Fiscal Note & Local Impact Statement

126 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 16** DATE: **January 26, 2005**

STATUS: **As Reported by House Finance & Appropriations** SPONSOR: **Rep. Calvert**

LOCAL IMPACT STATEMENT REQUIRED: **No — Not required for budget bills**

CONTENTS: **Capital Appropriations for the FY 2005-2006 biennium and other law changes**

State Fiscal Highlights

STATE FUND – Appropriations/Expenditures	**FY 2005-2006 BIENNIUM**
Capital Appropriations	
Wildlife Fund	$110,000
Public School Building Fund	$3,000,000
Highway Safety Fund	$2,650,000
State Capital Improvements Revolving Loan Fund	$16,750,000
Waterways Safety Fund	$8,490,000
Nursing Home-Federal Fund	$2,697,500
Army National Guard Service Contract Fund	$6,649,000
Special Administrative Fund	$2,076,956
State Fire Marshal Fund	$8,590,000
Community Match Armories Fund	$3,000,000
Veterans' Home Improvement Fund	$1,991,500
Clean Ohio Revitalization Fund	$50,000,000
Highway Safety Building Fund	$2,500,000
Administrative Building Fund	$61,140,186
Adult Correctional Building Fund	$42,100,000
Juvenile Correctional Building Fund	$10,930,182
Cultural and Sports Facilities Building Fund	$43,592,560
Ohio Parks and Natural Resources Fund	$13,722,895
School Building Program Assistance Fund	$541,600,000
Mental Health Facilities Improvement Fund	$22,782,257
Higher Education Improvement Fund	$489,371,036
Parks and Recreation Improvement Fund	$23,211,046
State Capital Improvements Fund	$120,000,000
Clean Ohio Conservation Fund	$37,500,000
Clean Ohio Agricultural Easement Fund	$6,250,000

Clean Ohio Trail Fund	$6,250,000
TOTAL	**$1,526,955,118**

- This bill appropriates $1,526,955,118 for capital projects for the FY 2005-2006 biennium. This amount is 20.0% greater than the $1,272,402,221 appropriated in H.B. 675 of the 124th General Assembly for the FY 2003-2004 biennium.

- Capital projects may be funded either from current cash revenues or from future revenues through the sale of bonds. Current cash revenues will fund projects through the Wildlife Fund, Public School Building Fund, Highway Safety Fund, State Capital Improvements Revolving Loan Fund, Waterways Safety Fund, Nursing Home–Federal Fund, Army National Guard Service Contract Fund, Special Administrative Fund, State Fire Marshal Fund, Community Match Armories Fund, and the Veterans' Home Improvement Fund. Approximately 4% of the capital projects are funded through current cash revenues. The rest of the projects are funded through the sale of bonds issued by the Ohio Building Authority, the Ohio Public Facilities Commission, or the Treasurer of State. The bonds are to be repaid in 5 years, 15 years, or 20 years, depending on the issuance.

- Of the total amount appropriated for capital projects, $56,004,956 is appropriated from various cash funds. This amount is 9.9% lower than the $62,150,593 appropriated from various cash funds in H.B. 675 of the 124th General Assembly for the FY 2003-2004 biennium.

- The remaining $1,470,950,162 is appropriated for capital projects from various debt-supported funds. This amount is 20.0% greater than the $1,210,251,628 appropriated from various debt-supported funds in H.B. 675 of the 124th General Assembly for the FY 2003-2004 biennium.

- The total amount of debt authorized by this bill is $1,402,000,000, which is 32.2% greater than the $1,060,490,000 of debt issued in the previous capital budget, H.B. 675 of the 124th General Assembly.

Fiscal Effects of Other Law Changes

STATE FUND	FY 2005	FY 2006	FUTURE YEARS
General Revenue Fund			
Revenues	Potential loss of up to $79.5 million from reimbursement to the TANF Block Grant	- 0 -	- 0 -
	Potential minimal gain from changes to laws governing tax charges and collections	Potential minimal gain from changes to laws governing tax charges and collections	Potential minimal gain from changes to laws governing tax charges and collections
Expenditures	Potential minimal increase for BOR from certification for local administration of capital projects	Potential minimal increase for BOR from certification for local administration of capital projects	Potential minimal increase for BOR from certification for local administration of capital projects
	Potential minimal increase for Capital Square	Potential minimal increase for Capital Square	Potential minimal increase for Capital Square

	Advisory Board	Advisory Board	Advisory Board
	Potential increase of up to $2.5 million for Controlling Board's Emergency Purposes/Contingencies line item	- 0 -	- 0 -
	Increase of approximately $8,000 for new Senate leadership positions	Increase of up to approximately $20,000 for new Senate leadership positions	Annual increases reflecting appropriate salary growth
	Potential minimal increase from changes to laws governing tax charges and collections	Potential minimal increase from changes to laws governing tax charges and collections	Potential minimal increase from changes to laws governing tax charges and collections
Administrative Building Fund (Fund 026)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase of $9,000,000		- 0 -
Cultural and Sports Facilities Building Fund (Fund 030)			
Revenues	- 0 -		- 0 -
Expenditures	Decrease of $9,500,000		- 0 -
	Potential minimal decrease due to change in state historical facility definition	Potential minimal decrease due to change in state historical facility definition	Potential minimal decrease due to change in state historical facility definition
Higher Education Improvement Fund (Fund 034)			
Revenues	- 0 -		- 0 -
Expenditures	Increase of $500,000		
Parks and Recreation Improvement Fund (Fund 035)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase	Increase	Increase
State Architect Fund (Fund 131)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase in administrative costs to establish a local-administration competency certification program	Ongoing administrative costs to operate a local-administration competency certification program	Ongoing administrative costs to operate a local-administration competency certification program
Parks Capital Expenses Fund (Fund 227)			
Revenues	Gain	Gain	Gain
Expenditures	Increase	Increase	Increase
TANF Block Grant (Fund 3V6)			
Revenues	Potential gain of up to $79.5 million	- 0 -	- 0 -
Expenditures	Potential increase of up to $79.5 million	- 0 -	- 0 -
Enterprise Zone Operating (Fund 4S0)			
Revenues	Loss of $750 per application	Loss of $750 per application	Loss of $750 per application

Expenditures	Potential minimal decrease	Potential minimal decrease	Potential minimal decrease
Public Assistance Reconciliation Fund (5AX) - New			
Revenues	Potential gain of up to $76.5 million from Fund 5Y9 and potential gain of $3 million or more from Fund 5T2	- 0 -	- 0 -
Expenditures	Potential increase of up to $79.5 million to the TANF Block Grant (Fund 3V6)	- 0 -	- 0 -
Child Support Special Payment Fund (5T2)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase of $3 million or more	- 0 -	- 0 -
Federal Fiscal Relief Fund (5Y9)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase of up to $76.5 million	- 0 -	- 0 -
State Employee Health Benefits Fund (Fund 808)			
Revenues	- 0 -	Repayment from Fund 813 transfer	Repayment from Fund 813 transfer
Expenditures	Up to $250,000 loss in cash transfer to Fund 813	- 0 -	- 0 -
Health Care Spending Account Fund (Fund 813) - New			
Revenues	$250,000 gain from cash transfer from Fund 808	Gain from state employee contributions	Gain from state employee contributions
Expenditures	- 0 -	Payment of state employee contributions; repayment from Fund 808 loan	Payment of state employee contributions; repayment from Fund 808 loan
Other JFS Funds			
Revenues	Potential indeterminate gain or loss	- 0 -	- 0 -
Expenditures	Potential indeterminate increase or decrease	- 0 -	- 0 -
State Action for Education Leadership Fund - New			
Revenues	$1.2 million gain	$1.2 million gain	$1.2 million gain in FY 2007
Expenditures	$1.2 million increase	$1.2 million increase	$1.2 million increase in FY 2007

Note: The state fiscal year is July 1 through June 30. For example, FY 2005 is July 1, 2004 – June 30, 2005.

- ***Department of Administrative Services.*** This bill prohibits the Director from collecting a commission or fee from a real estate broker or private owner of real property leased or rented to the state. This provision diminishes a potential revenue source for the Division of Real Estate within the Department of Administrative Services.

- ***Department of Administrative Services.*** The bill requires the State Architect to establish a local-administration competency certification program to certify state universities and state community colleges to administer state-funded capital facilities projects without the oversight of the Department of Administrative Services. This provision may increase administrative costs in the State Architect Fund (Fund 131).

- ***Department of Administrative Services – Health Care Spending Account Fund.*** Transfers up to $250,000 in cash from the State Employee Health Benefits Fund (Fund 808) to the Health Care Spending Account Fund (Fund 813) during FY 2005, and requires a repayment plan to be created.

- ***Attorney General.*** The Attorney General may certify for collection a bankrupt entity's tax liability that is not final, and may sell uncollectible debts to private vendors. The fiscal effect may be to marginally increase state tax revenues, but any such gains annually appear likely to be small.

- ***Attorney General.*** The Attorney General may conduct investigations related to payments due to the Victims of Crime/Reparations Fund (Fund 402). The potential revenue to be gained and expenditures to be incurred annually as a result of undertaking such investigations is uncertain as of this writing.

- ***Capital Square Review and Advisory Board.*** The Capitol Square Review and Advisory Board may incur minimal increased administrative costs as two new members – the Clerk of the Senate and the Clerk of the House of Representatives – are added to its Board.

- ***Cleveland Playhouse***. The reappropriation for the Cleveland Playhouse is transferred from Fund 030, Cultural and Sports Facilities Building Fund within the Cultural Facilities Commission to Fund 034, Higher Education Improvement Fund within the Board of Regents.

- ***Controlling Board.*** The bill increases the FY 2005 appropriation for the Controlling Board's GRF line item 911-401, Emergency Purposes/Contingencies, by $2,500,000, from $5,000,000 to $7,500,000.

- ***Cultural Facilities Commission***. The definition of "state historical facility" is changed in the bill. As a result, it is possible that fewer projects may qualify as a "state historical facility." As a result, there could be a minimal decrease in expenditures in Fund 030, Cultural and Sports Facilities Building Fund. The amount of this decrease, if any, is unknown at this time.

- ***Department of Development.*** Under the bill, urban clusters within rural statistical areas lose their authority to designate areas within the city as enterprise zones. The Department of Development collects a $750 application fee for each proposed enterprise zone agreement; moneys that will be lost with the elimination of this avenue for establishing enterprise zones. The agency may also reduce its cost of overseeing the program, but only minimally.

- ***Department of Education.*** The bill creates the State Action for Education Leadership Fund to receive money from a grant awarded by the Wallace Foundation to the Department of Education. The initial grant award is $1.2 million and is renewable for up to two additional years.

- ***Department of Job and Family Services.*** Under the bill, the TANF Block Grant (Fund 3V6) would receive up to $79.5 million. The new revenue would be replacing prior year funds which are subject to TANF spending guidelines that limit expenditures to cash assistance to recipients. In effect, the bill increases the amount of available funds but would not require immediate expenditure.

- ***Department of Job and Family Services.*** The bill permits the Office of Budget and Management (OBM), at the request of the Department of Job and Family Services (ODJFS), to transfer up to $76,500,000 from the Federal Fiscal Relief Fund (5Y9) to the Public Assistance Reconciliation Fund (5AX), created by the bill, to reimburse the TANF Block Grant (Fund 3V6). The funds would otherwise have been deposited in the GRF.

- ***Department of Job and Family Services.*** The bill permits OBM, at the request of ODJFS, to transfer all available funds in the Child Support Special Payment Fund (5T2) to the Public Assistance Reconciliation Fund (5AX), created by the bill, to reimburse the TANF Block Grant (Fund 3V6). At this writing, the fund contains approximately $3 million, but up to $11 million more may be available if currently encumbered funds go unspent.

- ***Department of Job and Family Services.*** The bill permits OBM, at the request of ODJFS, to transfer cash into or out of any other fund appropriated to the Department.

- ***Department of Natural Resources.*** The Parks Capital Expenses Fund (Fund 227) is created in the state treasury. The fund shall be used for project planning expenses for capital-related work. The fund will be reimbursed from any expenses from the Parks and Recreation Improvement Fund (Fund 035).

- ***Board of Regents.*** The bill requires the Ohio Board of Regents to approve and monitor local administration of capital facilities projects by certified institutions and requires certified institutions to conduct biennial audits of their administration of capital facilities projects. These provisions might increase administrative costs for the Board of Regents and the institutions.

- ***Riversouth Development.*** The bill transfers $9 million of the $10 million reappropriation for the Riversouth Development from Fund 030, Cultural and Sports Facilities Building Fund within the Cultural Facilities Commission to Fund 026, Administrative Building Fund within the Department of Administrative Services.

- ***Senate.*** The bill will increase the expenses paid from the Senate's GRF line item 020-321, Operating Expenses, by approximately $8,000 in FY 2005, and by $20,000 in FY 2006 to fund new Senate leadership positions.

- ***School Facilities Commission – Net Bonded Indebtedness Calculation.*** The bill specifies that bonds approved by voters for local shares of classroom facilities projects do not count towards a district's net bonded indebtedness for the purpose of calculating the district's local share. It eliminates the incentive for certain school districts to seek voter approval of bonds prior to the determinations of their local shares in order to increase their state shares. The provision only affects districts whose local shares are determined by the alternative net bonded indebtedness method and has no effect on districts whose local shares are determined by the percentile method. Generally speaking, the alternative method is more likely to be used to determine local shares for higher wealth districts while the percentile method is often used to determine local shares for lower wealth districts. Local shares for the vast majority of school districts that have been served so far have been determined by the percentile method as low wealth districts are generally served first by the state.

- ***School Facilities Commission – Encumbrance of the state share.*** The bill requires the School Facilities Commission (SFC) to encumber state funds for classroom facilities projects by fiscal year rather than by biennium. While this provision would not increase or reduce the state share of school district project costs, it may allow the SFC to free up some state funds and allow the possibility of serving a few more districts in a given fiscal year.

- ***Tax Charges.*** Certified claims may be offset against lottery prizes and certain tax refunds. This right may increase state revenues.

- ***Department of Taxation.*** The Tax Commissioner may recover costs incurred in offsetting tax refunds, which may increase expenditures by other state agencies.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2005	FY 2006	FUTURE YEARS
County Departments of Job and Family Services			
Revenues	Potential substantial gain depending on size of transfers from Fund 5AX	- 0 -	- 0 -
Expenditures	Potential substantial increase depending on size of transfers from Fund 5AX	- 0 -	- 0 -
County Recorders			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	- 0 -	- 0 -	- 0 -
County Boards of Revision or Treasurers			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase
Delinquent Tax and Assessment Collection Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase
Franklin County			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase
Local Governments			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential increase	Potential increase	Potential increase
Municipalities (Urban Clusters)			
Revenues	Potential loss or gain	Potential loss or gain	Potential loss or gain
Expenditures	Potential decrease	Potential decrease	Potential decrease
Townships			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential increase	Potential increase	Potential increase

- ***County Departments of Job and Family Services.*** The bill permits OBM, at the request of ODJFS, to transfer up to $76,500,000 from the Federal Fiscal Relief Fund (5Y9) and any available funds in the Child Support Special Payment Fund (5T2) to the Public Assistance Reconciliation Fund (5AX), created by the bill, to reimburse the TANF Block Grant (Fund 3V6). Any remaining funds may be used to provide additional income maintenance funds to the counties in FY 2005.

- ***County Recorders and Boards of Revision or Treasurers.*** A lien for uncollectible environmental cleanup debt may be released under specified circumstances, resulting in fee income for a county recorder to record the release of lien and an equal amount of expenditures by a county board of revision or county treasurer (bill does not specify who pays these fees).

- ***Delinquent Tax and Assessment Collection Fund.*** Small counties with "excess" balances (over $650,000) in their Delinquent Tax and Assessment Collection Fund that are not needed for collecting delinquent taxes and assessments may distribute part of these funds to all taxing units in those counties.

- ***Franklin County Court of Common Pleas.*** The workload of the Franklin County Court of Common Pleas may increase if the Attorney General utilizes its authority to issue subpoenas or to pursue contempt of court charges against individuals in matters related to the Victims of Crime/Reparations Fund. However, at the time of this writing, it is unclear how many subpoenas may be issued or contempt of court charges pursued. Contempt of court charges may generate some revenue for the court in the form of fines, but further costs could be incurred for Franklin County if individuals are sentenced to jail if found guilty of contempt of court. The potential fiscal effect on Franklin County revenues and expenditures appears likely to be no more than minimal annually.

- ***Municipalities (Urban Clusters).*** Local property tax revenues may decrease if removing this authority to establish enterprise zones results in less investment than would have taken place if these incentives remained as under current law.

- ***Municipalities (Urban Clusters).*** Alternatively, local property tax revenues may increase if investments that would have been made in an area with or without benefit of partial tax exemption are not provided with this benefit.

- ***Municipalities (Urban Clusters).*** Businesses in an enterprise zone pay an annual fee of 1% of the value of incentives (but at least $500 and no more than $2,500), to cover the cost of reporting and of Tax Incentive Review Council (TIRC) oversight. Fewer agreements as a result of eliminating this authority would decrease these revenues and expenditures.

- ***Municipalities (Urban Clusters).*** Expenditures by cities to provide optional services or assistance to project sites may decrease if they are not permitted to establish enterprise zones.

- ***Townships.*** May increase expenditures of tax increment financing funds. Any such outlays must be offset by reimbursement to the fund, no later than the day the exemption granted under the resolution expires.

- ***Educational Service Centers.*** The bill permits educational service centers (ESCs) to contract with political subdivisions to jointly acquire, construct, operate, and maintain parks, specified recreational facilities, and community centers. This provision may result in savings for ESCs that would otherwise pursue these ventures alone.

- ***School Facilities Commission – Exceptional Needs Program.*** The bill permits a school district expected to be eligible for the Classroom Facilities Assistance Program (CFAP) within three years to participate in the Exceptional Needs Program (ENP) subject to two criteria: (1) the school district's entire CFAP project must consist of a single building to house students in grades K through 12, and (2) the school district has to be one of the eight districts entering into agreements with the SFC under the Expedited Local Partnership Program

(ELPP) prior to September 14, 2000. The SFC data indicate that only Ada Exempted Village (Hardin) fits these criteria and could be served under ENP as a result of this provision. While state and local shares for Ada would remain unchanged, as these shares have already been locked into place under its ELPP Master Plan Agreement with the SFC, at least one school district may be pushed back another year of service under ENP as Ada takes its spot.

Detailed Fiscal Analysis

PERMANENT LAW PROVISIONS

Department of Administrative Services

Department of Administrative Services Collection of Commissions in Connection with Public Works

Current law allows the Director of Administrative Services (DAS) to fix all rentals and collect all tolls, rents, fines, commissions, and fees, and other revenues arising from any source in those public works. This bill prohibits the Director from collecting a commission or fee from a real estate broker or private owner of real property leased or rented to the state. This provision diminishes a potential revenue source for the Division of Real Estate within the DAS. The Division is currently funded by the General Revenue Fund and the General Services Fund (Fund 117).

Ohio Departments Building

This bill eliminates DAS' duty to illuminate the exterior of the Ohio Departments Building. This bill also eliminates the requirement that state agencies occupying space in the Ohio Departments Building reimburse DAS for the cost of occupying the space and pay any debt service that may be charged by the Director of DAS. The operating and maintenance of the Ohio Department Building was transferred from DAS to the Judicial Branch in the 125th General Assembly Operating Budget. Therefore, these provisions have no fiscal effect because they codify existing practice.

State Architect

The bill requires the State Architect to establish a local-administration competency certification program to certify state universities and state community colleges to administer state-funded capital facilities projects without the oversight of the DAS. This provision may increase administrative costs in the State Architect Fund (Fund 131).

Attorney General

Collection Duties

The bill amends R.C. 131.02 and enacts R.C. 131.021, governing the Attorney General's duty to collect debts owed to the state, by (1) allowing a bankrupt entity's tax liability that is not final to be certified for collection, and (2) allowing uncollectible debts to be sold to private vendors or cancelled. These provisions may marginally increase state tax revenues, but any such gains annually appear likely to be small.

Crime Victims Reparations Fund Recovery Subpoenas

The bill enacts R.C. 2743.712 to permit the Attorney General to conduct investigations, including the power to issue subpoenas and to have them enforced by contempt actions in the Franklin County Court of Common Pleas, regarding actions to enforce the reimbursement, repayment, recovery, and subrogation rights of the Victims of Crime/Reparations Fund (Fund 402). The potential revenue to be gained and expenditures to be incurred annually as a result of undertaking such investigations is uncertain at the time of this writing.

Bond Issuing Authority

Changes Issuing Authority for Local Subdivision Capital Improvements Bonds and Makes Definition Changes

The bill changes the issuing authority for local subdivision capital improvement bonds to the Ohio Public Facilities Commission from the Treasurer of State, changes the definition of "interest rate hedge," "bond proceedings," and make other changes to bond law. There is no direct fiscal effect of these provisions on state or local governments.

Changes Issuing Authority for Cultural and Sports Facilities Building Fund Bonds

The bill changes the issuing authority for Cultural and Sports Facilities Building Fund bonds to the Treasurer of State from the Ohio Building Authority.

Capitol Square Review and Advisory Board

Composition and Authority of Board

The bill adds the Clerks of the Senate and the House of Representatives to the Capitol Square Review and Advisory Board. The bill also limits the Board's authority to place art and artifacts in the chambers and committee rooms of the Statehouse without first obtaining the approval of the Speaker of the House or the President of the Senate.

Board members serve without compensation, but are reimbursed for actual and necessary expenses incurred in the performance of their duties. Adding two members to the Board (bringing the total number of members to 11) may increase expenditures for the Board, but this increase is likely only to be minimal.

Cultural Facilities Commission

State Historical Facility Definition Change

The definition of a "state historical facility" is amended. Under the bill, a state historical facility is defined as a site or facility (1) that is under the auspices of the Ohio Historical Society (OHS), (2) whose title resides in whole or in part with the state or the OHS, and (3) that are managed directly by or subject to a cooperative or management contract with the Ohio Cultural Facilities Commission and used for or in connection with the Commission's activities. As a result of this definition change, it is *possible* that fewer sites could be listed as "state historical facilities." As such, it is *possible* that there could be a

decrease in expenditures from the Cultural and Sports Facilities Building Fund (Fund 030) under the Commission. The amount of this decrease, *if any*, is unknown at this time.

Department of Development

Enterprise Zones

Enterprise zones are designated areas of land in which businesses can receive tax incentives in the form of tax exemptions on eligible new investments. Enterprise zones are not part of the traditional zoning program, which limits the use of land. Instead, they allow local officials to negotiate with businesses to encourage new business investment in the zone.

Under the bill, cities designated as "urban clusters within rural statistical areas" lose their authority to designate areas within the city as enterprise zones. Previously designated enterprise zones, prior to the effective date of this bill, are unaffected. Specifically, enterprise zones that were certified by the Director of Development on or after June 26, 2003 to present day are unaffected, which in total, include Tiffin, Delaware, Chardon, London, Wooster, Orville, and Rittman.

As a result of this bill, tax revenues may decrease if businesses that would have been attracted to an area because of enterprise zone property tax savings locate somewhere else instead. Alternatively, tax revenues may increase if businesses that would have located in an area – with or without the property tax savings offered by an enterprise zone – forgo those tax reductions as a result of this bill. Answers to "what if" questions like these are inevitably difficult to determine. Academic literature on enterprise zones in general, as well as the more specific plausible outcomes of this bill outlined above, suggest that these changes in law might result in increased or decreased revenues. Consequently, the revenue impact appears indeterminate.

Fees associated with the enterprise zone program include: a $750 Enterprise Zone Agreement application fee paid to the Department of Development and annual monitoring fees paid to the municipal legislative authority by each enterprise that receives a tax incentive through an Enterprise Zone Agreement. The monitoring fee is equal to the greater of 1% of the dollar value of the incentive benefit received, or $500. The maximum annual monitoring fee is $2,500[1] and is to be used to pay for reporting on activities in the enterprise zone and for oversight by a TIRC.

Some types of property taxes – bond issues and school district emergency levies – are designed to collect specific amounts of money. To the extent that an enterprise zone tax abatement results in an increase in the tax base, relative to what it would otherwise have been, the taxes of other taxpayers in a taxing district would go down. But to the extent that the enterprise zone program reduces the tax base, other taxpayers would have to pay more. More generally, there is an equity issue in imposing different effective tax rates on two essentially similar taxpayers, differing only in that one of them satisfies the qualifications for the enterprise zone tax abatement and the other does not.

In some cases, enterprise zone incentives are viewed as an essential tool for competing with other states for business investment and employment. In other cases, Ohio local governments use the enterprise zone tax abatements to compete with other local governments within the state for these

[1] Local jurisdictions may waive or reduce the amount of the annual monitoring fee.

investments. This intrastate competition may result in a net loss of local tax revenues with no net gain in investments and jobs for the state as a whole.

Job Creation Agencies

The bill authorizes the Director of the Department of Development to designate a governmental entity as an agency of the state, within a specified region, for the purpose of creating and preserving jobs and employment opportunities and financing projects intended to create or preserve jobs and employment opportunities. The agency designation normally gives an entity the ability to undertake economic development financing projects outside of its traditional jurisdictional boundaries, serving as the state's agent. The designation does not provide for an agent's employees to become state employees, nor does it confer any benefit (i.e., health, life, retirement) typically associated with state employment. The agent's authority is limited in scope to job creation and preservation and financing. Under prior authority granted to the Director of Development, two port authorities received agency designation.

Department of Education

State Action for Educational Leadership Fund

The bill creates the State Action for Education Leadership Fund in the state treasury and specifies that the investment earnings of the fund be credited to the fund. This fund is to receive a grant awarded by the Wallace Foundation to the Department of Education. The initial grant award is $1.2 million and is renewable for up to two additional years, for a total of $3.6 million. The money in this fund is to be used for four main purposes:

(1) To develop leadership programs for the Big Eight school districts (Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo, and Youngstown);
(2) To target training to teacher-leaders, principals, and union leaders;
(3) To increase administrators' and teachers' skills in using student assessment data to improve instructional decisions; and
(4) To align district and building budget allocations with student performance data.

Educational Service Centers

The bill permits educational service centers (ESCs) to contract with political subdivisions to jointly acquire, construct, operate, and maintain parks, specified recreational facilities, and community centers. This provision may result in savings for ESCs that would otherwise pursue these ventures alone.

Department of Natural Resources

Parks Capital Expenses Fund

The bill creates the Parks Capital Expenses Fund (Fund 227) in the state treasury. The fund shall be used to pay for design, engineering, and planning costs that are incurred by the Department of Natural Resources for parks-related capital projects. The fund shall consist of moneys transferred to it from the Parks and Recreation Improvement Fund.

Board of Regents

Certification for Local Administration of Capital Projects

The bill requires the Ohio Board of Regents to approve and monitor local administration of capital facilities projects by certified institutions and requires certified institutions to conduct biennial audits of their administration of capital facilities projects. These provisions might increase administrative costs for the Board of Regents and the institutions.

Rename Medical College of Ohio at Toledo

The bill renames the Medical College of Ohio at Toledo as the Medical University of Ohio at Toledo. This provision should have no fiscal effect.

Rules for the Allocation of Capital Appropriations to State Colleges and Universities

The bill requires the Ohio Board of Regents to adopt rules governing the allocation of state capital appropriations to state colleges and universities. The Board of Regents has generally allocated capital appropriations according to a formula that has incorporated the recommendations contained in the final report of the Commission to Study Higher Education Debt Service, which was issued on June 28, 1994. This provision requires the Board of Regents to submit rules detailing this formula, and therefore has no fiscal effect.

School Facilities Commission

Exceptional Needs Program

The bill permits a school district expected to be eligible for the Classroom Facilities Assistance Program (CFAP) within three years to participate in the Exceptional Needs Program (ENP) subject to two criteria. First, the school district's entire CFAP project must consist of a single building to house students in grades K through 12. Second, the school district has to be one of those districts entering into agreements with the School Facilities Commission (SFC) under the Expedited Local Partnership Program (ELPP) prior to September 14, 2000.

The SFC data indicate that eight districts were accepted into ELPP prior to September 14, 2000. Among these eight districts, the Ada Exempted Village (Hardin) is the only one that has a master plan calling for one K through 12 building. Additionally, Ada is currently ranked at 164th according to the SFC FY 2005 Eligibility Ranking List. With the SFC serving districts with rankings of as high as 162nd in FY 2005, it is quite likely that Ada could be served within the next three years by CFAP. Under current law, no districts reasonably expected to be served by CFAP within three years are eligible for ENP. Therefore, Ada could not be served by ENP under current law. This bill would create an exemption to current law allowing Ada to be served under ENP. This provision would not change state and local shares for Ada as the district locked into those shares when it was approved for ELPP in August 2000. However, Ada would be served earlier under ENP, subject to SFC funding, thus, possibly pushing back another district that could normally have been served under ENP at least another year.

Calculation of School District's Net Bonded Indebtedness

Under current law, a school district's eligibility for CFAP is largely determined by the district's ranking on its three-year average adjusted valuation pupil among all school districts. Low wealth districts are served first. Based on the eligibility list, the SFC performs on-site visits to assess the classroom facilities needs of those districts that will be served by CFAP in the near future to come up with master plans. The state and local shares of districts' basic project costs will be determined. Districts will then generally have one year to seek voter approval of their local shares. Generally speaking, school districts will seek voter approval after their state and local shares have been decided.

Under current law, the local share of a district's project cost is the greater of the following two calculations:

(a) The district's required percentage of the basic project cost based on its percentile ranking on its three-year average adjusted valuation per pupil. For example, the local share for a district with a 60th percentile ranking will be 60% (0.01 x the district's percentile ranking).

(b) The amount necessary to increase the net bonded indebtedness of the district to within $5,000 of its required level of indebtedness, ranging from 5.0% to 6.98% of the district's total assessed value based on each district's wealth.

As indicated earlier, CFAP serves low wealth districts first. Local shares for the vast majority of school districts that have been served so far are determined by the first percentile method. The alternative net bonded indebtedness method is more likely to be applied to a district that has a relatively small project size and/or a high tax capacity. In other words, local shares for higher wealth districts are more likely to be determined by the alternative method. Current law specifies the types of debt that can be included in a district's net bonded indebtedness calculation to determine the district's local share. It allows a school district to count a portion of the approved bond that has been issued for classroom facilities to be included in the calculation. The bill specifies that bonds approved by voters for local shares of classroom facilities projects do not count towards a district's net bonded indebtedness for the purpose of calculating the district's local share.

As mentioned earlier, school districts generally do not seek voter approval of local shares until state and local shares have been decided. However, if a school district seeks voter approval prior to the determination of its local share **and** the district's local share will be decided by the alternative method, allowing the district to count debt that has already been approved for its local share will lower the district's local share and accordingly increase its state share. Let us take a look at a hypothetical example of District A in the table, below.

Example of Hypothetical District A	
Total basic project cost	$8,380,036
Total assessed valuation	$47,196,439
Percentile rank	16th
Required level of indebtedness	5.28%
Required indebtedness amount	$2,486,972 ($47,196,439 x 5.28%-$5,000)
Other qualified debt	$500,000
Local share under the percentile method	$1,340,806 ($47,196,439 x 16 x 0.01)
Local share under the alternative method	$1,986,972 ($2,486,972 - $500,000)

In the case of District A, the local share of the basic project cost will be $1,986,972 (or 23.7% of the basic project cost) as calculated under the alternative method. Normally, District A will seek voter approval of debt in the amount of $1,986,972 to pay for its local share. Now, let us assume that District A has successfully secured voter approval of debt in the amount of $1,200,000 prior to the determination of its local share and this debt is allowed to be included in the district's net bonded indebtedness calculation. This will bring District A's other qualified debt from $500,000 to $1,700,000. District A's local share under the alternative method would now be $786,972 ($2,486,972 - $1,700,000). Since the local share of $1,340,806 as calculated under the percentile method is greater than the amount calculated under the alternative method, District A's local share would now be $1,340,806 (or 16% of the basic project cost) instead of $1,986,972 as originally calculated under the alternative method.

Excluding bonds that have been approved for local shares of the basic project costs would eliminate the incentive for certain school districts to seek voter approval of bonds prior to the determinations of their local shares in order to increase their state shares. Local shares for higher wealth districts are more likely to be determined by the alternative net bonded indebtedness method while the percentile method is often used to determine local shares for lower wealth districts. This change has no impact on districts whose local shares are determined by the percentile method. The percentile method has been used to determine local shares for the vast majority of school districts that have been served so far as low wealth districts are generally served first by the state.

Encumbrance of the State Share

The bill requires the SFC to encumber state funds for classroom facilities projects by fiscal year. While this provision would not increase or reduce the state share of school district projects, it may allow the SFC to free up some state funds and allow the possibility of serving a few more districts in a given fiscal year. Currently, the SFC determines the amount of state funds to be encumbered based on a project's estimated construction schedule on a biennial basis.

Tax Changes

Offset of Claims Against Lottery Prizes and Tax Refunds

The bill amends R.C. 3770.073, 5733.121, and 5747.12 to allow (1) certified claims under R.C. 131.02 and 131.021 to be offset against lottery prizes and certain tax refunds, and to allow (2) the Tax Commissioner to recover the costs incurred in offsetting certain tax refunds and to make rules regarding the refund offsets and cost recovery. The right of offset may increase state revenues. Allowing the Tax Commissioner to recover related costs may increase Department of Taxation revenues, and may increase expenses of other state agencies.

Garnishment Law Changes

The bill amends R.C. 2716.11 pertaining to garnishment proceedings against property other than personal earnings, by requiring the judgment creditor to have a reasonable basis to believe a garnishee has property of the debtor (instead of a good reason to believe and actual belief that the garnishee has the property). This change appears unlikely to have any fiscal effects on the state or on local governments.

Release of Liens for Environmental Cleanup Debt

The bill enacts R.C. 5715.70 and 5725.701 to permit the release of a lien for environmental cleanup debt against real property if (1) the debt is uncollectible and 12 or more times greater than the fair market value of the property, and (2) the lien has been in existence for at least five years. Because this change in law pertains to uncollectible debt, it appears unlikely to result in any loss of receipts for debt repayment. It will result in fee income to the county recorder for recording the discharge of a lien, which fee income may be an expenditure of the county board of revision or of the county treasurer (the bill does not specify who pays the recorder).

Townships

Tax Increment Financing

The bill permits certain townships to temporarily use money in a tax increment financing fund to pay public safety operating expenses; and specifies that "minimum service payment" obligations payable to subdivisions under a tax increment financing-related arrangement are secured by a lien on property with the status of a tax lien, as are other service payments in lieu of taxes under current law. A township permitted to do so is one which adopted a resolution under R.C. 5709.73(B), pertaining to tax increment financing, prior to January 1, 1995, and that is party to a hold-harmless agreement related to property exempted under such a resolution, compensating a school district for tax revenues forgone because of the exemption granted by the resolution. Any funds so expended must be reimbursed to the fund.

UNCODIFIED PROVISIONS

Department of Administrative Services

Health Care Spending Account

This bill creates the Health Care Spending Account Fund (Fund 813) to be used to make payments pursuant to state employees' participation in a flexible spending account for a non-insured health care expenses and transfers up to $250,000 in cash from the State Employee Health Benefits Fund (Fund 808) to the Health Care Spending Account Fund (Fund 813) during FY 2005 to provide an initial operating cash balance for the Health Care Spending Account Fund. This bill also requires the Director of Administrative Services to submit a plan to the Director of Budget and Management by January 15, 2005 that provides for the repayment during FYs 2006 and 2007 of all cash transfers made to the Health Care Spending Account during FY 2005.

Controlling Board

Emergency Purposes/Contingencies

The bill amends Section 31 of Am. Sub. H.B. 95, the main operating appropriations act of the 125th General Assembly, by increasing the FY 2005 appropriation for the Controlling Board's GRF line item 911-401, Emergency Purposes/Contingencies, by $2,500,000, from $5,000,000 to $7,500,000. The appropriation authority in this line item has been used to assist state agencies and political subdivisions respond to natural disasters and emergency situations.

Department of Job and Family Services

Public Assistance Reconciliation Fund

This bill would create the Public Assistance Reconciliation Fund (Fund 5AX). Funds from two sources, the Federal Fiscal Relief Fund (Fund 5Y9) and the Child Support Special Payment Fund (Fund 5T2), could be transferred into the new fund at the request of the Ohio Department of Job and Family Services (ODJFS). The Department would then utilize these one-time funds to reimburse the state's TANF Block Grant (Fund 3V6). The funds used to reimburse the TANF Block Grant would be replacing prior year funds which are subject to TANF spending guidelines that limit expenditures to cash assistance to recipients. In effect, the bill increases the amount of available funds but would not require immediate expenditure. The bill would also allow the department to increase income maintenance funds in this and future fiscal years.

Background

The state of Ohio delivers human services through a state-supervised, county-administered system. Am. Sub. H. B. 215 of the 122nd General Assembly granted ODJFS (then the Department of Human Services) the authority to make a "consolidated" funding option available to the counties that would combine ten different funding streams into a single allocation that could be used for any of the purposes authorized by the ten funding sources. Counties could spend on services as needed without regard to the origin of the funds so long as they stayed within their total allocation. ODJFS would reconcile the county spending each year.

Earlier this year ODJFS announced that it had not been performing a thorough reconciliation of the separate funding streams, only a reconciliation of the consolidated payment system as a whole to balance expenditures by counties that exceeded their allocation with those that had not. The failure to develop a system that would reconcile the different funding streams resulted in TANF funds being spent from state fiscal year (SFY) 2000 through the first months of SFY 2005 for administrative costs in the Medicaid and Food Stamp programs, when state funds should have been used instead. Estimates of the funds needed to repay the TANF block grant range up to $280 million. Some transfers and other adjustments proposed to solve the problem have already been accomplished through steps taken by the Department and through Controlling Board action. The consolidated allocation system that was in place has been replaced by a new system termed Public Assistance Fund Linkages, which retains some flexibility for counties but also limits the funds to more narrowly defined sets of purposes. This bill would provide additional one-time funding sources to alleviate the reconciliation problem.

Federal Fiscal Relief Fund (Fund 5Y9)

The bill permits up to $76.5 million from the Federal Fiscal Relief Fund (Fund 5Y9) to be transferred to the new Public Assistance Reconciliation Fund (Fund 5AX). The Federal Fiscal Relief Fund was created by the H.B. 95 of the 125th General Assembly when the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 (H.R. 2) increased the federal matching assistance percentage (FMAP) rate for Medicaid services from April 1, 2003 to June 30, 2004 by 2.95%. This equated to about $386.1 million in increased federal Medicaid reimbursements for Ohio. The fund began the current fiscal year with approximately $384 million in cash. OBM will transfer $90.9 million to the newly created Medicaid Reserve Fund (Fund FY8) in this fiscal year. The remaining balance would

otherwise have been deposited into the GRF. This bill will reduce the Federal Fiscal Relief Fund balance by up to $76.5 million, which will in turn reduce the amount that could have been transferred to the GRF.

Child Support Special Payment Fund (Fund 5T2)

The bill permits all available funds in the Child Support Special Payment Fund (5T2) to be transferred to the new Public Assistance Reconciliation Fund (Fund 5AX), upon request by ODJFS. The Child Support Special Payment Fund was created in the 124th General Assembly to reimburse former welfare recipients, dating back to October 1997, whose child support was intercepted to pay for public assistance benefits. The fund currently shows a balance of $14.1 million, of which $11.7 million is encumbered. The Department could transfer the remaining $3.0 million to the Public Assistance Reconciliation Fund. The Department could transfer any of the encumbered funds that go unspent, potentially increasing the size of the total transfer.

Effect on the GRF

The bill would reduce future transfers to the GRF. The provisions of the last budget bill, H.B. 95 of the 125th General Assembly, declare that any remaining funds in the Federal Fiscal Relief Fund (Fund 5Y9) after required transfers to the Medicaid Relief Fund would be transferred to the GRF. This bill permits OBM, at the request of ODJFS, to transfer up to $76.5 million out of the fund, thereby decreasing the final transfer to the GRF.

Other JFS Funds

The bill permits OBM, at the request of ODJFS, to transfer cash in to or out of the Public Assistance Reconciliation Fund to or from any other fund appropriated to the department. The fiscal effect of this provision is unknown.

Effect on the County Departments of Job and Family Services

The bill could increase transfers to county departments of job and family services. The bill permits ODJFS to increase the income maintenance funds provided to the counties, if sufficient cash is available in the Public Assistance Reconciliation Fund (Fund 5AX) after the Department makes reimbursement to the TANF Block Grant (Fund 3V6). The increase is impossible to determine at this time.

Local Governments

Delinquent Tax and Assessment Collection Fund

The bill temporarily authorizes a county with a population under 64,000 (2000 Census), and with a balance in the Delinquent Tax and Assessment Collection (DTAC) Fund over $650,000 to distribute some of the money among all taxing units in the county. These funds may only be so distributed if the county treasurer and county prosecuting attorney determine that not all of this money is needed for collecting delinquent taxes and assessments. This provision would go into effect immediately (i.e., would not be subject to the referendum), and the authority would expire after 60 days. County DTAC funds are comprised of 5% of all delinquent property tax and special assessment collections, and ordinarily must be used to fund collection of other delinquent property taxes and assessments.

Fifty of Ohio's 88 counties had populations under 64,000 in the 2000 Census. LSC does not know the number that have qualifying high balances in their DTAC funds or the amount of these balances. Expenditures by local governments in eligible counties may increase under this provision.

Department of Natural Resources

Parks Capital Expenses Fund

The bill creates the Parks Capital Expenses Fund (Fund 227) in the state treasury. The fund shall be used to pay for design, engineering, and planning costs that are incurred by the Department of Natural Resources for parks-related capital projects. The fund will be reimbursed for these expenses from Fund 035, Parks and Recreation Improvement Fund. The amount of these expenses has yet to be determined.

Reappropriations Bill (S.B. 189 of the 125th General Assembly)

Technical Corrections

The bill makes technical corrections to the reappropriations bill for the following capital line items:

CAP-052, Akron Art Museum, under the Ohio Cultural Facilities Commission;
CAP-107, Stan Hywet Hall and Gardens, under the University of Akron;
CAP-108, Weathervane Theatre, Akron, under the University of Akron;
CAP-109, Case Barlow Farm, Hudson, under the University of Akron;
CAP-110, Springfield HS/UAK Distance Learning Project, under the University of Akron;
CAP-004, Basic Renovations, under Shawnee State University; and
CAP-827, Cuyahoga Valley Scenic Railroad, under the Department of Natural Resources.

Transfer of Projects

The Cleveland Playhouse capital appropriation item is transferred from Fund 030, Cultural and Sports Facilities Building Fund, within the Cultural Facilities Commission to Fund 034, Higher Education Improvement Fund within the Board of Regents. The bonding authority for Fund 034 is increased accordingly.

The bill transfers $9 million out of a total capital reappropriation of $10 million for the Riversouth Development project from Fund 030, Cultural and Sports Facilities Building Fund, within the Cultural Facilities Commission, to Fund 026, Administrative Building Fund, within the Department of Administrative Services.

Senate

Salary of Certain Senate Leadership Positions

The bill establishes the salary payments for the Senate majority floor leader, Senate assistant majority floor leader, and Senate assistant majority whip. These salaries reflect the same salary structure of the counterpart positions in the House of Representatives. The total increase for FY 2005, above the current nonleadership base pay in the Senate, is approximately $8,000. The increase for FY 2006 is approximately $20,000, which assumes an inflationary increase of 3%.

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