
OHIO FACILITIES CONSTRUCTION COMMISSION

Agency administration of projects

- Permits the Department of Administrative Services (DAS), the Ohio School for the Deaf, and the Ohio State School for the Blind to administer a capital facilities project whose estimated cost is less than \$1.5 million.

Contractor debarment

- Allows the Executive Director of the Ohio Facilities Construction Commission (OFCC) to debar a subcontractor, supplier, or manufacturer, in addition to a contracting firm.
- Permits the Executive Director also to debar a partner, officer, or director of one of those entities.

OFCC membership

- Adds two senators appointed by the Senate President and two representatives appointed by the Speaker of the House as nonvoting members of OFCC.
- Specifies that the senators must not be from the same political party and that the representatives must not be from the same political party.
- Requires the Governor's appointment to be an administrative department head who is not the Director of Budget and Management or the Director of Administrative Services, and authorizes that member to designate an employee of the member's agency to serve.

Transfer of school facilities programs to OFCC

- Abolishes the Ohio School Facilities Commission and transfers its responsibilities to OFCC.

CFAP segments – school districts' costs (VETOED)

- Would have specified that, if a district satisfies certain conditions, the district's portion of the cost for a second or subsequent segment of a project, under the Classroom Facilities Assistance Program (CFAP), be based on the district's current wealth percentile ranking.



Joint vocational district projects (VETOED)

- Would have permitted OFCC to select one joint vocational school district in each of FYs 2018 and 2019 to receive assistance to construct a new complete classroom facility as a replacement for one or more facilities, renovate the district's existing facilities, or both, and would have specified other conditions for a district's project (VETOED).

1:1 School Facilities Option Program

- Establishes the 1:1 School Facilities Option Program as an alternative to assist school districts that have not entered into an agreement for classroom facilities assistance (except for emergency assistance) with constructing, acquiring, reconstructing, or making additions or repairs to any feature of a classroom facility.
- Specifies that a district may participate in the alternative program only when it becomes eligible for assistance under CFAP or the Vocational School Facilities Assistance Program (VFAP), based on its wealth percentile ranking.
- Specifies that a district that opts to receive assistance under the alternative program may receive up to \$1 million or 10% of what would be the state's share of the district's total project cost under CFAP or VFAP, provided the district matches the state funds it receives on a one-to-one basis.

Repeal of reporting requirements

- Repeals a provision requiring the submission of a report by a public entity to OFCC regarding a capital facilities project funded wholly or in part using state funds.
- Repeals a provision requiring annual submission of a report by the Attorney General to the OFCC Executive Director on any mediation and litigation costs associated with capital facilities projects for which a judgment has been rendered.

Agency administration of facilities projects

(R.C. 123.21 and 123.211 (formerly Section 529.10 of S.B. 310 of the 131st G.A.))

The act allows the Executive Director of the Ohio Facilities Construction Commission (OFCC) to authorize the Department of Administrative Services, the Ohio School for the Deaf, and the Ohio School for the Blind to administer a capital facilities project whose estimated cost is less than \$1.5 million, notwithstanding the law that generally requires OFCC to administer such projects.



Under continuing law, the Executive Director of the OFCC may authorize the following agencies to administer a project whose estimated cost is less than \$1.5 million, upon the agency's request through the Ohio Administrative Knowledge System Capital Improvements (OAKS-CI) application:

- The Department of Mental Health and Addiction Services;
- The Department of Developmental Disabilities;
- The Department of Agriculture;
- The Department of Job and Family Services;
- The Department of Rehabilitation and Correction;
- The Department of Youth Services;
- The Department of Public Safety;
- The Department of Transportation;
- The Department of Veterans Services; and
- The Bureau of Workers' Compensation.

An agency that administers its own project must comply with the state's procedures and guidelines for public improvements and must track all project information in OAKS-CI pursuant to OFCC guidelines.

Additionally, the act codifies the section of continuing law that authorizes certain agencies to administer their own projects; that is, the act places the section in the Revised Code.

Contractor debarment

(R.C. 153.02)

The act expands the authority of the OFCC Executive Director to debar a contractor upon proof that the contractor has committed certain types of misconduct. Under continuing law, a debarred contractor is not eligible to bid for or participate in any contract for a state or school district capital facilities project during the debarment period.

First, the act defines "contractor" as a construction contracting business, a subcontractor of such a business, or a supplier or manufacturer of materials. The prior



statute did not define that term and might have been read to include only a construction contracting business. Further, the act specifies that when the Executive Director debar a contractor that is a partnership, association, or corporation, the Executive Director also may debar any partner of the partnership or any officer or director of the association or corporation. As a result, the Executive Director can prevent the owners of a debarred business entity from dissolving the entity and reforming as a new one in order to avoid the debarment.

OFCC membership

(R.C. 123.20; Section 803.10)

The act adds four legislators as nonvoting members of the OFCC, which previously consisted only of the Director of Budget and Management and the Director of Administrative Services or their designees and a member appointed by the Governor. Two legislative members must be senators appointed by the Senate President, and two must be representatives appointed by the Speaker of the House. The senators must not be members of the same political party, and the representatives must not be members of the same political party.

The Speaker and the President must make their appointments by January 31 of an odd-numbered year, and the appointments must be for the duration of that General Assembly (that is, until January 1 of the next odd-numbered year). A legislative seat on the OFCC becomes vacant if the legislator ceases to serve in the relevant chamber of the General Assembly. A vacancy in a legislative seat must be filled in the same manner as for original appointments by the 31st day after the seat becomes vacant.

Under prior law, four legislators served on the former School Facilities Commission under the same conditions (see "**Transfer of programs to OFCC**" below).

Additionally, the act specifies that the Governor's appointment to the OFCC must be an administrative department head who is not the Director of Budget and Management or the Director of Administrative Services. The member appointed by the Governor may designate an employee of the member's agency to serve on the member's behalf. Prior law did not specify any requirements regarding the Governor's appointment to the OFCC; however, that member is currently the Director of Rehabilitation and Correction.

To correspond with this change, the act removes provisions specifying the length of the term of the member appointed by the Governor and the manner for filling a vacancy for that member's position.



The act specifies that the member appointed by the Governor before September 29, 2017, will serve the remainder of the member's term. When that term expires, or if the member is unable to fulfill the term, the Governor must appoint a member to the OFCC as provided by the act.

School facilities programs

Transfer of programs to OFCC

(R.C. 123.20; repealed R.C. 3318.19, 3318.30, and 3318.31; Section 515.10; conforming changes in numerous other R.C. sections)

The act abolishes the Ohio School Facilities Commission (SFC) and transfers its responsibilities to the OFCC. Accordingly, the OFCC Executive Director (who was also the SFC Executive Director) is responsible for supervising the operation of the programs that provide state assistance to school districts and other public schools in constructing classroom facilities. Under prior law, the SFC was an independent agency within the OFCC.

CFAP segments – school districts' costs (VETOED)

(R.C. 3318.037)

The Governor vetoed a provision that would have based a district's portion of the project cost for a second or subsequent segment under the Classroom Facilities Assistance Program (CFAP) on the district's current wealth percentile ranking, rather than the percentile calculated when the project was segmented, if the current percentile is lower.

Joint vocational district projects (VETOED)

(R.C. 3318.421)

The Governor vetoed a provision that would have permitted the OFCC to select one joint vocational school district in each of FYs 2018 and 2019 to receive assistance to construct a new complete classroom facility as a replacement for one or more existing facilities, renovate the district's existing facilities, or both. Under the vetoed provision, a district's portion of the project cost would have been less than or equal to 50% of the total cost of the project, but the state portion would have been less than or equal to \$26 million.



1:1 School Facilities Option Program

(R.C. 3318.39)

The act establishes the 1:1 School Facilities Option Program. Under that program, the OFCC must provide funding to assist eligible school districts in constructing, acquiring, reconstructing, or making additions or repairs to any feature of a classroom facility that meets the Commission's design standards, in lieu of a larger project under CFAP or the Vocational School Facilities Assistance Program (VFAP) (see "**Background**"). A district may avail itself of the new program only if it has not entered into an agreement for any state-assisted classroom facilities project prior to September 29, 2017, except for a project under the Emergency Assistance Program. Furthermore, a city, exempted village, or local school districts that received partial assistance under CFAP prior to May 20, 1997, is not eligible for the new program.

A district may participate in the new program only when it becomes eligible for assistance under CFAP or VFAP, in accordance with the annual wealth percentile rankings of districts. Also, in order to participate, the district's board of education must approve participation by an affirmative vote of at least four-fifths of its full membership.

A district that receives assistance under the new program is not eligible for subsequent assistance under either CFAP or VFAP for 20 years after it enters into an agreement under the program. A similar provision of continuing law applies to districts that enter into CFAP or VFAP agreements.

Assessment of eligible districts

The act requires the OFCC, at the request of an eligible district, to assess the district's current facilities needs and determine the following:

- (1) The scope of the entire project;
- (2) The basic project cost of the district's classroom facilities needs; and
- (3) The state's portion of the total project if the district were to receive assistance under CFAP or VFAP.

Amount of funding and matching share

Under the new program, a district may receive state funds of up to the greater of \$1 million or 10% of the state's portion of the total project cost, as determined by the assessment. However, a district may choose to receive less than the maximum amount. The district must match the amount of state funds it receives on a one-to-one basis.



Background

Several programs provide state assistance to school districts and other public schools in constructing classroom facilities. The main program, CFAP, is a graduated, cost-sharing program that provides each city, local, and exempted village school district with partial funding to address all of its classroom facilities needs. Because priority for state funding is based on a district's relative wealth, poorer districts were served first and received a greater amount of state assistance than wealthier districts will receive when it is their turn to be served. Each year, all districts are ranked into percentiles according to the three-year average adjusted tax valuations per pupil. A school district may divide the district's entire classroom facilities project under CFAP into discrete segments.

Joint vocational school districts (JVSDs) are served by a similar program, the Vocational School Facilities Assistance Program (VFAP). Under continuing law, the OFCC (formerly SFC) may set aside up to 2% of its project funds for VFAP and may provide assistance to at least one JVSD under that program each fiscal year.

Other programs address the needs of particular types of districts and schools. Generally, they all operate on a cost-sharing basis.

Repeal of reporting requirements

(Repealed R.C. 123.27)

The act repeals the law that requires both:

- (1) The submission of a report by a public entity to the OFCC regarding a capital facilities project funded wholly or in part using state funds; and
- (2) The annual submission of a report by the Attorney General to the OFCC Executive Director on any mediation and litigation costs associated with capital facilities projects for which a judgment has been rendered.

