2020.

- Allows executors and administrators the same commissions as existed before the repeal of the estate tax.

TPP reimbursements

- Resumes the phase-out of reimbursement payments to most school districts and other taxing units for tangible personal property tax losses.

- Increases the portion of CAT revenue and kilowatt-hour excise tax revenue to be credited to the GRF and reduces the portion used to reimburse school districts and other taxing units for tangible personal property tax losses.

Tax credits and exemptions

- Revises computation of the job creation and retention tax credits so that the credit equals an agreed-upon percentage of the taxpayer's Ohio employee payroll rather than Ohio income tax withholdings.

- Removes the 75% cap on the percentage of Ohio employee payroll (or, under current law, Ohio income tax withholdings) a taxpayer and the Tax Credit Authority (TCA) may agree to for the purposes of computing the job retention tax credit.

- Authorizes the TCA to require taxpayers to refund all or a portion of job creation or job retention tax credits if the taxpayer fails to substantially meet the job creation, payroll, or investment requirements included in the tax credit agreement or files for bankruptcy.

- Reduces from 60 to 30 days the amount of time a taxpayer has to submit a copy of a job creation or job retention tax credit certificate.

- Revises the role of the Director of Budget and Management, the Tax Commissioner, and the Superintendent of Insurance in evaluating applications for job retention tax credits and data center sales tax exemptions.

- Requires the TCA, upon request of a taxpayer subject to an existing JCTC or JRTC agreement, to revise the agreement to account for decreases in the state income tax rates.

- Authorizes the TCA, upon mutual agreement of the taxpayer and DSA, to revise JCTC agreements originally approved in 2014 or 2015 to conform with the bill's revisions to the JCTC.

Property taxes

- Authorizes any school district that contains, in its territory, a community school with an "exemplary" sponsor to propose a levy for the current operating expenses of the school district and the community school.

- Authorizes school districts other than the Cleveland Metropolitan School District to allocate 100% of the proceeds of such a levy to partnering community schools.

- Requires that all new water-works company tangible personal property first subject to taxation in tax year 2015 or thereafter be assessed at 25% of its true value, instead of 88% as required under existing law.

- Allows unproductive farmland to continue to be valued for property tax purposes according to its current agricultural use value for up to five years if it is used to store materials dredged from Ohio's waters under a contract with certain agencies.

- Lengthens, to any number of years or for a continuing period of time, the maximum term of a property tax levy to pay for operating and maintaining public cemeteries.

- Expands eligibility for the fraternal organization property tax exemption to include property used primarily for any nonprofit purpose, and not just for meetings and administration.

- Authorizes townships to extend pre-1995 tax increment financing property tax exemptions for 15 more years if the township's population is at least 15,000.

Municipal income tax

- Changes the annual return filing deadline for municipal income taxpayers that are not individuals to the 15th day of the fourth month following the end of the taxpayer's taxable year.

- Requires a municipal tax administrator to grant a taxpayer a six-month filing extension for a municipal income tax return even if the taxpayer did not request a corresponding federal extension.

- Specifies that taxpayers seeking damage awards on the basis of actions or omissions regarding municipal income taxes may sue the municipal corporation, but not the tax administrator.

- Allows a municipal corporation that has adopted Ohio adjusted gross income as its tax base to make adjustments to that tax base with respect to resident individuals and to require individual taxpayers to file a copy of their Ohio tax return.

- Requires municipal corporations to publish a summary of taxpayers' rights and responsibilities online.

Other local taxes

- Authorizes a county meeting certain requirements to levy an additional 1% lodging tax for the purpose of constructing and maintaining county-owned sports facilities.

- Authorizes certain counties to levy a lodging tax of 3% or less for up to 5 years to pay for permanent improvements at sites where a county or independent agricultural society conducts fairs or exhibits.

- Authorizes Stark County to create a special-purpose Regional Arts and Cultural District and to impose a property tax, cigarette tax, and alcoholic beverage tax in support of the district.

- Authorizes townships and municipal corporations located in Stark County to designate a special district of not more than 200 acres as a tourism development district (TDD) before 2019 in which a sales and use tax, admissions tax, or certain rental fees may be imposed to fund the promotion of tourism.

Administration of county 9-1-1 assistance

- Requires the Tax Commissioner to transfer funds remaining in the Wireless 9-1-1 Government Assistance Fund to the Next Generation 9-1-1 Fund at the direction of

the Statewide Emergency Services Internet Protocol Network Steering Committee rather than after monthly disbursements are made to counties.

- Requires that any shortfall in monthly disbursements to counties from the Wireless 9-1-1 Government Assistance Fund be remedied in the following month.

Income tax

Rate reduction

(R.C. 5747.02)

The bill reduces income tax rates for all income tax brackets by 6.3% for taxable years beginning in 2015 and thereafter compared to the rates in effect for 2014.

For taxable years beginning in 2014, the income tax currently is levied at rates ranging from 0.528% for taxable income up to $5,200 to 5.333% for taxable income above $208,500. There are nine income brackets with increasingly greater rates assigned to higher income brackets.

The income tax is levied on individuals, estates, and some trusts. The tax base for individuals is federal adjusted gross income (FAGI) after several deductions and a few additions; for estates and trusts, the base is federal taxable income after several additions and deductions. An $88 credit is granted for individuals filing a return (joint or individual) showing tax due, after personal and dependent exemptions, of $10,000 or less; the effect of the credit is to exempt such filers from the income tax. The tax applies to residents, and to nonresidents who have income that is attributable to Ohio under statutory attribution rules. For residents who have income taxable by another state with an income tax, a credit is available to offset the tax paid to other states; for nonresidents who have income attributable to Ohio and another state, a credit is allowed to the extent the income is not attributable to Ohio.

Means test for Social Security income tax deduction

(R.C. 5747.01(A)(5); Section 803.70)

The bill restricts the state income tax deduction for Social Security and Tier One railroad retirement benefits to taxpayers whose FAGI is less than or equal to $100,000. Under current law, all taxpayers are authorized to deduct Social Security and Tier One railroad retirement benefits they receive. Deductible Social Security benefits include old-age, survivor, and disability insurance benefits. Tier One railroad retirement benefits are the equivalent of Social Security benefits for railroad employees.

The means test on the Social Security income tax deduction would apply to taxable years beginning on or after January 1, 2015.

Means test for retirement income and senior tax credits

(R.C. 5747.05, 5747.055, 5747.08, 5747.71, and 5747.98; Section 803.70)

The bill restricts the retirement income credit, the lump-sum retirement credit, the lump-sum distribution credit, and the senior citizen credit to taxpayers whose individual or joint adjusted gross income (less personal exemptions) for the taxable year is less than $100,000. Under current law, the credits are available to taxpayers aged 65 years and older regardless of income. The income limits apply to taxable years beginning in or after 2015.

Calculation of the retirement income credit varies depending on whether the retiree (aged 65 years and older) claims the credit on an annual basis or on the basis of a lump-sum distribution of income. For retirees who claim the annual credit, the credit ranges from $25 for retirement income of at least $500, to $200 for retirement income of at least $8,000. The $200 credit is equivalent to exempting at least $15,000 of retirement income from taxation. Retirees who receive a lump-sum distribution of retirement income may claim a one-time credit equivalent to receiving the annual credit each year of the retiree's expected remaining life according to actuarial tables.

The senior citizen credit is an annual credit for taxpayers aged 65 years and older equal to $50; receiving retirement income is not necessary to claim the credit. As an alternative, a taxpayer aged at least 65 years who receives a lump-sum distribution of retirement income may claim a one-time credit equivalent to $50 for each year of their expected remaining life.

The means test for the retirement income credit, the lump-sum retirement credit, the lump-sum distribution credit, and the senior citizen credit applies to taxable years beginning on or after January 1, 2015.

The bill also moves language relating to those credits and strikes obsolete language.

Small business income tax deduction

(R.C. 5747.01(A)(31); Section 803.70)

The bill increases the amount of the small business income tax deduction to allow individuals to deduct 75% of business income. The aggregate deduction for business income may not exceed $93,750 ($187,500) for spouses who file separate returns and each report business income. Under current law, the small business income

tax deduction equals 50% of business income included in a taxpayer's federal adjusted gross income. The amount of the deduction is limited to $125,000 per taxpayer per year (or $62,500 for spouses who file separate returns and each report business income). The deduction was first available in 2013. For taxable years beginning in 2014, the deduction was 75% (see Section 757.80 of H.B. 483 of the 130th General Assembly).

Under continuing law, "business income" is income from the regular conduct of a trade or business, including gains or losses, and includes gains or losses from liquidating a business or from selling goodwill. It is deductible to the extent it is apportioned or allocated to Ohio, in cases taxpayers who have business income attributable to other states The deduction is not available to estates or trusts subject to the income tax. The deduction does not affect the school district income tax base: any taxpayer making the deduction for state income tax purposes must add the deducted amount back into the taxpayer's school district taxable income if the school district's income tax base is based on state taxable income (as opposed to just earned income).

Deduction for Hope for a Smile program service donation

(R.C. 5747.01(A)(32); Section 803.200)

The bill authorizes an income tax deduction for dentists and dental hygienists who provide services free of charge under the bill's proposed Hope for a Smile program (described under the Department of Health topic heading). The amount of the deduction equals the fair market value of the services provided.

Repeal political contribution credit

(R.C. 5747.29 and 5747.98; Section 803.130)

The bill repeals a personal income tax credit for monetary contributions to a candidate running for statewide executive or judicial office or for the General Assembly or State Board of Education. Under current law, this nonrefundable credit equals the lesser of the amount of an individual's combined contributions or $50. For joint filers, the credit equals the lesser of the amount of combined contributions or $100. The credit may no longer be claimed for taxable years beginning after 2014.

Other state taxes

Domestic insurance premium tax

(R.C. 5725.22; Section 803.07)

Under continuing law, foreign and domestic insurance companies are subject to a franchise tax based on the company's gross premiums, subject to certain exclusions.

For an insurance company that is a health insuring corporation, and for the health insuring corporation line of business of an insurer that is not a health insuring corporation, the tax is equal to 1% of all premium rate payments received. An insurance company that is not a health insuring corporation must pay a franchise tax equal to 1.4% of the gross amount of premiums received from policies covering risks within Ohio.[178]

Payment date

The bill requires the Treasurer to issue a final tax bill to each domestic insurance company on or before May 15 of each year. In case of an emergency situation, the Treasurer may issue the tax bill later than May 15 and may grant the taxpayer an extension for paying the amount due. Under current law, the Treasurer is required to issue the tax bill within 20 days after receiving the final assessment of taxes from the Department of Insurance. Continuing law requires the Department of Insurance to certify the tax liability of each insurance company to the Treasurer on or before the first Monday of May.

The bill requires domestic insurance companies to pay the franchise tax liability on or before June 15 of each year. If June 15 is a Saturday, Sunday, or legal holiday, payment is due on the next business day. Under current law, payment is due within 30 days of the date the Treasurer mails the tax bill.

Penalties

The bill also adjusts the penalties associated with late payment of the domestic insurance premiums tax. The penalty would equal $500 for each month the taxpayer fails to pay all taxes and interest due. (This equals the penalty for failure to pay foreign insurance company taxes. R.C. 5729.11.) If the taxpayer fails to demonstrate a good faith effort to pay the taxes and interest on time, the Treasurer may assess an additional penalty not exceeding 10% of the taxes and interest due. Under current law, the penalty for late payment is 5% of the taxes and interest due if the payment is made within ten days of the due date and escalates to 10% of the taxes and interest due if the payment is more than ten days late.

The bill's changes to domestic insurance premium tax due dates and penalties apply to taxable years ending in or after 2016.

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[178] R.C. 5725.18.

Eliminate cash register adjustment compensation

(R.C. 5739.212 (repealed); Section 803.170)

Eliminates an existing requirement that counties and transit authorities compensate vendors for the expense of adjusting cash registers when a county or transit authority sales and use tax rate is increased or a new tax is imposed. Compensation would no longer be required for taxes increased or imposed on or after July 1, 2015.

Currently, when a county or transit authority levies a new sales and use tax or increases the tax rate, it must compensate vendors by up to $50 per cash register or, if only one register is in a place of business, up to $100.

Kilowatt-hour excise tax: donated electricity

(R.C. 5727.031 and 5727.80; Section 757.90)

Under continuing law, most property used to supply electricity to other persons is subject to property taxes imposed by local taxing units. In addition, most companies that distribute electricity to end users in Ohio are subject to a kilowatt-hour tax, based upon the amount of kilowatt-hours of electricity the company distributes to end users each month.

The bill specifies that a company that generates electricity but donates all of that electricity to a political subdivision is not subject to either the kilowatt-hour tax or property tax. The bill states that this provision is intended to "clarify and be declaratory of" existing law.

Petroleum activity tax credit for tax on blend stocks

(R.C. 5736.51; Section 803.190)

The bill authorizes a taxpayer to claim a nonrefundable credit against the petroleum activity tax (PAT) on the basis of PAT remitted by another supplier that sells blend stocks to the taxpayer, provided the taxpayer incorporates those blend stocks into blended fuel the sale of which is subject to the PAT. The credit may be claimed on the basis of PAT remitted for blend stocks sold by that other supplier to the taxpayer on or after July 1, 2015. Blend stocks are additives that are sold for blending with motor fuel, such as ethanol.

Continuing law levies the PAT on suppliers of motor fuel on the basis of each supplier's "calculated gross receipts"—the volume of the supplier's first sales of motor fuel in the state multiplied by the average price for unleaded gasoline or diesel fuel, as applicable. Essentially, the credit ensures that the sale of blend stocks incorporated into

motor fuel is subject to the PAT only once, i.e. the blend stock is taxed at its point of first sale, but not a second time after it is incorporated into and sold as blended motor fuel.

Temporary historic rehabilitation CAT credit

(Section 757.70)

The bill extends, to July 1, 2017, a provision authorizing owners of a historic rehabilitation tax credit certificate to claim the credit against the CAT if the owner cannot claim the credit against another tax and the certificate becomes effective after 2013 but before June 30, 2017 ("qualifying certificate owner"). Uncodified law enacted by H.B. 483 of the 130th General Assembly authorizes certificate owners to claim a similar credit against the CAT only for tax periods ending before July 1, 2015, provided the owner cannot claim the credit against another tax and the certificate becomes effective after 2013 but before June 30, 2015.

Continuing law authorizes a certificate holder to claim the credit against the personal income tax, financial institutions tax, or foreign or domestic insurance company premiums tax.

Under the bill, a qualifying certificate owner may claim the credit against the CAT for the calendar year specified in the certificate, but only for CAT tax periods ending before July 1, 2017. The amount of the CAT credit equals the lesser of 25% of the owner's rehabilitation costs listed on the certificate or $5 million. Although the credit is refundable, if an amount would be refunded to the owner in a calendar year, the owner may not claim more than $3 million of the credit for that year. However, the owner may carry forward any unused credit for up to five years. The bill requires the certificate owner to retain the tax credit certificate for four years after the last year the owner claims the CAT credit for possible inspection by the Tax Commissioner.

As under the existing provision, the bill authorizes corporate owners of a qualifying certificate owner that is a pass-through entity that are not themselves pass-through entities to claim the credit against the owners' CAT according to mutually agreed-upon proportions if the certificate so permits or if the owners are part of the same consolidated elected or combined taxpayer as the pass-through entity.

Additionally, the bill authorizes a qualifying certificate owner that is not a CAT taxpayer to file a CAT return for the purpose of claiming the historic rehabilitation tax credit. This enables a business with less than $150,000 in taxable gross receipts that is not a sole proprietor or a pass-through entity composed solely of individual owners, or a nonprofit organization, to claim a tax "credit" as if the business or organization were a CAT taxpayer.

Wine excise tax

(R.C. 4301.43)

Continuing law levies an excise tax on manufacturers, importers, and wholesale distributors who sell and distribute wine in and to Ohio. The tax is due monthly. All revenue is credited to the General Revenue Fund except for a percentage of the wine tax revenue (2%) earmarked for the Ohio Grape Industries Fund. Currently, the 2% earmark is set to expire June 30, 2015. The bill extends the earmark for another two years, until June 30, 2017.

Beer excise tax for sporting event host subsidy

(R.C. 122.121 and 4301.46)

The bill earmarks 2% of beer excise tax revenue, up to $1 million annually, for grants to be made under an existing program authorizing grants for local organizing committees or local governments to help them fulfill their financial obligations to a sporting event site selection group. Currently, all beer excise tax revenue is credited to the General Revenue Fund.

Under continuing law, the Development Services Agency may award such grants from appropriations to the agency in an annual amount up to $1 million. The sporting event must be estimated to generate at least $250,000 in additional state sales tax revenue. An individual grant must be for at least one-half of the estimated revenue increase, up to $500,000.

Tax identity verification

(R.C. 5703.057, 5703.36, and 5703.361; Sections 757.40 and 803.180)

Beginning January 1, 2016, the bill limits information the Tax Commissioner may require a person to verify for the purpose of confirming the person's identity. Continuing law empowers the Commissioner to (1) take measures to inform the Commissioner on matters necessary to discharge the Commissioner's duties and (2) require that any person filing a tax document also provide identifying information to the Commissioner. The bill limits the scope of this existing authority by prohibiting the Commissioner from requesting that a person verify information created or compiled by the Bureau of Motor Vehicles more than 15 years earlier or any other type of information created or compiled more than ten years earlier.

Additionally, the bill requires the Commissioner to report on the effectiveness of any identity-verification measures the Commissioner employs to reduce personal income tax fraud. This report must be submitted by August 30, 2016, to the Speaker of

the House of Representatives and the President of the Senate, as well as each member of the House and Senate standing committees dealing with taxation.

Ohio 2020 Tax Policy Study Commission

(Section 757.50)

The bill creates the Ohio 2020 Tax Policy Study Commission to review the state's tax structure and policies and make recommendations to the General Assembly on how to maximize Ohio's competitiveness by the year 2020. The Study Commission is to consist of three members of the House of Representatives appointed by the Speaker of the House and three members of the Senate appointed by the Senate President. With respect to the House members, two must be members of the majority party, one of whom is the Chairperson of the House Ways and Means Committee, and one must be a member of the minority party. With respect to the Senate members, two must be members of the majority party, one of whom is the Chairperson of the Senate Ways and Means Committee, and one must be a member of the minority party. The Chairperson of the House Ways and Means Committee is to serve as Chairperson of the Study Commission.

The bill directs the Study Commission to utilize "dynamic analytical tools" and the Legislative Service Commission to provide any necessary services. (The bill does not define "dynamic analytical tools." In the context of analyzing tax policies, reference to "dynamic" analysis generally implies employing models intended to estimate how a change in policy affects revenue directly or indirectly through the policy's effect on macroeconomic factors such as employment, capital stock, and output.)

The Study Commission is to publish its findings and recommendations not later than October 1, 2017, at which time the Study Commission will cease to exist.

Commissions of executors and administrators

(R.C. 2113.35)

The bill allows executors and administrators the same commissions as existed before the repeal of the estate tax. Executors and administrators of the estates of decedents who died before January 1, 2013, were allowed a fee of 1% on all property that was not subject to administration and that was includable in the estate for purposes of computing the estate tax, except joint and survivorship property. The bill allows a fee of 1% on property that is not subject to administration and *would have been* includable for purposes of computing the estate tax *had the decedent died on December 31, 2012* (that is, before the repeal of the estate tax took effect), except joint and survivorship property.

Tangible personal property tax reimbursements

Background

The bill resumes the phase-out of payments currently being made to school districts and other local taxing units to partly reimburse them for the loss of property tax revenue resulting from previously legislated reductions in local property taxes on tangible personal property. Beginning in 2001, the taxable value of some electric utility tangible personal property (TPP) was reduced by legislation that partly deregulated electric utilities. Subsequent utility deregulation legislation in following years reduced the taxable value of natural gas utility TPP and telephone utility TPP. In 2005, legislation eliminated taxes on TPP used in business over a five-year period. These reductions caused locally levied property taxes to decline accordingly. The legislation provided initial reimbursement for most of the revenue loss and gradual phase-out of the reimbursement over several years. In 2011 and 2012, reimbursement payments were immediately reduced by about 25% and 50%, respectively, and the phase-out of the reduced payments accelerated relative to the original phase-out schedule.[179]

School district reimbursement

(R.C. 5709.92, 5727.84, 5727.85, 5751.20, and 5751.21)

Under current law, reimbursement payments are generally constant for those districts whose reimbursements have not already been phased out under the 2011-2012 changes. The bill's resumption of the reimbursement phase-out begins in FY 2016 on the basis of a district's combined business and utility property tax replacement payments received in FY 2015. (The bill includes an offsetting provision, effective for FY 2016 and 2017 only, requiring a supplemental payment ensuring that each school district receives combined state aid and TPP reimbursement for fixed-rate current expense levies at least equal to its combined FY 2015 state aid and TPP reimbursement for fixed-rate current expense levies. See Section 263.325, entitled "School District TPP Supplement.")

Under the bill, different phase-out schedules are prescribed for different classes of tax levies, as follows:

Current expense levies: Payments for most current expense-purpose levies are phased out according to the amount of a district's FY 2015 current expense levy replacement payment ("current expense allocation") relative to its total operating revenue from state and local sources ("total resources"). Payments are phased out more quickly for districts whose current replacement payments are a relatively small

[179] A complete description of the 2011-2012 changes to the reimbursement scheme is available in the LSC bill analysis for H.B. 153 of the 129th GA, pp. 655-665.

percentage of their total resources. The phase-out also incorporates a tax-raising capacity factor designed to continue relatively greater payments for more years for districts that have relatively lower personal income and per-pupil property wealth. For districts in the middle 20% (third quintile) of tax capacity, the replacement payment will be made in FY 2016 only if and to the extent that the FY 2015 payment represents more than 1.5% of the district's total resources; in FY 2017, the percentage increases from 1.5% to 3%, and it increases by an increment of 1.5% each year thereafter. The percentage for each quintile, both the initial and annual increment, is as follows:

Quintile	Percentage
Fifth (highest capacity)	2%
Fourth	1.75%
Third	1.5%
Second	1.25%
First (lowest capacity)	1%

As each percentage increases incrementally each year, the amount of the payment decreases until the payments eventually end.

The percentage for all joint vocational school districts is 2% initially, with a 2% incremental increase each year.

Currently, school districts and JVSDs receive payments for such current expense levies only if the district's FY 2011 payment for those levies exceeds 4% of its total resources for the corresponding year. The annual payment equals the amount by which a district's FY 2011 payment for those levies exceeds 4% of its total resources for the corresponding year.

Noncurrent-expense, nondebt levies: Replacement payments for levies funding purposes other than current expenses or debt payment (e.g., permanent improvement levies) are made in FY 2015 in an amount equal to 50% of a district's FY 2015 payment. No payments for such levies will be made after FY 2016. Current law provides for annual payments equal to 50% of the payment a district received in FY 2011.

Emergency and other fixed-sum levies: Replacement payments for emergency levies and other levies designed to raise a fixed amount of revenue for current expenses or other purposes (except debt levies) are phased out in one-fifth increments over five years. The phase-out begins in 2017 for utility property-based replacement payments and in 2018 for business property-based payments. Currently, payments for nondebt

fixed-sum levies are scheduled to end in 2017 for utility TPP-based reimbursements and in 2018 for business TPP-based reimbursements.

Debt levies: Replacement payments for voter-approved fixed-sum debt levies will continue to be paid in the same amount paid in 2014 until the levy is no longer imposed. Payments for debt levies imposed without the need for voter approval (i.e., within the 10-mill limitation on unvoted taxes) and that qualified for reimbursement in FY 2015 will be reimbursed through FY 2016 (for utility TPP-based payments) or through FY 2018 (for business TPP-based payments). This is a continuation of current law.

Other local taxing unit reimbursement

(R.C. 5709.93, 5727.84, 5727.86, 5751.20, and 5751.22; Section 757.10)

Similar to school district reimbursements, reimbursement payments for other local taxing units currently are generally constant for those still receiving payments after the 2011-2012 changes. The bill's resumption of the phase-out of reimbursements begins in FY 2016 on the basis of a district's combined business and utility property tax replacement payments received in FY 2015.

As with school district reimbursements, different phase-out schedules are prescribed for different classes of tax levies, as follows:

Current expense levies: Most current expense-purpose levies are phased out according to the amount of a taxing unit's FY 2015 current expense levy replacement payments ("current expense allocation") relative to its total operating revenue from state and local sources ("total resources"). Payments are phased out more quickly for taxing units whose FY 2015 replacement payments are a relatively small percentage of their total resources. Replacement payments for most current expense levies will be made in FY 2016 only if and to the extent that the FY 2015 payment represent more than 2% of the district's total resources. In FY 2017, the percentage increases from 2% to 4%, and it increases by 2% each year thereafter. As the percentage increases incrementally each year, the amount of the payment decreases until the payments eventually end.

Currently, taxing units and libraries receive payments for such current expense levies only if their CY 2010 payment for those levies exceeds 6% of its total resources for the corresponding year. The annual payment equals the amount by which the CY 2010 payment for those levies exceeds 4% of total resources for the corresponding year.

Unvoted debt levies: Replacement payments for debt levies imposed without the need for voter approval (i.e., within the 10-mill limitation on unvoted taxes) and that

qualified for reimbursement in CY 2015 will be reimbursed through CY 2016 (for utility TPP-based payments) or through CY 2017 (for business TPP-based payments).

Nuclear power plant-affected taxing units

(R.C. 5709.92 and 5709.93)

Replacement payments for certain school districts and other taxing units are exempted from the bill's phase-out of TPP replacement payments for fixed-rate current expense levies. In fiscal year 2016 and thereafter those districts and taxing units will continue to receive the same payment amount they received for such levies in fiscal year 2015. To be exempted from the phase-out, the district or taxing unit must have a nuclear power plant located in its territory and its FY 2015 TPP reimbursement payment for fixed-rate current expense levies ("current expense allocation") must equal at least 10% of its total resources. (The exempted school districts and taxing units are designated "qualifying school districts" and qualifying taxing units.") Reimbursement for other kinds of levies is phased out as the bill provides for other school districts and taxing units.

Library total resources certification

The bill requires each county auditor to certify to the Tax Commissioner the amount of money distributed from the County Public Library Fund in 2014 to each public library system that received a TPP reimbursement in 2014. Certification must be made by July 31, 2015. The certification is to enable the Commissioner to compute a library system's total resources used in the computation of new reimbursements.

Appeal of reimbursement computation

(Section 757.20)

The bill authorizes school districts and other local taxing units affected by the bill's TPP reimbursement changes to contest how the Tax Commissioner has classified a levy or calculated its total resources for the purpose of computing the reimbursement payments. Appeals must be filed with the Commissioner and the Commissioner may adjust the classification or computation if warranted by the appeal's merits. The Commissioner's decision is final and not appealable. No adjustments may be made after June 30, 2016.

CAT revenue to GRF

(R.C. 5751.02 and 5751.20)

The bill increases the percentage of commercial activity tax revenue to be credited to the GRF beginning July 1, 2015, and reduces the percentages to be credited to the School District Tangible Property Tax Replacement Fund and Local Government Tangible Property Tax Replacement Fund. Aside from the small percentage of CAT revenue (0.85%) that will continue to be earmarked for CAT administration expenses and to implement unspecified "tax reform measures," the percentage of CAT revenue credited to the GRF increases from 50% to 75%. The percentage credited to the school district replacement fund decreases from 35% to 20%, and the percentage credited to the local government replacement fund decreases from 15% to 5%.

The bill also moves language related to the use of CAT revenue from one section of law (R.C. 5751.20(B) and (J)) to another (R.C. 5751.02(C) to (F)) without changing the substance of the language other than to change the allocation of revenue between the GRF and the replacement funds as described above.

Under continuing law, the School District Tangible Property Tax Replacement Fund and Local Government Tangible Property Tax Replacement Fund are used to make payments to school districts and other local taxing units to partially reimburse them for the phase-out and eventual repeal (2009) of property taxes on business tangible personal property.

Kilowatt-hour excise tax revenue to GRF

(R.C. 5727.81, 5727.811, and 5727.84)

The bill directs that nearly all revenue from the kilowatt-hour excise tax be credited to the General Revenue Fund beginning July 1, 2015. Currently, almost all revenue from the tax is apportioned among the GRF and two other funds, as follows: 88% to the GRF, 9% to the School District Property Tax Replacement Fund, and 3% to the Local Government Property Tax Replacement Fund. The latter two funds are used to make payments to school districts and other local taxing units to partially reimburse them for previously legislated reductions in property tax assessments on tangible personal property of electric and natural gas utilities as part of the deregulation of some aspects of such utilities. In accord with the change in the revenue distribution, the bill changes the statement of the purpose of the tax.

Kilowatt-hour tax revenue that currently is payable to a municipal electric utility on the basis of electricity distributed to end users in the municipal corporation will continue to be payable to the municipal corporation. Currently, tax revenue payable on

the basis of electricity provided by a municipal electric utility to end users in the municipal corporation is payable to the municipal corporation (if the user is a self-assessing user) or is retained by the municipal corporation (in the case of other users).

The kilowatt-hour excise tax is levied on the basis of electricity distributed to electricity meters in Ohio. In most cases it is payable by the company that distributes the electricity. Consumers that receive electricity directly from suppliers outside Ohio and large-volume commercial and industrial consumers (using at least 45 million kwh annually at a single site) must pay the tax directly.

Tax credits and exemptions

Job creation and retention tax credits

(R.C. 122.17, 122.171, 5725.98, 5726.50, 5729.98, 5733.0610, 5736.50, 5747.058, and 5751.50)

The bill makes several revisions to the computation and administration of the job creation tax credit (JCTC) and the job retention tax credit (JRTC). Under continuing law, the Tax Credit Authority (TCA) is authorized, upon the application of a taxpayer and the recommendation of JobsOhio and the Director of Development Services, to enter into JCTC and JRTC agreements with the taxpayer to foster job creation, job retention, and capital investment in this state.

The bill revises the computation of JCTCs so that the amount of the credit equals an agreed-upon percentage of the taxpayer's Ohio employee payroll (taxable income paid to Ohio residents) minus baseline payroll (taxable income paid to Ohio residents during the 12 months preceding the agreement). For JRTCs, the amount of the credit would equal an agreed-upon percentage of the taxpayer's Ohio employee payroll. Under current law, both credits are calculated as a percentage of the taxpayer's Ohio income tax withholdings (which could include nonresidents working in Ohio). The bill's change to the credit base would prevent a reduction in the credit amount due to declining Ohio income tax rates.

The bill also removes the 75% cap currently placed on the JRTC percentage. The JRTC percentage is multiplied by the taxpayer's Ohio employee payroll (or, under current law, the taxpayer's Ohio income tax withholdings) to determine the amount of the credit. Under continuing law, the JRTC percentage is negotiated by the TCA and the taxpayer as part of the JRTC agreement.

The bill authorizes the TCA to require the taxpayer to refund all or a portion of a JCTC or JRTC if the taxpayer fails to substantially meet the job creation, payroll, or investment requirements included in the tax credit agreement or files for bankruptcy.

Under continuing law, the TCA may seek to recoup all or a portion of the credit if the taxpayer fails to maintain operations at the project site (generally, the business's place of operations in Ohio) for the period of time specified in the tax credit agreement.

The bill reduces from 60 to 30 days the amount of time a taxpayer has to submit a copy of a JCTC or JRTC certificate after a request of the Tax Commissioner or the Superintendent of Insurance. Continuing law permits the Tax Commissioner or Superintendent of Insurance to request a copy of the certificate only when the taxpayer fails to include a copy with their return as required by continuing law.

The TCA, upon mutual agreement of the taxpayer and the Development Services Agency, may revise JCTC agreements originally approved in 2014 or 2015 to conform with the bill's revisions to the credit. Otherwise, the bill's revisions apply to JCTC and JRTC agreements entered into after the bill's 90-day effective date.

Evaluation of JRTC and data center sales tax exemption applications

(R.C. 122.171 and 122.175)

The bill revises the role of the Director of Budget and Management, the Tax Commissioner, and the Superintendent of Insurance in evaluating applications for JRTCs and data center sales tax exemptions. Continuing law authorizes the Ohio Tax Credit Authority (TCA) to grant JRTCs to qualifying businesses that complete a capital investment project and agree to retain a specified number of full-time equivalent employees or maintain a certain threshold payroll. The TCA is also authorized to exempt purchases of certain personal property that will be used at an eligible computer data center by a business, or group of businesses, that agrees to invest at least $100 million in the data center and maintain a minimum payroll of $1.5 million.

Under current law, the Director of Budget and Management, the Commissioner, and the Director of Development Services are required to review JRTC and data center sales tax exemption applications and determine the economic impact of proposed projects on state and the affected political subdivisions. These determinations must be sent, along with a recommendation on the application, to the TCA to assist in its determination of whether to grant the credit or exemption. The Superintendent is required to complete this process with respect to JRTC applications submitted by insurance companies.

The bill eliminates the requirement that such government officials' submission to the TCA include a recommendation on the application. The Director of Development Services would still be required to determine the local economic impact of proposed projects and submit recommendations to the TCA.

The bill requires the TCA, upon the request of a taxpayer subject to an existing JCTC or JRTC agreement, to amend the agreement to account for decreases in the state income tax rates beginning with the reductions enacted by H.B. 59 of the 130th General Assembly. This requirement applies to all JCTC or JRTC agreements approved by the TCA before the bill's 90-day effective date, including agreements that were effective before October 16, 2009.

The tax credit percentage specified in the agreement would be increased by the same percentage that state income tax rates have decreased since the agreement's effective date or June 29, 2013, whichever is later. If the agreement requires the taxpayer to reach any threshold of excess income tax revenue (in the case of a JCTC) or income tax revenue (in the case of a JRTC), that threshold would be decreased by the same percentage that state income tax rates decreased since the agreement's effective date or June 29, 2013, whichever is later. The tax credit percentage and income tax revenue threshold would thereafter be annually adjusted to account for future decreases in state income tax rates. Such agreements would not be subject to any of the bill's other revisions to the JCTC and JRTC programs.

Property taxes

Current expense levies allocated to partnering community schools

(R.C. 5705.21 and 5705.212)

Continuing law authorizes certain school districts to propose and levy a property tax for current operating expenses and allocate a portion of the proceeds to one or more "partnering" community schools. The tax may be levied for up to ten years or for a continuing period of time. It may be renewed or replaced, imposed as an "incremental levy," or combined with a bond levy for permanent improvements. If combined with such a bond levy, only the current expense levy revenue may be shared; the bond levy is solely for the purpose of the school district. A levy imposed for a continuing period of time may be reduced by initiative petition in the same manner as any school district continuing expense levy.

The resolution and ballot language proposing such a levy must specify the portion of the proceeds allocated to the school district and the portion allocated to partnering community schools. The revenue allocated to the partnering community schools is credited to a "partnering community schools fund" created by the school district board of education and distributed to the partnering community schools on a per-pupil basis. Only pupils residing in the school district levying the tax are counted for the purposes of determining a partnering community school's share of the revenue deposited to the partnering community schools fund.

Qualifying school districts

The bill extends the authority to levy property taxes for community schools to any school district that contains a community school sponsored by an "exemplary" sponsor according to the annual ratings published by the Department of Education.[180] Current law limits this authority to the Cleveland Metropolitan School District and the Columbus City School District.

The bill retains all provisions in current law pertaining specifically to the Cleveland Metropolitan School District, but removes criteria that were enacted specifically to enable the Columbus City School District to seek approval of such a levy. A proposed tax in the Columbus district was rejected by voters in 2013.

Eligible partnering community schools

The bill revises the qualifications for community schools that are allocated levy revenue in school districts other than the Cleveland Metropolitan School District. Under the bill, the community school must be located within the territory of the school district and be sponsored by a sponsor rated "exemplary" in the ratings most recently published before the resolution proposing the levy is certified to the board of elections. Under continuing law unchanged by the bill, a community school located in the Cleveland Metropolitan School District must be sponsored by the district or be a party to an agreement with the district whereby the district and the community school endorse each other's programs.

Allocating all revenue to partnering community schools

The bill authorizes school districts other than the Cleveland Metropolitan School District to levy a property tax solely for and on behalf of one or more partnering community schools. Current law does not cap the percentage of levy revenue that may be allocated to community schools, but could imply that at least a portion must be levied for the school district's own expenses. The resolution and ballot language proposing such a levy would be required to specify that all of the levy proceeds are allocated to partnering community schools.

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[180] Continuing law requires the Department to annually rate all entities that sponsor community schools as either "exemplary," "effective," or "ineffective" based on academic performance of students, adherence to quality practices prescribed by the Department, and compliance with laws and administrative rules. R.C. 3314.016.

Water-works tangible personal property tax assessment

(R.C. 5727.111)

Continuing law imposes a property tax on the tangible personal property of public utilities. The tax is calculated by determining the taxable value of a company's property, allocating that value among the jurisdictions in which the property is located, and multiplying the apportioned values by the property tax rates in effect in the respective jurisdictions. The taxable value of a company's tangible personal property equals its "true" value (the cost of the property as capitalized on the company's books, less composite annual allowances prescribed by the Tax Commissioner), multiplied by an assessment percentage specified in law.

Under current law, the tangible personal property of a water-works company is assessed at 88% of its true value. The bill reduces the assessment rate for all new water-works property first subject to taxation in tax year 2015 or thereafter to 25% of the property's true value.

Tax valuation for farmland storing dredged material

(R.C. 5713.30; Section 803.140)

Beginning with tax year 2015, the bill allows unproductive farmland intended to later be returned to productivity to remain valued at its current agricultural use value (CAUV) for property tax purposes, provided the land is used to store dredged material pursuant to a contract between the land's owner and the Department of Natural Resources or the Army Corps of Engineers. Such farmland may maintain its CAUV status for the lesser of five tax years or the last tax year in which dredged material is stored on the land pursuant to that contract. Dredged materials are materials excavated or dredged from Ohio waters, but do not include materials obtained as a result of normal farming activities.

Pursuant to authority granted in the Ohio Constitution, productive farmland may be valued at its CAUV value rather than its fair market value for property tax purposes. Under continuing law, unproductive farmland that is intended to later be used as farmland may retain its CAUV status for one year, and for up to two additional years for good cause as proven by the landowner to the county board of revision. Thereafter, the land is considered to have been converted from agricultural use to nonagricultural use and a recoupment charge is imposed to recoup the CAUV tax savings for the preceding three years.

Term of tax levies benefitting cemeteries

(R.C. 5705.19)

The bill lengthens the maximum term of a property tax levy to pay the operating and maintenance expenses of public cemeteries. Continuing law allows board of township trustees or municipal legislative authorities to propose and, with the approval of voters, levy a property tax for maintaining and operating a cemetery. Under current law, such a levy may be imposed for a term of up to five years. The bill instead allows such a levy to be imposed for any number of years or for a continuing period of time.

Townships and municipal corporations have authority to acquire land for public cemeteries and to own and operate them with public funds, separately or jointly.[181] The expenses of operating and maintaining public cemeteries may be paid from taxes, gifts and bequests, sale of plots, general fund money, or, in the case of a municipal corporation, any other funds lawfully available for the purpose.

Fraternal organization exemption

(R.C. 5709.17(D); Section 757.80)

The bill expands eligibility for property tax exemption for property held or occupied by certain kinds of fraternal organizations by permitting the exemption if the property is used primarily for any not-for-profit purpose. Currently, the property must be used primarily for meetings or administration of the organization. Another qualification – not affected by the bill – is that annual gross income from renting the property to others may not exceed $36,000.

For the purpose of the tax exemption both currently and under the bill, a fraternal organization must be a domestic fraternal society, order, or association that operates under the lodge, council, or grange system, qualifies for federal income tax exemption under Internal Revenue Code section 501(c)(5), 501(c)(8), or 501(c)(10), provides financial support for charitable purposes, and has been operating in Ohio with a state governing body for at least 85 years.

[181] R.C. Chapter 517. for townships; R.C. 759.27 to 759.43 for township-municipal "union" cemeteries. Municipal corporations' authority derives from their home rule powers.

Township tax increment financing extension

(R.C. 5709.73(L))

The bill authorizes the board of trustees of a township with a population of at least 15,000 to extend property tax exemptions originally granted under a pre-1995 tax increment financing resolution. The tax exemptions may be extended for up to 15 additional years. The board would have to notify the affected school board and the board of county commissioners of the extension at least 14 days before taking formal action to approve the extension.

Under continuing law, townships, counties, and municipal corporations may grant property tax exemptions under "tax increment financing" (TIF) legislation that enables the subdivision to essentially divert the property tax revenue from increased property values on parcels (i.e., the increment) to finance public infrastructure improvements that benefit the parcels. The tax exemptions may be for up to 30 years. TIF legislation adopted before July 22, 1994, had to comply with a 14-day notice requirement, and affected school boards were allowed to "comment" on the tax exemption. However, TIF legislation adopted on or after that date must be approved by the affected school board if the exemption is to last longer than ten years or exempt more than 75% of the increased property value, and school boards may exchange approval for compensation from the subdivision granting the TIF exemption; a 45-day notice also is required for the 75%-plus and ten-year-plus exemptions. Compensation was allowed under the pre-July 1994 law, but school boards lacked the authority to approve any TIF exemption in exchange. Compensation also is required under continuing law for counties in the case of a township-initiated TIF, but was not required as of December 31, 1994. (See 5709.73(D), 5709.82, and 5709.83 as amended by S.B. 19 of the 121st General Assembly.)

Municipal income tax

Municipal corporations' authority to levy taxes is an aspect of their home rule powers conferred by Article XVIII, Section 3, Ohio Constitution. Although the General Assembly does not grant municipal corporations the authority to tax, it may limit their taxing authority or prohibit municipal taxes by express acts; however, it cannot command a municipal corporation to impose a tax when the municipal corporation chooses not to do so. The limits on municipal income taxes are codified in Chapter 718. of the Revised Code. H.B. 5 of the 130th General Assembly modified many of the limits previously codified in that chapter and imposed new limits and procedures. The changes enacted in H.B. 5 generally apply to taxable years beginning on and after January 1, 2016.

Due date for returns

(R.C. 718.05(G)(1); Sections 803.03 and 803.160)

H.B. 5 requires that all municipal income tax returns for all taxpayers – individuals and entities – are required to be filed on or before the date prescribed for filing individual state income tax returns (April 15). The bill changes the annual return filing deadline for municipal income taxpayers that are not individuals to the 15th day of the fourth month following the end of the taxpayer's taxable year. This change would affect nonindividual taxpayers whose taxable year does not correspond with the calendar year. The change applies to taxable years beginning on or after January 1, 2016.

Filing extensions

(R.C. 718.05(G)(2); Section 803.03)

Beginning January 1, 2016, the bill requires a municipal income tax administrator to grant a taxpayer a six-month extension for filing the taxpayer's municipal income tax return even if the taxpayer did not request a corresponding federal extension. The taxpayer is required to request the extension not later than the date the return is otherwise due. The bill does not specify the manner of that request.

Under current law scheduled to apply on and after January 1, 2016, municipal income tax returns are due the same day as state income tax returns – generally by April 15. However, a taxpayer that requests a six-month extension for filing the taxpayer's federal income tax return automatically receives a six-month extension for filing any of the taxpayer's municipal income tax returns.

For both the new and existing extension procedures, a taxpayer's receipt of a filing extension does not also extend the time to pay any tax due, unless the tax administrator also grants an extension of that date.

Taxpayer damages suits

(R.C. 718.37)

The bill specifies that taxpayers seeking damage awards on the basis of actions or omissions regarding municipal income taxes may sue the municipal corporation, but not the tax administrator.

Current law, which took effect March 23, 2015, authorizes a municipal income tax taxpayer aggrieved by an action or omission of a municipal tax administrator, an administrator's employee, or a municipal employee to bring an action against the tax administrator or municipal corporation to recover compensatory damages and costs.

Such suits are authorized if the action or omission involved frivolous disregard for a law, rule, or instruction in the course of an assessment or audit or related collection actions and did not involve someone acting outside the scope of their employment or acting maliciously, recklessly, wantonly, or in bad faith. A tax administrator may be an individual or an entity retained by a municipal corporation to administer its income tax, such as the Regional Income Tax Agency and the Central Collection Agency.

Alternative municipal income tax base adjustments

(R.C. 718.01(A)(1); Section 803.01)

The bill allows a municipal corporation that has adopted Ohio adjusted gross income as its tax base (a "qualified municipal corporation") to make adjustments to that tax base with respect to resident individuals. Such a municipal corporation is still prohibited from exempting income of nonresident individuals and businesses unless it did so before 2013.

Under continuing law, a municipality that adopted Ohio adjusted gross income as the municipality's tax base before January 1, 2012, may continue to use that tax base instead of the tax base prescribed in Chapter 718. of the Revised Code. However, under current law, the tax base that may be used is that which was in effect on December 31, 2013 – no further adjustments may be made.

Documents submitted with municipal income tax returns

(R.C. 718.05(F)(2); Section 803.03)

The bill allows the municipal tax administrator of a municipal corporation that adopted Ohio adjusted gross income as the municipality's tax base before January 1, 2012, to require an individual taxpayer to submit their Ohio individual income tax form (IT-1040) along with the individual's municipal income tax return. Under current law to take effect in 2016, an administrator may require an individual to submit only the individual's federal 1040 return and W-2 statements and, if the individual files an amended return or refund request, the documentation needed to support the refund request or adjustments in the amended return.

Electronic publication of municipal income tax information

(R.C. 718.07)

Under continuing law, municipal corporations must publish electronic versions of income tax ordinances, rules, instructions, and forms online. The bill provides that, in addition to these documents, municipal corporations must also publish online a

summary of taxpayer's rights and responsibilities.[182] Current law also requires that documents be posted on a site created by the Department of Taxation or on the municipal corporation's own website. The bill instead requires that the required documents be posted on both websites if the municipal corporation has established a website for its municipal income tax.

H.B. 5 of the 130th General Assembly, which made significant changes to the Municipal Income Tax Law, included a provision identical to that described above, but the provision was inadvertently removed before the act's enactment due to a technical drafting error.

Other local taxes

Lodging tax

Counties, townships, municipal corporations, and certain convention facilities authorities are authorized to levy lodging taxes. In general, the maximum lodging tax rate permitted in any location is 6%. Municipalities and townships may levy a lodging tax of up to 3%, plus an additional 3% if they are not located, wholly or partly, in a county that already levies a lodging tax. Counties may levy a lodging tax of up to 3%, but only in municipalities or townships that have not already enacted an additional 3% levy. On occasion, the General Assembly has authorized certain counties to levy additional lodging taxes for special purposes.

Unless specifically authorized otherwise, a county that levies a lodging tax must return up to one-third of its net lodging tax revenue to the municipalities and townships within the county that do not levy a lodging tax. The remaining revenue must be used to support a convention and visitors' bureau. The bureau must generally use the revenue for tourism sales, marketing, and promotion.

For sports facilities

(R.C. 5739.09(A)(8))

The bill authorizes a county with a population between 175,000 and 225,000, that has an amusement park with an average annual attendance over two million, and that levied a 3% lodging tax on December 31, 2014, to levy an additional 1% lodging tax for the purpose of constructing and maintaining county-owned sports facilities and

[182] H.B. 5 of the 130th General Assembly defined a "taxpayer's rights and responsibilities" to include certain duties of both the taxpayer and the municipal corporation. The "rights and responsibilities" include, for example, a taxpayer's right to appeal a tax assessment or refund denial and a taxpayer's responsibility to file returns or produce certain records at the request of the tax administrator.

funding efforts by the convention and visitors bureau to promote travel and tourism with respect to the sports facilities. A county levying this lodging tax would not be required to return any portion of the additional revenue to townships or municipal corporations.

Currently, only Warren County appears to qualify to levy the tax under the bill's requirements.

For county agricultural societies

(R.C. 1711.15, 1711.16, and 5739.09(L))

The bill authorizes a county with a county or independent agricultural society that hosts an annual harness horse race with at least 40,000 one-day attendees to levy, subject to the approval of county voters, a lodging tax of up to 3% for up to five years. Revenue from this tax must be used by the county to pay for the construction or maintenance of permanent improvements at sites where the agricultural society conducts fairs or exhibits. Similar to other lodging taxes, the bill requires the county to adopt rules necessary to administer the tax, but limits the amount of penalties and interest the county may charge for late payments.

Regional Arts and Cultural Districts

(R.C. 3381.01, 3381.041, 4301.01, 4301.102, 4301.422, 4301.423, 4301.425, 4301.49, 4301.50, 4303.071, 4303.232, 4305.131, 4307.04, 4307.05, and 5743.021; Section 815.10)

The bill authorizes an alternative procedure for creating a regional arts and cultural district (RACD) to promote arts, culture, and excellence within the community with an emphasis on outreach to children. The alternative procedure is available to counties with a population between 375,000 and 390,000. Upon voter approval, such a county would be authorized to levy a property tax, a cigarette tax, or an alcoholic beverage tax to support the RACD. Currently, only Stark County appears to qualify for the bill's alternative procedure. The board of county commissioners of an eligible county may create a RACD under the alternative procedure by adopting a resolution. Once an RACD resolution is adopted under the alternative procedure, no additional RACDs may be created within the county. The RACD would be governed by a board of trustees consisting of five members appointed by the board of county commissioners.

Taxing authority

Upon voter approval, the board of county commissioners that creates a RACD under the bill's alternative procedure may levy a property tax, a cigarette excise tax, or an alcoholic beverage tax, or a combination thereof, to support the RACD. The tax revenue would have to be used to pay the district's operating and capital expenses,

including those of artistic and cultural facilities, and to support the operating or capital expenses of any arts or cultural organization located within the district.[183]

The property tax authorized for counties that create a RACD under the bill's alternative procedure is identical to the property tax authorized under current law for all other RACDs. The cigarette tax authority is the same as Cuyahoga County currently has to fund its RACD. The rate of the cigarette tax may not exceed 15 mills per cigarette (i.e., 30¢ per pack of 20).

The rate of the RACD alcoholic beverage tax authorized by the bill may not exceed 16¢ per gallon of beer, 24¢ per gallon of cider, 32¢ per gallon of wine and mixed beverages, and $3 per gallon of spirituous liquor. No RACDs are authorized under current law to levy an alcoholic beverage tax. The tax authorized by the bill is similar to an alcoholic beverage tax currently imposed by Cuyahoga County in support of its sports facilities.

Tourism development districts

The bill authorizes certain townships and municipal corporations to designate a special district of not more than 200 contiguous acres, within which the municipal corporation or township may levy certain taxes or fees or receive certain revenue to fund tourism promotion and development in that district. These districts are referred to as "tourism development districts" (TDD).

Creation of TDD

(R.C. 5739.50(A) and (B))

Under the bill, only a township or municipal corporation located in a county that meets certain qualifications may create a TDD. In particular, the subdivision must be located in a county with a population between 375,000 and 400,000 and that levies county sales taxes, the aggregate rate of which do not exceed 0.50%. Only Stark County currently is capable of meeting both requirements.

Before a subdivision may create a TDD, it must hold two public hearings on the creation of the proposed TDD and receive a petition signed by every person owning land in the proposed TDD and the owner or agent of every business operating in the TDD. A business is a sole proprietorship or business entity or corporation, and also includes the federal government, the state, political subdivisions, nonprofit organizations, and school districts. However, a business only operates within the

[183] R.C. 3381.16.

proposed TDD if it conducts retail sales that would be subject to a special sales tax levied in the proposed TDD (see "**TDD sales and use tax**," below).

That petition must include an explanation of the taxes and fees that may be levied in the TDD (see below). After holding those hearings and receiving that petition, the subdivision may adopt a resolution designating the area of the subdivision to be included in the TDD.[184] The area cannot be more than 200 contiguous acres. The subdivision must submit this resolution, which the subdivision must adopt before 2019, to the Tax Commissioner within five days after its adoption, along with a description of the boundaries of the TDD.

A subdivision may enlarge an existing TDD before 2019 by following the same procedures for creating a new TDD subject to the 200-acre limit.

TDD sales and use tax

(R.C. 122.175, 4505.06, 5735.40, 5739.01, 5739.02, 5739.021, 5739.023, 5739.024, 5739.025, 5739.026, 5739.027, 5739.029, 5739.03, 5739.031, 5739.033, 5739.034, 5739.04, 5739.05, 5739.051, 5739.061, 5739.10, 5739.12, 5739.13, 5739.16, 5739.17, 5739.21, 5739.211, 5739.212, 5739.34, 5739.36, 5739.50, 5739.51, 5739.52, 5739.53, 5739.54, 5739.99, 5740.01, 5740.09, 5741.01, 5741.02, 5741.021, 5741.022, 5741.023, 5741.024, 5741.03, 5741.031, 5741.04, 5741.05, 5741.06, 5741.08, 5741.11, 5741.12, 5741.15, 5741.16, 5741.19, 5741.21, and 5741.23)

The bill authorizes a subdivision creating a TDD to levy a sales tax on sales occurring in the TDD's territory and a use tax on tangible personal property and taxable services used, stored, or consumed in that territory. The maximum rate of each tax must be the same and may not exceed a rate of 1.5%. The tax may be levied for a period of years or for a continuing period of time. Neither tax applies to motor vehicles or titled watercraft and outboard motors. Before the tax may apply, the subdivision to submit the resolution levying those taxes to the board of county commissioners.

The sales and use taxes are levied only if the board of commissioners approves them and certifies its approval to the Tax Commissioner. All revenue collected from the taxes must be used exclusively for the purpose of fostering and developing tourism in the TDD and paying the expenses of administering the taxes. If a TDD tax is levied at a rate less than 1.5%, the rate may be increased up to 1.5% in 0.25% increments in the same manner as the original tax is levied.

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[184] References to resolutions include ordinances if resolutions are the form by which a municipal legislative authority adopts its laws.

The bill requires the Tax Commissioner to collect and administer TDD sales and use taxes in the same manner and using the same procedures as those prescribed for other sales and use taxes levied by counties and transit authorities. Any transaction exempt from state sales and use tax is also exempt from a sales and use taxes levied in a TDD.

TDD admissions taxes

(R.C. 5739.50(D), 5739.51, 5739.52, and 5739.53)

The bill authorizes a township creating a TDD to levy up to a 5% tax on admissions to places located in the TDD, including ticket purchases, cover charges, golf course membership fees and green fees, and parking charges.

The bill requires every person receiving an admission payment to collect the tax from the person making the payment. The township levying the tax may prescribe all rules necessary to administer the tax. However, late penalties may not exceed 10% of the amount due and interest may not accrue on unpaid amounts in excess of the interest rate charged by the state for unpaid taxes – the federal short-term rate plus 3%. Revenue a township collects from the admissions tax must be used exclusively to promote and develop tourism in the TDD and pay the expenses of administering the tax.

The bill specifies that it does not prohibit a municipal corporation from levying an admissions tax in a TDD pursuant to the municipal corporation's constitutional home rule authority.

TDD lessee fee

(R.C. 5739.50(C))

Once a TDD is created, the bill authorizes lessors leasing real property in the TDD to impose and collect a uniform fee on each parcel of leased property. The fee is imposed on the lessees (i.e., renters or tenants) of such property. However, the fee may be imposed only if the leave includes a provision stating the amount of the fee and if the lessor files a copy with the subdivision's fiscal officer. Lessors charging the fee must remit all collections to the subdivision pursuant to rules prescribed by the subdivision. Similar to the township TDD admissions tax, late penalties may not exceed 10% and interest is limited to the federal short-term rate plus 3%. Fee revenue must be used exclusively to promote and develop tourism in the TDD and pay the expenses of administering the fee.

Diversion of county and transit authority sales tax revenue

(R.C. 5739.21 and 5739.54)

The bill creates a mechanism through which a subdivision creating a TDD may obtain any increased revenue derived from county or transit authority sales taxes levied in the TDD, provided the subdivision does not levy a sales tax in the TDD. The amount that may be obtained by a subdivision through this mechanism is limited to the increase of such revenue from sales occurring in the TDD. Any amount obtained through this mechanism is deducted from the county or transit authority's own sales tax receipts.

To obtain this revenue, the bill requires a subdivision to enact and certify a resolution expressing the subdivision's intent to obtain this revenue to the county and any transit authority that levies sales taxes in territory that includes the TDD. The diversion does not take effect unless the county or transit authority (or both) approve by enacting and certifying a resolution to that effect to the Tax Commissioner. Counties and transit authorities each may independently approve or disapprove.

If the diversion is approved by the county or transit authority (or both), the Commissioner must calculate the amount of revenue to be diverted for the TDD each quarter, which equals the increase, if any, in county or transit authority (or both) sales and use tax revenue from the TDD above that computed for the most recent quarter that ended before the Commissioner received the certification of approval. Revenue diverted for a TDD must be used only to develop tourism in the TDD.

TDD bonds

(R.C. 133.01, 133.04, 133.05, 133.083, and 133.34)

The bill authorizes a subdivision creating a TDD to issue bonds to be repaid with revenue from taxes or fees levied for or revenue received for the purpose of developing and promoting tourism in the TDD. The bonds may be supported by TDD sales and use taxes, admissions taxes, or lessee development fees or diverted county or transit authority sales tax revenue. All bond proceeds must be used for the same purposes as the supporting revenue sources – to develop and promote tourism in the TDD.

Administration of county 9-1-1 assistance

(R.C. 128.54 and 128.55; conforming changes in R.C. 128.57)

Transfers to the Next Generation 9-1-1 Fund

The bill requires the Tax Commissioner to transfer funds remaining in the Wireless 9-1-1 Government Assistance Fund to the Next Generation 9-1-1 Fund *at the*

direction of the Statewide Emergency Services Internet Protocol Network Steering Committee. Current law requires these transfers to be made on a monthly basis after disbursements are made to counties from the Wireless 9-1-1 Government Assistance Fund. Under continuing law, the Next Generation 9-1-1 Fund is used for costs associated with phase II wireless systems and a county's migration to next generation 9-1-1 systems and technology.[185]

Remedying shortfalls in monthly county disbursements

The bill requires that any shortfall in monthly county disbursements from the Wireless 9-1-1 Government Assistance Fund be remedied in the following month. Under continuing law, counties receive monthly disbursements from the fund based on how much was distributed to each county in the year 2013. The funds come from a 25-cent monthly charge on Ohio wireless subscribers (and a charge of 0.5% of the sale price of prepaid wireless services).[186] Under continuing law, if the amount available in the Wireless 9-1-1 Government Assistance Fund is insufficient to make the required monthly disbursements, each county's share is proportionately reduced for the month. Current law does not provide for this shortfall to be remedied.

[185] R.C. 128.022, not in the bill.

[186] R.C. 128.42, not in the bill.

- Modifies the penalties that must be imposed in a civil action against a towing service or storage facility by limiting the consideration of prior violations to a one-year look back period.
- Modifies the prohibition against failure to display the certificate of public convenience and necessity number and business telephone number on the front doors of a towing vehicle to instead prohibit the failure to display that information on the sides of a towing vehicle.
- Creates the Airport Improvement Fund, and requires that the Director of Transportation distribute money in the Fund to provide matching funds, loans, and grants for aviation infrastructure and economic development projects.
- Requires the Director to prepare draft legislation that would direct that all revenue from the sales and use tax on aviation fuel be used for aviation infrastructure and economic development projects.
- Requires the Joint Legislative Task Force on Department of Transportation Issues to study the cost and feasibility of establishing a limited driving privilege license.
- Extends the deadline for the report that the Maritime Port Funding Study Committee must issue from January 1, 2015, to January 1, 2016.

Towing Law changes

(R.C. 4513.611 and 4513.67)

The bill modifies the penalties that must be awarded to a vehicle owner in a civil action against a towing service or storage facility for a violation of specified provisions of the Towing Law by limiting the consideration of prior violations to a one-year look back period. Under current law, if a court determines in such a civil action that a towing service or storage facility has committed a violation, the penalty that must be imposed upon the towing service or storage facility is based on the number of prior violations the towing service or storage facility has committed. The court must award the vehicle owner $1,000 for a first violation, $2,500 for a second violation, and $2,500 for a third violation. Current law does not specify any look back period. However, under current law unchanged by the bill, upon the expiration of a six-month revocation of a towing service or storage facility's certificate of public convenience and necessity due to a third violation, a court is prohibited from considering violations committed prior to the

revocation for purposes of any civil action initiated after the expiration of the certificate revocation.

The bill also modifies a prohibition related to the failure to display specified information on a towing vehicle. Current law prohibits a person from operating a towing vehicle unless the certificate of public convenience and necessity number issued by the PUCO and business telephone number are visibly displayed on the left and right front doors of the towing vehicle. Additionally, current law prohibits any person who owns a towing vehicle used by a towing service, or any person with supervisory responsibility over a towing vehicle used by a towing service, from permitting the operation of a towing vehicle that does not comply with that display requirement. The bill modifies the display requirement to instead require the certificate number and business telephone number to be displayed on both the left and right sides of the towing vehicle.

Funding for airport improvements

(Sections 399.15 and 757.60)

The bill establishes, in uncodified law, the Airport Improvement Fund, to be administered by the Director of Transportation. Money appropriated to the Fund in the upcoming biennium must be used to:

(1) Provide matching funds for federal grants and funding under the Federal Aviation Administration's (FAA) Airport Improvement Program, or similar federal programs;

(2) Provide loans and grants for airport capital improvements, which may include infrastructure projects, safety projects, and the development and implementation of the FAA's "NextGen" programs and unmanned aerial systems technologies;

(3) Provide loans and grants for job creation projects, which may involve cooperation between airports and state and local economic development agencies.

The bill requires the Director to adopt rules for the distribution of money from the Fund. Before the Director may submit the rules to the Joint Committee on Agency Rule Review (JCARR), the Director must first submit, by October 1, 2015, the rules to the Ohio Aerospace and Aviation Technology Committee (OAATC).

The bill further requires the Director to prepare draft legislation that would direct that all revenue from the sales and use tax on aviation fuel be used for the same

purposes for which the Airport Improvement Fund is established.[187] The Director must submit the draft legislation to the OAATC by June 30, 2016.

Study regarding limited driving privilege license

(Sections 610.01 and 610.02)

The bill requires the Joint Legislative Task Force on Department of Transportation Issues, created in H.B. 53 of the 131st General Assembly, to study the cost and feasibility of establishing a limited driving privilege license. Specifically, the Task Force must consider the creation of a license that contains embedded information, accessible only to law enforcement officers, specifying the period during which the license holder may exercise limited driving privileges and the purposes for which those privileges are granted. The Task Force must consider the issuance of such a license to any person to whom one of the following applies:

(1) The person has been granted limited driving privileges during the suspension of the person's license;

(2) The person has been granted driving privileges while complying with a Bureau of Motor Vehicles fee installment plan to pay the person's reinstatement fees after the person's license suspension has ended; or

(3) A court has granted the person occupational or family necessity operating privileges to enable the person to acquire delinquent reinstatement fees.

Report of the Maritime Port Funding Study Committee

(Sections 610.14 and 610.15)

The bill extends the deadline for the Maritime Port Funding Study Committee report from January 1, 2015, to January 1, 2016. The Committee was created in 2014 by H.B. 483 of the 130th General Assembly to study alternative funding mechanisms for Ohio maritime ports that may be utilized beginning in fiscal year 2016-2017.

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[187] Currently, sales of aviation fuel are subject to the sales and use tax, unless the sale is made to an entity that holds a "certificate of public convenience and necessity" issued by the U.S. Department of Transportation (e.g., a major air carrier). R.C. 5739.01(P) and 5739.02(B)(42)(a).

STATE VETERINARY MEDICAL LICENSING BOARD

- Removes the requirement that an individual seeking to take a nationally recognized veterinary examination apply to the State Veterinary Medical Licensing Board for permission to take the examination.
- Increases the cost of an initial veterinary license by $50.
- Removes the fee charged for examinations offered by the Board.
- Expands the list of veterinary college approval entities to include the Program for the Assessment of Veterinary Education Equivalence of the American Association of State Veterinary Boards and removes the Board's ability to approve other certification programs.

Veterinary licensing

(R.C. 4741.03, 4741.09 (repealed), 4741.11, 4741.12, 4741.17, 4741.19)

The bill makes changes to the law pertaining to veterinary licensing. First, the bill removes a requirement that an individual seeking to take a nationally recognized veterinary examination apply to the State Veterinary Medical Licensing Board for permission to take the examination. It also makes corresponding changes.

Second, the bill increases the cost of an initial veterinary license, as follows:

- To $425 from $375 for a two initial license;
- To $300 from $250 for a one year initial license.

Third, the bill removes a separate initial license fee for licenses issued by reciprocity in favor of the standard license fee.

Fourth, the bill removes the fee for examinations offered by the Board. The amount of this fee is not prescribed in the Revised or Administrative Codes, but is rather determined by the Board. The bill also removes the right of an applicant who fails the examination to request a written report showing the reasons for the failure.

Finally, the bill expands the list of veterinary college approval entities to include the Program for the Assessment of Veterinary Education Equivalence of the American Association of State Veterinary Boards. A veterinary college in receipt of such an approval has been determined by the Board to provide an education sufficient to meet

the board's education requirement for licensure. The bill also removes the Board's ability to approve other certification programs.

- Modifies the composition of the Department of Youth Services Release Authority to a minimum of three but not more than five members.

Release Authority

(R.C. 5139.50)

The bill modifies the composition of the Release Authority in the Department of Youth Services. Under the bill, the Release Authority must consist of a minimum of three but not more than five members. Under current law, the Release Authority consists of five or perhaps six members.[188]

Under the bill, the Director of Youth Services must ensure that appointments include all the following:

(1) At least one member who has five or more years of experience in criminal justice, juvenile justice, or an equivalent relevant profession;

(2) At least one member who has experience in victim services or advocacy or who has been a victim of a crime or is a family member of a victim; and

(3) At least one member who has experience in direct care services to delinquent children.

Current law requires that at least four members be appointed who meet this qualification described in (1) above.

The Release Authority serves as the final and sole authority for making decisions, in the interests of public safety and the children involved, regarding the release and discharge of children committed to the legal custody of the Department.

[188] The bill resolves an ambiguity in current law. The ambiguity makes it uncertain whether the Release Authority consists of five or six members.

- Permits a political subdivision to enter into a sale and leaseback agreement under which the legislative authority conveys a building to a purchaser who must lease all or portions of the building back to the legislative authority.

- Requires the agreement to obligate the lessor to make public improvements to the building.

- Authorizes a board of township trustees, by resolution, to authorize the acceptance of payments for township expenses by financial transaction devices, and specifies procedures for implementing a program to accept these payments.

- Allows a township to contract with any department, agency, or political subdivision for the purchase or sale of a motor vehicle.

- Authorizes a board of township trustees to purchase real or personal property at public auction through a designee.

- Removes the population necessary for a county to adopt and implement the procedures for the effective reutilization of nonproductive land through a county land reutilization corporation.

- Extends the time during which local governments may enter enterprise zone agreements with businesses by two years, to October 15, 2017.

- Increases the competitive bidding limit for conservancy district contracts for improvements from $25,000 to $50,000.

Report of traffic camera penalties; LGF reductions

- Requires any local authority that has operated a traffic camera between March 23, 2015, and June 30, 2015, to file either of the following with the Auditor of State on or before July 31, 2015:

  --If the local authority has complied with the traffic camera law, a statement of compliance with the traffic camera law; or

  --If the local authority has not complied with the traffic camera law, a report including the civil fines the local authority has billed to drivers for any violation that is based upon evidence recorded by a traffic camera.

- Requires any local authority that operates a traffic camera to submit a report or statement of compliance, as discussed above, to the Auditor of State every three

months beginning with the three-month period that commences July 1, 2015, and ends September 30, 2015.

- Suspends Local Government Fund (LGF) payments to a subdivision that fails to comply with the reporting requirements.
- Reduces LGF payments to a subdivision reporting fines by the amount of such fines and redistributes that amount among other subdivisions in the county.

Political subdivision sale and leaseback agreement

(R.C. 9.483)

Notwithstanding contrary statutory limitations, the bill permits a political subdivision to enter into a sale and leaseback agreement under which the legislative authority agrees to convey a building owned by the political subdivision to a purchaser who is obligated, immediately upon closing, to lease all or portions of the building back to the legislative authority. The sale and leaseback agreement must obligate the lessor to make public improvements to all or portions of the building subject to the lease, including renovations, energy conservation measures, and other measures that are necessary to improve the functionality and reduce the operating costs of the portions of the building that are subject to the lease.

Townships acceptance of payments by financial transaction device

(R.C. 503.55)

The bill authorizes a board of township trustees to adopt a resolution authorizing the acceptance of payments by financial transaction devices for township expenses. The resolution must include the following:

(1) A specification of those township offices that are authorized to accept payments by financial transaction devices;

(2) A list of township expenses that may be paid for through the use of a financial transaction device;

(3) Specific identification of financial transaction devices that the board authorizes as acceptable means of payment for township expenses; however, uniform acceptance of financial transaction devices among different types of township expenses is not required;

(4) The amount, if any, authorized as a surcharge or convenience fee for persons using a financial transaction device; however, uniform application of surcharges or convenience fees among different types of township expenses is not required;

(5) A specific provision requiring the payment of a penalty if a payment made by means of a financial transaction device is returned or dishonored for any reason; and

(6) A provision designating the township fiscal officer as an administrative agent to solicit proposals from financial institutions, issuers of financial transaction devices, and processors of financial transaction devices, to make recommendations about those proposals to the board, and to assist township offices in implementing the township's financial transaction devices program. The solicitation of proposals must be within guidelines established by the board in the resolution and in compliance with the procedures described below.

Procedures for soliciting proposals

The township fiscal officer must request proposals from financial institutions, issuers of financial transaction devices, or processors of financial transaction devices, as appropriate in accordance with the resolution. Upon receiving the proposals, the fiscal officer must review them and make a recommendation to the board of trustees on which proposals to accept. The board of trustees must consider the fiscal officer's recommendation and review all proposals submitted, and then may choose to contract with any or all of the entities that have submitted proposals, as appropriate. The board of trustees must provide any financial institution, issuer, or processor that submitted a proposal, but with which the board does not enter into a contract, notice that its proposal is rejected. The notice must state the reasons for the rejection, indicate whose proposals were accepted, and provide a copy of the terms and conditions of the successful bids.

Posting the resolution

The board of township trustees must post a copy of the adopted resolution in each township office accepting payment by a financial transaction device. Each township office that is permitted by the resolution to accept the payments may use only the financial institutions, issuers of financial transaction devices, and processors of financial transaction devices with which the board of township trustees contracts, and each such office is subject to the terms of those contracts.

Convenience fee

A board of township trustees may establish a surcharge or convenience fee that may be imposed upon a person making payment by a financial transaction device. The

surcharge or convenience fee may not be imposed unless authorized or otherwise permitted by the rules prescribed by an agreement governing the use and acceptance of the financial transaction device. But, if a surcharge or convenience fee is imposed, every township office accepting payment by a financial transaction device must clearly post a notice in that office, and must notify each person making a payment by such a device, about the surcharge or fee. This notice must be provided regardless of the medium used to make the payment and in a manner appropriate to that medium. Each notice must include all of the following:

(1) A statement that there is a surcharge or convenience fee for using a financial transaction device;

(2) The total amount of the charge or fee expressed in dollars and cents for each transaction, or the rate of the charge or fee expressed as a percentage of the total amount of the transaction, whichever applies; and

(3) A clear statement that the surcharge or convenience fee is nonrefundable.

If a person elects to make a payment to the township by a financial transaction device and a surcharge or convenience fee is imposed, the payment of the surcharge or fee must be considered voluntary. The surcharge or convenience fee is not refundable.

Insufficient funds and liability

If a person makes payment by financial transaction device and the payment is returned or dishonored for any reason, the person is liable for a penalty over and above the amount of the payment due. The board of township trustees must determine the amount of the penalty to be assessed. The penalty may be a fee not to exceed $20 or payment of the amount necessary to reimburse the township for banking charges, legal fees, or other expenses incurred by the township in collecting the returned or dishonored payment.

The remedies and procedures described above are in addition to any other available civil or criminal remedies provided by law.

No person making any payment by financial transaction device to a township office may be relieved from liability for the underlying obligation except to the extent the township realizes final payment of the underlying obligation in cash or its equivalent. If final payment is not made by the financial transaction device issuer or other guarantor of payment in the transaction, the underlying obligation survives and the township retains all remedies for enforcement that would have applied if the transaction had not occurred.

A township official or employee who accepts a financial transaction device payment in accordance with the procedures described above and any applicable state or local policies or rules is immune from personal liability for final collection of the payment.

Township sale of motor vehicle

(R.C. 505.101)

The bill allows a township to contract with any department, agency, or political subdivision for the purchase or sale of a motor vehicle. Currently, a township's only means of selling a motor vehicle, if the fair market value of a motor vehicle exceeds $2,500, is by public auction or sealed bid process.

Township purchases at public auction through a designee

(R.C. 505.1010)

The bill authorizes a board of township trustees to purchase real or personal property at public auction by adopting a resolution to designate an individual, officer, or employee to represent the board and tender bids at the auction. Purchases are subject to a maximum purchase price established by resolution of the board or by an appraisal obtained before the auction and approved by the board of township trustees. Purchases must comply with current law's requirement for expenditures to have a certificate of available funds signed by the township's fiscal officer; the certificate indicates that the amount of money required for the purchase has been lawfully appropriated for the purpose and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances.

County land reutilization corporations

(R.C. 1724.04)

The bill removes the current population threshold necessary for a county to adopt and implement the procedures for the effective reutilization of nonproductive land through a county land reutilization corporation (CLRC). Current law allows any county having a population of more than 60,000 as of the most recent decennial census to elect to organize a county land reutilization corporation for that purpose. A CLRC's purpose under continuing law generally, is, to return blighted properties in the county to productive use. As part of that purpose, CLRCs may administer a land bank program whereby it acquires (without paying) tax-foreclosed properties that failed to sell at the sheriff's sale, clears or rehabilitates the property, and attempts to sell it to pay the delinquent taxes and other costs and return the property to productive use.

Under the bill, there would be no population threshold; any county of any population would be allowed to create a CLRC.

Enterprise zone agreement extension

(R.C. 5709.62, 5709.63, and 5709.632)

Under continuing law, counties and municipal corporations may designate areas within the county or municipal corporation as "enterprise zones." After designating an area as an enterprise zone, the county or municipal corporation must petition the Director of Development Services for certification of the designated enterprise zone. If the Director certifies a designated enterprise zone, the county or municipal corporation may then enter into enterprise zone agreements with businesses for the purpose of fostering economic development in the enterprise zone. Under an enterprise zone agreement, the business agrees to establish or expand within the enterprise zone or to relocate its operations to the zone in exchange for property tax exemptions and other incentives.

Current law authorizes local governments to enter into enterprise zone agreements through October 15, 2015. The bill extends the time during which local governments may enter into these agreements to October 15, 2017.

Competitive bidding threshold for conservancy districts

(R.C. 6101.16)

The bill increases the limit above which contracts for improvements of a conservancy district must be competitively bid. If the contract amount will exceed $50,000, instead of the current limit of $25,000, bids must be advertised as provided in current law, and the contract generally must be awarded to the lowest responsive and most responsible bidder under continuing law.

Report of traffic camera penalties

(R.C. 4511.0915)

The bill specifies that on or before July 31, 2015, any local authority that has operated a traffic law photo-monitoring device ("traffic camera") between March 23, 2015, and June 30, 2015, must file either a report or statement of compliance with the Auditor of State as follows:

(1) If the local authority operated any traffic camera during the specified period without fully complying with the traffic camera law, the local authority must file a report that includes a detailed statement of the civil fines that the local authority has

billed to drivers for any violation of any municipal ordinance that is based upon evidence recorded by a traffic camera, including the gross amount of fines that have been billed.

(2) If the local authority has fully complied with the traffic camera law during the specified period, in lieu of a report, the local authority must submit a signed statement affirming compliance with all requirements of the traffic camera law.

Additionally, under the bill, beginning with the three-month period that commences July 1, 2015, and ends September 30, 2015, and for each three-month period thereafter, during which a local authority has operated a traffic law photo-monitoring device, the local authority must file either a report or a signed statement of compliance with the Auditor of State in the same manner as described above. The local authority must file the report or statement not later than 30 days after the end of the three-month period.

The Auditor of State must immediately forward a copy of each report or signed statement of compliance to the Tax Commissioner for purposes of calculating Local Government Fund (LGF) payments (see "**LGF adjustments**," below) and must notify the Commissioner about each subdivision that was required to file a report or signed statement and that did not do so. The Auditor of State also must notify the Commissioner when a subdivision that failed to submit a report or signed statement does file a report or signed statement.

LGF adjustments

(R.C. 5747.50, 5747.502, 5747.51, and 5747.53)

The bill suspends or reduces LGF payments to a subdivision that fails to file a civil fine report or statement of compliance with the Auditor of State ("delinquent subdivision") or to a subdivision filing a civil fine report with the Auditor ("noncompliant subdivision").

Under continuing law, 1.66% of general revenue tax receipts are credited monthly to the LGF to provide revenue to counties, townships, municipal corporations, and other subdivisions.[189] Continuing law allocates LGF funds through two mechanisms. First, the bulk of LGF revenue is divided between the undivided local government funds of each county. This revenue is distributed to the county and subdivisions located in that county pursuant to a formula either prescribed in state law or adopted by the county budget commission. Under the second mechanism, the

[189] R.C. 131.51(B), not in the bill.

remaining money is distributed directly to municipal corporations that levied a municipal income tax in 2006. Payments are made monthly.

"Delinquent" subdivisions

The bill requires the Tax Commissioner, when informed by the Auditor of State that a subdivision has not reported fines or filed a statement of compliance, to do both of the following:

(1) If the subdivision is a municipal corporation receiving direct LGF payments, suspend such payments beginning with the next required monthly disbursement.

(2) Immediately instruct the appropriate county auditor and treasurer to suspend payments to the subdivision from the county undivided local government fund beginning with the next required disbursement.

Payments to a delinquent subdivision remain suspended until the subdivision files all delinquent reports or statements of compliance with the Auditor. Once the Auditor notifies the Commissioner that all required reports or statements have been filed, the LGF payments to the subdivision resume.

"Noncompliant" subdivisions

The bill requires the Tax Commissioner, when informed by the Auditor that a subdivision is a noncompliant subdivision, to do both of the following:

(1) If the noncompliant subdivision is a municipal corporation receiving direct municipal payments, reduce the amount of the next three such payments by one-third of the gross civil fine revenue reported by the subdivision in its most-recent quarterly report.

(2) In the case of other subdivisions, immediately instruct the county auditor and treasurer to reduce the amount of the next three payments to the subdivision from the county undivided local government fund by one-third of the gross civil fine revenue reported by the subdivision in its most-recent quarterly report.

If the noncompliant subdivision is a municipal corporation receiving direct LGF payments and one-third of the amount of its gross fines would exceed the amount of its monthly direct LGF payment, its next three payments from the county undivided local government fund are reduced by the difference.

Distribution of suspended or reduced LGF payments

If a delinquent or noncompliant subdivision's LGF payments are suspended or reduced, the unpaid amount is distributed to other subdivisions in the same county that are not delinquent or noncompliant. Those subdivisions receive a share of such money based on the proportion of undivided local government fund revenue the subdivision would receive compared to amounts received by all subdivisions in the county that are not delinquent or noncompliant.

Any subdivision receiving an increased undivided local government fund payment must use the increase for the same purpose as other undivided local government distributions – to pay for the subdivision's operating expenses.

MISCELLANEOUS

OhioMeansJobs registration

- Requires, beginning in 2016, participants in certain training or education programs and recipients of specified vocational rehabilitation services to create an account on the OhioMeansJobs website by specified times established in the bill.
- Exempts certain individuals from those requirements.

County hospital board funds

- Specifies the disposition of charter county hospital funds and the permissible investment of such funds by the hospital board.

Ohio Expenditure Committee

- Establishes the Ohio Expenditure Committee, a joint committee of the General Assembly, to review all expenditures of state government for fiscal year 2015 and to report its findings to the General Assembly and Governor.

Estate law change

- Permits the transfer to a surviving spouse of one watercraft trailer of the decedent associated with the transfer of a watercraft or outboard motor.

Division of marital property

- Makes technical corrections to the law governing the division of marital property.

OhioMeansJobs registration

(R.C. 3304.171, 3333.92, and 6301.16)

Beginning January 1, 2016, the bill requires the following individuals to create an account on OhioMeansJobs (the electronic system for labor exchange and job placement activity operated by the state):

(1) Participants in an Adult Basic and Literacy Education funded training or education program at the 12th week of the program;

(2) Participants in an Ohio Technical Center funded training or education program at the time of enrollment in the program;

(3) Participants in an adult training or education program funded under the federal Workforce Innovation and Opportunity Act at the time of enrollment in the program;

(4) Recipients of vocational rehabilitation services provided by the Opportunities for Ohioans with Disabilities Agency upon initiation of a job search as a part of receiving those services.

The bill exempts the following individuals from these requirements (1) an individual who is legally prohibited from using a computer, (2) an individual who has a physical or visual impairment that makes the individual unable to use a computer, or (3) an individual who has a limited ability to read, write, speak, or understand a language in which OhioMeansJobs is available.

County hospital board funds

(R.C. 339.06 and 339.061)

The bill states that the board of trustees of a county hospital in a charter county (i.e., Cuyahoga and Summit) shall hold, administer, and possess title to funds derived from operation of the hospital and the hospital medical staff, and specifies some of the particular sources of such money. The bill also authorizes such a hospital board to invest money not needed for current demands as provided in a county ordinance, and to adopt an investment policy for such money that includes all of the following:

- Requires fiduciaries to act with a specified standard of prudence;
- Specifies certain classes of instruments or deposits in which such money may be invested, including a required reserve equal to at least 25% of prior year portfolio, and with nonreserve investments pooled and invested under the Uniform Management of Institutional Funds Act;
- Creates an investment committee within the board of trustees to oversee the policy and advise the board;
- Authorizes the committee to retain investment advisory services from an advisor satisfying certain experience and licensing requirements.

The county investment advisory committee would have to approve investments made under a county ordinance or approve the investment policy, if one is adopted.

Under continuing law, all county hospital boards of trustees have "control of all funds used in the county hospital's operation, including moneys received from the operation of the hospital" as well as money appropriated to them by a board of county

commissioners. The hospital boards may invest any money not needed for current demands in the same classes of investments as "inactive" money in the county treasury may be invested in, subject to the county investment advisory committee's approval (these classes overlap largely with the classes allowed by the bill, but there are differences in type and in description).

Ohio Expenditure Committee

(Section 701.60)

The bill establishes the Ohio Expenditure Committee, a joint committee of the General Assembly. The committee is to review all expenditures of state government for fiscal year 2015. Specifically, the committee must do all of the following:

(1) Identify opportunities for increased efficiency and reduced costs achievable by executive action or legislation;

(2) Determine areas where managerial accountability can be enhanced and administrative controls improved;

(3) Suggest short-term and long-term managerial operating improvements; and

(4) Specify areas where further study can be justified by potential savings.

The committee must present its findings, not later than eight months after the effective date of the bill, in a written report to the General Assembly and the Governor.

The committee is to consist of three members of the Senate and three members of the House of Representatives. The President of the Senate must appoint the Senate members, two from the majority party and one from the minority party. The Speaker of the House must appoint the members from the House, two from the majority party and one from the minority party. The Speaker must select the chairperson of the committee.

Members are to be appointed not later than one month after the effective date of the bill.

The committee is to hold its first meeting within two months after the effective date of the bill. Thereafter, the committee is to convene as summoned by the chairperson. But the committee must meet not less often than once per month.

The House must provide the committee with meeting space and clerical staff support.

Estates – transfer of watercraft trailer to surviving spouse

(R.C. 1548.11 and 2106.19)

The bill permits a surviving spouse who selects the decedent's watercraft or outboard motor also to select the decedent's associated watercraft trailer, if the trailer is not specifically disposed of by testamentary disposition. The surviving spouse may select only one trailer used to transport the watercraft transferred to the surviving spouse.

As under current law, the trailer passes to the surviving spouse upon receipt by the clerk of the court of common pleas of the title executed by the surviving spouse and an affidavit sworn to by the surviving spouse stating the date of the decedent's death, the description and approximate value of the trailer, and that it is not disposed of by testamentary disposition. However, the bill adds that if the trailer is untitled but registered, it passes to the spouse upon receipt of the affidavit by the Bureau of Motor Vehicles.

The bill requires the clerk to transfer a decedent's interest in one watercraft trailer selected by the surviving spouse. It specifies that the watercraft trailer is not considered an estate asset and is not included and stated in the estate inventory. The transfer does not affect the existence of any lien against the trailer. Except for a watercraft trailer transferred to a surviving spouse under the bill, the executor or administrator may transfer title to a watercraft trailer in the same manner as the transfer of an automobile under current law.

Division of marital property

(R.C. 3105.151)

The bill makes technical corrections to remove erroneous line numbers from the section of law governing the division of marital property in a divorce proceeding.

NOTE ON EFFECTIVE DATES

(Sections 812.10 to 812.60)

Article II, Section 1d of the Ohio Constitution states that "appropriations for the current expenses of state government and state institutions" and "[l]aws providing for tax levies" go into immediate effect and are not subject to the referendum. The bill includes a default provision stating that, except as otherwise specifically provided, the amendment, enactment, or repeal of a section is subject to the referendum and takes effect on the 91st day after the act is filed with the Secretary of State (barring the filing of a referendum petition). The bill also includes many exceptions to the default provision, some of which provide that specified provisions are not subject to the referendum and go into immediate effect.

EXPIRATION CLAUSE

(Section 809.10)

The bill includes an expiration clause that traditionally is part of a budget bill. The expiration clause states that an item that composes the whole or part of an uncodified section contained in the bill (other than an amending, enacting, or repealing clause) has no effect after June 30, 2017, unless its context clearly indicates otherwise.

HISTORY

ACTION	DATE
Introduced	02-11-15
Reported, H. Finance	04-21-15
Passed House (63-36)	04-22-15

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