



Ohio Legislative Service Commission

Bill Analysis

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Am. Sub. H.B. 64* 131st General Assembly (As Passed by the General Assembly)

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This final analysis is arranged by state agency, beginning with the Adjutant General and continuing in alphabetical order. Items that do not directly involve an agency are located under the agency that has regulatory authority over the item, or otherwise deals with the subject matter of the item. The analysis also includes a category for the state retirement systems and, at the end, a Local Government category and a Miscellaneous category.

Within each agency and category, a summary of the items appears first (in the form of dot points), followed by a discussion of their content and operation. Items generally are presented in the order in which they appear in the Revised Code.

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ADJUTANT GENERAL

- Establishes, under the Adjutant General, the Ohio Military Facilities Commission to implement a program to finance or assist in financing infrastructure capital improvements on military and defense installations in Ohio.
- Specifies that the financial assistance may be in the form of grants, loans, and loan guarantees.

Ohio Military Facilities Commission

(R.C. 5913.12 to 5913.14)

The act creates, under the Adjutant General, the Ohio Military Facilities Commission to develop and implement a program to finance or assist in financing infrastructure capital improvements on military and defense installations in Ohio, including facilities operated by 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: (1) three members appointed by the Speaker of the House, (2) three members appointed by the Senate President, and (3) three members appointed by the Governor. Initial appointments must be made by December 31, 2015. The appointed members are to serve four-year terms. Members may be reappointed. Vacancies must be filled in the same manner as original appointments. Members serve at their appointing authority's pleasure and may be removed for just cause. The act directs the Adjutant General to provide administrative assistance to the Commission.

The financial assistance 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 purpose.

Upon receipt of an application, the Commission must examine the proposed infrastructure capital improvement to determine if it will support the military value of the installation as described in the federal Defense Base Closure and Realignment Act of



1990.¹ Only those improvements that meet that condition are eligible to receive financial assistance under the program.

¹ See Section 2913 of Public Law Number 101-510.



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 permitted 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 used 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 DAS and the Director of Transportation to establish and maintain the Veteran-Friendly Business Procurement Program.



Classified service

- Allows a state employee who holds a certified or permanent position in the classified service and who is appointed to a position in the unclassified service on or after January 1, 2016, to resume the classified position only within five years after the effective date of the employee's appointment in the unclassified service.
- Adds unsatisfactory performance to the list of reasons certain employees in the classified service may be reduced in pay or position, fined, suspended, or removed, or have the employee's longevity reduced or eliminated.

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 increase for exempt state employees

- Increases pay for exempt state employees paid in accordance with salary schedules E-1 and E-2, creates a new step 7 pay range in the E-1 salary schedule, and recasts the former schedule E-1 "step seven only" pay range as "step eight only."
- Provides a one-time pay supplement for certain exempt state employees who are in active payroll status on July 1, 2015, and August 1, 2015, of \$750 for full-time permanent employees and \$375 for less than full-time employees.

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.

Benefit eligibility for nonpermanent state employees

- Adds an exception to continuing law's provision that nonpermanent state employees are ineligible for employee benefits by providing that these employees are ineligible unless otherwise required by law.



Temporary furlough due to lack of federal funds

- Permits the Director of DAS to authorize a state appointing authority to temporarily furlough any of its employees if the appointing authority's operation is dependent on federal funds and those funds are not available or have not been received.

Collective bargaining with the state

- Prohibits the state from collectively bargaining with individuals who are excluded from coverage under the Public Employees' Collective Bargaining Law and the federal National Labor Relations Act.
- Specifies that the prohibition does not apply with respect to individuals who are exempt from the Public Employees' Collective Bargaining Law but with whom the state may elect to collectively bargain under continuing law.

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

- 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 of DAS considers appropriate to sufficiently notify competing persons of the intended purchase is sufficient.
- 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 act 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 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 the immediate family of deployed persons.
- Clarifies the state entities exempt from the State Procurement Law.
- Permits the exempt entities to request DAS assistance with procurement of supplies and services and, upon DAS' 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 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 a 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 the law authorizing DAS to suspend normal contracting requirements for the Emergency Management Agency or any other state agency involved in response and recovery during a declared emergency period.
- Provides that state agencies acting under this emergency authority are exempt from Controlling Board approval to contract without competitive selection, but requires the 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

- Allows state entities and offices to purchase recycled products under rules adopted by the Director of DAS 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 annually 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 each state agency to provide the Director of DAS 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

- Removes from the Ohio Geographically Referenced Information Program Council all members appointed by the Governor and replaces them with specified officials and the executive directors of specified local government associations.
- Requires 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 prior law, appeared 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 of DAS to implement strategies that benefit enterprise information technology solutions by improving efficiency, reducing costs, or enhancing the capacity of information technology services.

Vehicle Management Commission

- Effective January 1, 2016, eliminates the Vehicle Management Commission, which is part of DAS and is required to periodically review the implementation of the Department's fleet management program.

Public Employees Health Care Plan Program

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

Under the act, 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 employers² 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 act 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 act removes a provision that permitted a political subdivision, upon consulting with DAS, to adopt a delivery system of benefits that is not the best practices if DAS considered it to be most financially advantageous to the political subdivision.

The act 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;

² As used in this provision, "public employer" means political subdivisions, public school districts, and state institutions of higher education.



--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;

--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 continuing law relating to health care plans for public employers, including identifying strategies to manage health care costs.

Under continuing law, the Director of DAS may convene a Public Health Care Advisory Committee. Under the act, the Committee is tasked to assist in studying the issues discussed in the law described here. The act removes the following specific requirements of 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 act eliminates the Public Employees Health Care Fund, which DAS used 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 act authorizes DAS to provide notice by electronic means or by first class mail to a nonresponsive, nonresponsible low bidder in a reverse auction or competitive sealed bidding process. Under prior law, first class mail was the only means authorized.



Veteran-Friendly Business Procurement Program

(R.C. 9.318)

The act requires the Director of DAS and the Director of Transportation to establish and maintain the Veteran-Friendly Business Procurement Program. The Director of DAS 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 for the rendering of services, the supplying of materials, or 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;

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



Because of the dual rule-making authority in the act, 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

For purposes of the Veteran Friendly Business Procurement Program:

"Armed forces" means (1) the U.S. armed forces, 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 DAS and the Director of Transportation.

Classified service

Right to resume a position

(R.C. 124.11, 4121.121, 5119.18, 5120.38, 5120.381, 5120.382, 5123.08, and 5139.02)

Continuing law allows state employees who move from a certified or permanent classified position to an unclassified position to resume the classified position held by the employee immediately prior to the move. The act specifies that such an employee who is appointed to a position in the unclassified service on or after January 1, 2016, has the right to resume the classified position only within five years after the effective date of the employee's appointment in the unclassified service. Under continuing law, an employee who holds a certified or permanent position in the classified service and who is appointed to a position in the unclassified service prior to January 1, 2016, has the right to resume the classified position with no time limit on the right.



Unsatisfactory performance

(R.C. 124.34)

The act adds unsatisfactory performance to the list of reasons an employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, city school districts, or regional water and sewer districts may be reduced in pay or position, fined, suspended, or removed, or have the employee's longevity reduced or eliminated. The act requires the Director of DAS to adopt a rule to define unsatisfactory performance for employees in the service of the state for purposes of this provision.

Job classification plans

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

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

Under prior law, when the Director proposed to modify a classification or the assignment of classes to pay ranges, the Director was required to 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 were required to notify the affected employees regarding the proposed rule. The Director also was required to send these appointing authorities notice of any final rule that is adopted within ten days after adoption.

The act 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 increases for exempt state employees

(R.C. 124.152 and 124.183 (repealed and reenacted); Section 503.120; conforming changes in R.C. 124.181, 124.382, and 126.32)

The act increases pay for exempt state employees paid in accordance with salary schedule E-1 by approximately 2.5% beginning in the pay period that includes July 1,



2015, an additional 2.5% beginning in the pay period that includes July 1, 2016, and an additional 2.5% beginning in the pay period that includes July 1, 2017. The sections amended by the act to revise the pay schedules take effect September 29, 2015.

The act also adds a new step 7 to schedule E-1 pay ranges 12 through 16 and establishes pay in step 7 at an amount that is 9% higher than pay for those ranges in new step 6. An employee who is being paid a salary or wage at step 6 on July 1, 2015, is eligible to move to step 7 beginning on the first day of the pay period that immediately follows July 1, 2015, if the employee has maintained satisfactory performance in accordance with the criteria established by the employee's appointing authority and the employee has not advanced a step within the 12-month period immediately preceding the advancement to step 7. The act recasts the pay range formerly known as "step seven only" as "step eight only." Similar to prior law governing former step seven only, an employee in step eight only is not eligible to be paid a salary or wage at step 7 in schedule E-1 for as long as the employee remains in the position the employee held as of July 1, 2003.

For exempt state employees paid in accordance with salary schedule E-2, the act also increases the maximum pay range amounts by approximately 11.7% beginning in the pay period that includes July 1, 2015, an additional 2.5% (approximate) beginning in the pay period that includes July 1, 2016, and an additional 2.5% (approximate) beginning in the pay period that includes July 1, 2017. Similar to the E-1 schedule pay increase, the sections amended by the act for this pay increase take effect on September 29, 2015.

The act also provides a one-time pay supplement to certain exempt state employees who are in active payroll status (employees in active pay status or eligible to receive paid leave) on July 1, 2015, and August 1, 2015, to be paid in the earnings statement the employee receives in the pay period that includes August 21, 2015. The supplement amount is \$750 for full-time permanent employees who are paid under schedule E-1 or E-2 or full-time permanent employees who are exempt from collective bargaining and who are not paid in accordance with those schedules, and \$375 for less than full-time employees paid in accordance with schedule E-1 or E-2. An employee who is not in active payroll status on these dates due to military leave or an absence taken under the Federal Family and Medical Leave Act is eligible to receive the one-time pay supplement. The pay supplement is not subject to withholding for deposit into any state retirement system and cannot be used for calculating an employee's retirement benefits. The section enacted by the act to provide for the pay supplement takes effect September 29, 2015.

The act's pay supplement does not apply to employees of the Supreme Court, the General Assembly, the Legislative Service Commission, the Secretary of State, the



Auditor of State, the Treasurer of State, or the Attorney General unless the entity decides that its employees should be eligible for the one-time pay supplement and notifies the Director of DAS in writing on or before July 10, 2015, of the decision to participate in the one-time pay supplement.

The act authorizes each state appointing authority to make expenditures from current state operating appropriations to provide for the one-time pay supplements and compensation increases pursuant to approved collective bargaining agreements between employee organizations and the state and pursuant to the act for employees exempt from collective bargaining.

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 G.A.))

The act 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 act 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 prior law, whenever an employee was 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 was to be established at a rate of approximately 4% above the employee's current base rate for the period of temporary assignment. When a vacancy did not exist, an appointing authority, with an exempt employee's written consent, was authorized to assign the duties of a higher classification to the exempt employee for not more than two years, and the exempt employee was entitled to compensation at a rate commensurate with the duties of the higher classification.

Benefit eligibility for nonpermanent state employees

(R.C. 124.14)

The act adds an exception to continuing law's provision that nonpermanent state employees (such as seasonal and temporary employees) are ineligible for employee benefits by providing that these employees are ineligible unless otherwise required by law.



Temporary furlough due to lack of federal funds

(R.C. 124.29)

The act permits the Director of DAS, notwithstanding continuing law governing layoffs of state employees, to authorize a state appointing authority (such as a board or commission) to temporarily furlough any of the appointing authority's employees if the appointing authority's operation is dependent on federal funds and those funds are not available or have not been received by the appointing authority. The act requires the Director to adopt rules to implement this provision. The rules must be adopted in accordance with the Administrative Procedure Act.

Collective bargaining with the state

(R.C. 4113.81)

The act prohibits the state from engaging in collective bargaining with individuals who are excluded from coverage under the Public Employees Collective Bargaining Law (PECBL) and the federal National Labor Relations Act. The prohibition does not apply to individuals who are specifically not public employees under the PECBL but with whom the PECBL allows the state to elect to collectively bargain.

Fund closures

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

The act abolishes the Cost Savings Fund, which consisted of savings accrued through employee participation in the Mandatory Cost Savings Program and mandatory cost savings days. The Fund could have been used to pay employees who participated in the Program and the costs savings days.

The act also abolishes the Departmental MIS Fund. Continuing law requires DAS to establish charges for recovering the costs of management information systems activities. Formerly, those charges were deposited to the credit of the Fund. Under the act, the charges are to be deposited into the Information Technology Fund³ instead.

³ R.C. 125.15, not in the act.



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

(R.C. 125.035, 113.07, 122.87, 125.04, 125.041, 125.05, 125.07, 125.08, 125.081, 125.601, 125.607, 125.609, 5147.07, 5162.11, and 5513.01; R.C. 125.051 and 125.06 (repealed))

The act 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 requisite 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 act 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 act eliminates certification requirements 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 act 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. Notice provisions that applied to "competitive selection" under prior law apply only to competitive sealed bids under the act. Under continuing law, "competitive selection" includes competitive sealed bidding, competitive sealed proposals, and reverse auctions. Continuing 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 continuing rule-making authority for reverse auctions but is not required to do so.

The act eliminates the requirement that DAS provide 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 of DAS considers appropriate to sufficiently notify competing persons of the intended purchases. The act removes the requirement for DAS to make a public posting of notice on a bulletin board, and the corresponding penalty for a failure to post.

Competitive selection notification list

The act eliminates DAS authority to divide the state into purchasing districts, and eliminates the competitive selection notification list. Similarly, the act removes authority for DAS to charge an annual registration fee of not more than \$10 for a person to be included on the list.

The act retains authority for persons certified as a minority business enterprise to be placed on a special minority business enterprise notification list. Presumably, the requirement for maintaining this list may be provided in rules because the act eliminates the former direction for the list to be maintained in similar fashion to the competitive selection notification list that the act eliminates. The act also removes authority for DAS to charge a fee of not more than \$10 for a person to be included on this list.

Contracts for supplies and services

Generally, the act 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 act 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 act 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,⁴ and the Capitol Square Review and Advisory Board. These are largely the same as prior law, but the act adds state elected officials into the exception and further clarifies the application of the exception to state institutions of higher education; prior law applied to institutions administered by boards of trustees. However, the act 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 act 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 Director of DAS.

Purchasing agreements and participation in DAS contracts

Under the act, DAS can enter into cooperative purchasing agreements with certain other state entities.⁵ Under continuing law, DAS also may enter into purchasing agreements with other states, the federal government, other purchasing consortia, and political subdivisions. Additionally, the act 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.

⁴ The Attorney General, Auditor of State, Secretary of State, and Treasurer of State.

⁵ 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.



The act permits DAS to allow state institutions of higher education and governmental agencies⁶ to participate in DAS contracts. Under continuing 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 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 prior law, the annual report was to include an estimate of the cost DAS incurred by permitting other entities to participate in DAS contracts.

Financial assurance

The act makes a slight change to permit DAS to require that all bids and proposals be accompanied by a performance bond or other financial assurance. Prior law allowed DAS to require that bids and proposals be accompanied by a performance bond or other cash surety.

Meat and poultry

The act 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. Prior law required only those bids received from vendors offering products from establishments on DAS's list of meat and poultry vendors to be eligible. However, the act repeals the requirement that DAS establish and maintain a list of approved meat and poultry vendors.

Produced or mined in the U.S.

The act 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, prior law required DAS and other state agencies first to remove bids that offered products that had not been or that would not be produced or mined in the U.S.

⁶ 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.

Exemptions removed

The act 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 of Workers' Compensation to use DAS for these services. Further, the act 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 act also eliminates the Administrator's authority to transfer surplus computers and computer equipment directly to an accredited public school.

The act 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 act 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 act, the Director of Transportation, in addition to other entities under continuing law,⁷ 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

(R.C. 125.04 and 125.061; R.C. 125.023 (repealed))

The act 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.⁸ The act

⁷ The Ohio Turnpike and Infrastructure Commission, any political subdivision, and any state university or college.

⁸ 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.



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 these purchases to make a report to the President of the Controlling Board describing all purchases made during the emergency period. The report must be filed within 90 days after the declaration of emergency expires.

The act 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 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 act specifies that state entities and offices⁹ may purchase recycled products under rules adopted by the Director of DAS that establish guidelines. Further, the act removes the specific requirements that the guidelines: (1) be 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 act 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 act 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 act requires a state agency to provide the Director of DAS with a list of its excess and surplus supplies, including the supplies' location and whether the agency

⁹ 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.

has control of the supplies. Prior law required 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 act allows excess and surplus supplies of food to be donated directly to nonprofit food pantries and institutions without notification to the Director.

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 act 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, or (5) to the general public by auction, sealed bid, sale, or negotiation. In addition to ongoing manners of disposal, the act 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 act eliminates a prior 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 was 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 act 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 act 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 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 ongoing Building Management Fund.

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

--It eliminates the former 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 act, 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 prior law.

Ohio Geographically Referenced Information Program Council

(R.C. 125.901; Section 701.40)

The act 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 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 act 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. Under prior law, the members appointed by the Governor had to represent county auditors, county commissioners, county engineers, regional councils, municipal corporations, regulated utilities, and a public university. The act states that the Council as revised by the act constitutes a continuation of the Council rather than a new council.

Finally, the act expressly requires 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 act eliminates the State Forms Management Control Center under the supervision of DAS. The Center was 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, 125.57, 125.68, and 149.13 (repealed))

The act 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 and provisions for the binding of publications.

Lastly, the act 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 act requires the 9-1-1 Program Office to oversee the administration of three different funds related to 9-1-1 law, whereas prior law required the Office to "administer" only the Wireless 9-1-1 Government Assistance Fund. Under the act, 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.



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.¹⁰ The Wireless 9-1-1 Program Fund 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. And the Next Generation 9-1-1 Fund goes toward costs associated with phase II wireless systems and a county's migration to next generation 9-1-1 systems and technology.¹¹

Transfers to the Next Generation 9-1-1 Fund

The act repeals a requirement that, although unclear under prior law, appeared 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. This requirement was unclear because the Tax Commissioner and the Steering Committee, after paying administrative costs, were required to transfer any excess remaining in "the administrative funds" to the Next Generation 9-1-1 Fund. This probably meant each entity's respective administrative fund.

Under the act, 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. Therefore, the only other source of funding for the Next Generation 9-1-1 Fund is now assessments for unpaid wireless charges.¹²

Public safety answering point operational standards

(R.C. 128.021)

The act requires the Statewide Emergency Services Internet Protocol Network Steering Committee to assess the operational standards for public safety answering points (PSAPs). Under the act, 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 must be done in accordance with the Administrative Procedure Act and not later than September 29, 2016 (one year after this requirement takes effect).

¹⁰ R.C. 128.42, not in the act.

¹¹ R.C. 128.022, not in the act.

¹² R.C. 128.46(E)(4), not in the act.



Under continuing 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 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

Electronic record certificate of authenticity

(R.C. 1306.20)

The act eliminates a prior law requirement that a state agency create a certificate of authenticity when the state agency alters the format of an electronic record. The act 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. Under continuing law, a state agency that retains an electronic record is permitted to retain it in a format that is different from the format in which it was originally created, used, sent, or received if it can be demonstrated that the alternative format used accurately and completely reflects the record as it was originally created, used, sent, or received.

Prior law also required a state agency that created, used, or received an electronic signature, or created, used, received, or retained an electronic record, to do so in compliance with rules adopted by DAS, unless DAS had authorized noncompliance upon written request of the state agency. The act removes the ability of a state agency to request, and DAS to authorize, noncompliance.

Enterprise information technology strategy implementation

(Section 207.230)

The act 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.¹⁴ In furtherance of this policy, the act requires the Director of DAS 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

¹³ R.C. 128.01(P), not in the act.

¹⁴ Section 207.210 of the act.



efficiencies, the Director of DAS 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.

Vehicle Management Commission

(R.C. 125.833; Section 106.01)

The act eliminates the seven-member Vehicle Management Commission, which is part of DAS, effective January 1, 2016. The Commission is required to periodically review DAS' implementation of its fleet management program and may recommend to DAS and the General Assembly modifications to DAS procedures and functions and other statutory changes.



JOINT COMMITTEE ON AGENCY RULE REVIEW

- Requires the Legislative Service Commission to act as fiscal agent for the Joint Committee on Agency Rule Review instead of the Chief Administrative Officer of the House or the Clerk of the Senate.
- Clarifies that rules adopted by the Department of Taxation are subject to periodic, five-year review.

Fiscal agent

(Section 307.10)

The act requires the Legislative Service Commission to act as fiscal agent for the Joint Committee on Agency Rule Review. In former law, the Chief Administrative Officer of the House and the Clerk of the Senate determined, by mutual agreement, which of them acted as the JCARR fiscal agent.¹⁵

Tax rules subject to periodic review

(R.C. 119.04)

The act clarifies that rules adopted by the Department of Taxation are subject to periodic, five-year review by removing a sentence that was overlooked when H.B. 487 of the 129th General Assembly in 2012 made tax rules subject to that review. Tax rules originally were exempt from periodic, five-year review, and the overlooked sentence suggests erroneously that there is an exemption for those rules.

¹⁵ Section 303.10 of H.B. 59 of the 130th General Assembly.



DEPARTMENT OF AGING

- 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.
- 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 act 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.¹⁶

State-funded component of PASSPORT

(R.C. 173.522)

The act 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

¹⁶ R.C. 173.46, not in the act.



individuals who are aged and disabled. PASSPORT has both a Medicaid-funded component and a state-funded component.¹⁷ Prior to the act, an applicant for the Medicaid-funded component of PASSPORT was permitted to participate in the state-funded component for 90 days. The act changes that period to a period to be specified by the Director of Aging in rules.

The act also repeals a provision of 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.

State-funded component of Assisted Living Program

(R.C. 173.543)

The act changes the period of time for which an individual may participate in the state-funded component of the Assisted Living Program. Continuing 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.¹⁸ Previously, eligible individuals were permitted to participate in the state-funded component for up to 90 days. The act instead requires the Director to adopt rules specifying how long an individual may participate in the state-funded component.

Medicaid-funded component of Assisted Living Program

(R.C. 173.548)

The act 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 act requires the Director to establish in rules.

Technical correction

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

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

¹⁷ R.C. 173.51, not in the act.

¹⁸ R.C. 173.51, not in the act.



DEPARTMENT OF AGRICULTURE

Transfer of Agricultural Soil and Water Conservation Program

- Transfers, effective January 1, 2016, the administration of the Agricultural Soil and Water Conservation Program from the Department of Natural Resources to the Department of Agriculture, and retains all components of the Program.
- Effects the transfer by doing, in part, both of the following:
 - Requiring the Directors of Natural Resources and Agriculture to enter into a memorandum of understanding and requiring the Director of Agriculture to adopt rules that are identical to rules adopted by the Director of Natural Resources; and
 - Stipulating that all operation and management plans developed prior to the transfer continue in effect as if they were developed under the act.

State matching funds for conservation districts

- Authorizes a board of county commissioners that has established a county sewer district to enter into a contract with another public agency under which that agency will undertake projects and activities for compliance with phase II of the federal storm water program.
- If the contract is with a soil and water conservation district, generally requires the Department of Agriculture to pay the district state funds to match the money the district receives under the contract, as part of ongoing state matching payments to the districts.
- Stipulates limits on the state matching money paid in calendar years 2015, 2016, and 2017 for the contracted storm water activities.

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.
- Generally requires each agricultural society that applies for assistance to receive an equal amount appropriated for the above purposes.



- 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.
- Requires each agricultural society to provide a matching grant.
- Requires the Director or designee, after reviewing a grant application and matching grant documentation, to approve the application unless:
 - The project or facility is not a bondable capital improvement project; or
 - The agricultural society does not provide a matching grant.

Other provisions

- Eliminates the Agricultural Financing Commission, which was required to advise the Director concerning the Family Farm Loan Program, which was repealed in 2007.
- Eliminates provisions that governed review compliance certificates issued under the Concentrated Animal Feeding Facilities Law, the operation of which has expired.
- Eliminates requirements and procedures under which a board of county commissioners had to reimburse the owner of an animal that had been killed or injured by a dog belonging to another.
- Extends through June 30, 2017, the extra 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund.
- 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 continuing 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.

Transfer of Agricultural Soil and Water Conservation Program

(R.C. 121.04, 305.31, 505.101, 717.01, 901.08, 901.21, 901.22, 903.082, 903.11, 903.25, 905.31, 905.323, 931.01, 931.02, 939.01 to 939.10, 940.01 to 940.35, 941.14, 953.22, 1501.011,



1501.04, 3714.073, 3718.03, 3734.02, 3734.029, 3734.901, 3745.70, 4115.03, 5301.68, 5301.69, 5537.05, 5705.19, 6111.01, 6111.03, 6111.04, 6111.12, 6111.44, and 6131.23; R.C. 1511.01, 1511.04, 1511.06, 1511.07, 1511.08, and 1511.99 (all repealed); Sections 709.20, 709.30, 709.40, and 709.50)

The act transfers, effective January 1, 2016, the administration of the Agricultural Soil and Water Conservation Program from the Department of Natural Resources to the Department of Agriculture and retains all of the components of the Program. The act effects the transfer by doing, in part, all of the following:

(1) Requiring the Directors of Natural Resources and Agriculture to enter into a memorandum of understanding, requiring the Director of Natural Resources to identify in the memorandum all rules that apply to the Program, and requiring the Director of Agriculture to adopt rules identical to the rules identified in the memorandum;

(2) Stating that, subject to the layoff provisions of the law governing state and local personnel or the applicable collective bargaining agreement, all employees relating to the Program are transferred to the Department of Agriculture and retain their same positions and all benefits accruing to them;

(3) Stipulating that all operation and management plans developed prior to the transfer continue in effect as if they were developed under the act; and

(4) Transferring to the Director of Agriculture responsibility for administering the Agricultural Pollution Abatement Fund, which is used to pay the costs of investigating or abating water degradation caused by agricultural pollution or an unauthorized discharge of manure or residual farm products that requires emergency action to protect public health.

The act authorizes the Director of Agriculture to enforce the law governing the Agricultural Soil and Water Conservation Program, including taking corrective actions, imposing civil and administrative penalties, and seeking injunctive relief. Formerly, DNR enforced that law by issuing orders requiring compliance with specified rules relating to the abatement of the degradation of the waters of the state by agricultural pollution. If a person failed to comply with those orders, DNR could seek a court order requiring the person to cease the violation and remove the agricultural pollutant.

State matching funds for conservation districts

(R.C. 940.15 and 6117.021)

The act designates a new source of local funds that soil and water conservation districts may use to draw state matching funds: money they receive under contracts with counties for storm water projects and activities. Previously, the Department of



Natural Resources has paid state matching funds to the districts under the Agricultural Soil and Water Conservation Program. Administration of the payments will transfer to the Department of Agriculture as part of the act's transfer of the Program to it.

The new source for state matching payments is contracts with counties for projects and activities aimed at compliance with phase II of the federal storm water program. This entails two steps. First, the act authorizes a board of county commissioners that has established a county sewer district to enter into these contracts with other public agencies. The contract may be for a period and on terms that are mutually agreed upon. Second, it directs the payment of the state matching funds to soil and water conservation districts that have entered these contracts. The districts may use money they receive under the contracts to match the state funds.

Payment of the new matching funds is subject to the guidelines that already apply to the previously authorized matching payments, with some particular stipulations for the new payments in calendar years 2015 to 2017. Specifically, the state match cannot exceed dollar for dollar per calendar year, and the act retains the general aggregate cap of \$8,000 per district, per calendar year for all eligible activities. The act retains the Soil and Water Conservation Commission's authority to approve a payment exceeding \$8,000 on a case-by-case basis. Matching payments also are limited to the amounts appropriated for them.

However, for calendar years 2015, 2016, and 2017, the state match paid to a district for the newly authorized storm water contracts:

(1) Generally cannot exceed the matching money the district was paid in calendar year 2013 as a result of having used, directly or indirectly, the proceeds of a similar contract between the county and the district to obtain the state match; but

(2) May exceed that amount to the extent the district uses other sources of local matching funds in state fiscal years 2015, 2016, and 2017.

Agricultural Society Facilities Grant Program

(Section 717.10)

The act 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. Except as discussed below, each agricultural society that applies for assistance must receive an equal amount appropriated for those purposes.



By December 29, 2015, the Director or the Director's designee must establish requirements and procedures for the Program, including an application form, procedures for reviewing applications and awarding grants, and any other requirements and procedures the Director or designee determines necessary. The requirements must include a requirement that each agricultural society provide a matching grant. 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 by July 1, 2016.

The Director or designee must approve an application unless either of the following applies:

- (1) The project or facility is not a bondable capital improvement project; or
- (2) The agricultural society does not provide a matching grant.

The Director or designee must award all grants by August 1, 2016, and must so notify each grant recipient.

Agricultural Financing Commission

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

The act eliminates the Agricultural Financing Commission, which was required to 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, 903.04 (repealed), 903.07, 903.09, 903.10, 903.11, 903.12, 903.13, 903.16, 903.17, and 903.25)

The act eliminates provisions that governed 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

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

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



--Allowed an owner of an animal that the owner believed had a fair market value of \$10 or more to make a claim for the injury or loss of that animal;

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

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

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

--Required a probate court to hear an appeal by the animal's owner and determine the fair market value of that animal and the limit on relief.

Wine tax diversion to Ohio Grape Industries Fund

(R.C. 4301.43)

The act 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. The remainder is credited to the GRF.

Auctioneer licensure

(R.C. 4707.02)

The act does both of the following regarding exemptions from the continuing 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 continuing 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. Formerly, no compensation could be paid other than a prize or award for winning the contest.



OHIO AIR QUALITY DEVELOPMENT AUTHORITY

- 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 act 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 act do not expressly create the Program, apparently this requirement implicitly does. In addition, the act requires the Ohio Air Quality Development Authority to be responsible for monitoring the Program.

The act provides that the issues addressed by the Program are not to be limited to those provided for under Ohio law governing the Authority.¹⁹ The act also provides that the Program pays for costs associated with the administration of the outstanding loans (apparently those made by the Authority under continuing law) and working with outside parties associated with the loans.

For purposes of funding the Program, the act creates in 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 act is not clear what this money is or where it comes from). The act further provides for the transfer of cash to the Fund on July 1 in 2015 and 2016 from other specified funds. Finally, the act provides that all cash credited to the Fund must be transferred on July 1, 2017, to the GRF and that the Fund is abolished after the transfer.

¹⁹ R.C. Chapter 3706., not in the act.



OHIO ATHLETIC COMMISSION

- Eliminates certain qualifications for membership on the Ohio Athletic Commission.
- Enables a Commission member whose term has ended to continue to serve until a replacement is appointed for an indefinite period, as opposed to a maximum of 60 days.
- Specifies that individuals participating in mixed martial arts events or other unarmed combat sports overseen by the Commission are subject to licensing requirements.
- Removes the requirement that a person wishing to participate as a contestant in an event overseen by the Commission submit with the license application a certified copy of a physical examination.
- Removes the requirement that a person seeking a referee's license pass an examination administered by the Commission.
- Alters the form and content of a license issued by the Commission.

Commission membership and voting

(R.C. 3773.33)

The act revises the qualifications for membership on the Ohio Athletic Commission, which consists of five voting members and two nonvoting members. The act replaces the prior membership requirements with one requirement that two voting members must be knowledgeable in boxing and mixed martial arts; the act would specify no athletics-related required qualifications for the other members. Prior law required two voting members be knowledgeable in boxing, at least one be knowledgeable and experienced in high school athletics, one be knowledgeable and experienced in professional athletics, and at least one be knowledgeable and experienced in collegiate athletics.

The act removes the 60-day limitation for members continuing in office after the member's term ends. Under prior law, a member continued in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of 60 days had elapsed, whichever occurred first.

As under continuing law, three voting members constitute a quorum, and the affirmative vote of three voting members is necessary for any action taken by the



Commission. The act changes the terminology for votes needed to be taken from three (of five) voting members being needed to a majority of voting members being needed.

Licensure

(R.C. 3773.41 and 3773.42)

Mixed martial arts

The act subjects individuals involved in mixed martial arts events and other unarmed combat sports to Commission regulation.

Contestants

The act removes the requirement that an application for a contestant's license, or renewal of that license, also include the results of a physical examination of the applicant conducted by a specified health care practitioner within 60 days of applying.

Referees

One of the requirements for a referee's license is that the applicant is qualified to hold the license by reason of knowledge and experience. The act removes one of the criteria an applicant must meet to be determined to possess the knowledge and experience necessary: the person has obtained a passing grade on an examination administered by the Commission and designed to test knowledge of the rules of the particular sport, the Commission rules, and other appropriate aspects of officiating. The remaining criteria remain: the person must (1) complete Commission referee training requirements and (2) meet Commission experience requirements.

License

The act replaces the requirement that each license the Commission issues bear a "serial number" with a requirement that the license bear a "number," and removes the requirement that the license bear the correct ring of the licensee, the Commission seal, and the signature of the Commission chairperson.



ATTORNEY GENERAL

- Repeals the journalist access exception to the general prohibition against the release of confidential records a sheriff keeps relative to the issuance, renewal, suspension, or revocation of a concealed handgun license.
- 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 recipients of state economic development awards, requires the Attorney General to determine compliance with the terms of the award at the end of the year by which the recipient is required to meet one of those metrics, rather than annually.
- 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.

Concealed Handgun Law – repeal of journalist access exception

(R.C. 2923.129)

The act repeals a provision of law that provided an exception to the general prohibition against release of records that a sheriff keeps with respect to concealed handgun licenses. Under the exception, a "journalist" could view the name, county of residence, and date of birth of each person to whom the sheriff had issued, renewed, or issued a replacement for, or for whom the sheriff had suspended or revoked, a standard or temporary emergency concealed handgun license (CHL).

The journalist's exception was an exception to the provisions in continuing law that specify that, notwithstanding the state's Public Records Law, the records a sheriff keeps relative to the issuance, renewal, suspension, or revocation of a CHL are confidential and are not public records and that no person may release or otherwise disseminate any such confidential records unless required to do so pursuant to a court order. A violation of the prohibition is "illegal release of confidential concealed



handgun license records," a fifth degree felony with a possible separate \$1,000 civil fine and authorized civil action in specified circumstances.

Under the former journalist's access exception, a journalist could submit to a sheriff a signed, written request to view the name, county of residence, and date of birth of each person to whom the sheriff had issued, renewed, issued a replacement for, or for whom the sheriff had suspended or revoked, a CHL. The request had to include the journalist's name and title, the name and address of the journalist's employer, and state that disclosure of the information sought would be in the public interest. Upon receipt of the request, the sheriff was required to grant it. The journalist could not copy the name, county of residence, or date of birth of a person to or for whom the sheriff had issued, suspended, or revoked a CHL. As used in the exception, "journalist" meant a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

Training of peace officers on companion animal encounters

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

The act 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 act 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 continuing 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 a report to the General Assembly regarding the level of compliance of each entity.

The act eliminates 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 is to report on the compliance levels of only those entities.

Treasury Offset Program

(R.C. 131.025)

The act 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 that 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.²⁰

²⁰ 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, fiscal watch, or fiscal emergency.
- Authorizes the Controlling Board to provide sufficient funds for such a performance audit.
- Until September 29, 2017, requires the Auditor of State to declare that a fiscal emergency exists in a municipal corporation, county, or township that has not taken reasonable action to discontinue or correct its fiscal watch condition.
- Reduces, from 120 days to 90 days, the time a municipal corporation, county, or township for which a fiscal watch has been declared is given to submit its financial recovery plan to the Auditor of State.
- 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 of State 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 of State to follow certain administrative procedures in managing and using the Fund.
- Repeals a provision of law that required certain employees of the Auditor of State's Office to have their hourly and annual pay reduced by 2%.

Performance audits of local governments in fiscal distress

(R.C. 118.04 and 118.041)

The act 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 act 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; Sections 115.10 to 115.12)

The act 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. This provision is in effect for only two years beginning September 29, 2015.

The act 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 act 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 of State is substantially involved in the seizure of the property. Under continuing law, other law enforcement agencies may receive forfeiture proceeds in this manner.

The act also creates the Auditor of State Investigation and Forfeiture Trust Fund to receive forfeiture proceeds. Under the act, the Auditor of State must follow the same procedures in managing and using the Fund as other law enforcement agencies that receive forfeiture proceeds. The Auditor of State 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 of State must file a report with the Attorney General to verify that the fund was used only for those purposes. Interest earned on money in the Fund must be credited to the Fund.

Auditor of State's Office pay schedules

(R.C. 124.181; R.C. 124.34 (conforming changes))

The act repeals a provision of law that required employees of the Auditor of State's Office who are exempt from collective bargaining and paid in accordance with Schedule E-1 or Schedule E-1 for step 7 only, and are paid a salary or wage in accordance with that schedule of rates, to have their hourly and annual pay reduced by 2%. This reduction first began with the pay period that immediately followed July 1, 2009. The effect of the repeal is that those Auditor of State employees who, prior to the



effective date of the repeal, September 29, 2015, were paid 2% below the otherwise authorized amount, will be paid as are other similarly situated employees.



OFFICE OF BUDGET AND MANAGEMENT

- Increases the amount of money intended to be maintained in the Budget Stabilization Fund from 5% to 8.5% of General Revenue Fund revenues for the preceding fiscal year.
- 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 OBM Director 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 OBM Director, under certain circumstances, to transfer interest earned by any state fund to the GRF.
- Authorizes the OBM 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 OBM 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 ongoing law.
- Abolishes various uncodified funds.

Budget Stabilization Fund transfer

(R.C. 131.43 and 131.44)

The act increases the amount of money intended to be maintained in the Budget Stabilization Fund (BSF) from 5% of General Revenue Fund revenues for the preceding fiscal year to an amount equal to 8.5% of such revenues. The act also modifies the definition of "required year-end balance" to account for the change in the amount to be maintained in the BSF. As a result, under law modified by the act, the Office of Budget and Management (OBM) Director is required to calculate the state's surplus revenue by



July 31 each year, and transfer amounts in excess of one-half of 1% of the GRF revenues of the preceding fiscal year as follows:

(1) To the BSF, an amount necessary to bring the BSF balance to equal 8.5% of GRF revenues of the preceding fiscal year;

(2) To the Income Tax Reduction Fund, any amounts remaining of surplus revenue.

Service subscription late payment transfer

(R.C. 131.34)

The act authorizes any state agency that has provided a service subscription to another state agency to certify to the OBM Director (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 OBM 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 act, 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 continuing 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 act permits the OBM 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 act authorizes the OBM 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 act permits the OBM 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, appropriation increases approved by Controlling Board

(Section 503.100)

The act states that any money the Controlling Board approves for expenditure, or any increase in appropriation the Controlling Board approves, as permitted under ongoing law²¹ is appropriated for the period ending June 30, 2017.

Various uncodified funds abolished

(Section 512.60)

The act requires the OBM Director to abolish various uncodified funds pertaining to certain state agencies, as indicated in the act, 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.

²¹ R.C. 127.14 and 131.39, not in the act; R.C. 131.35 in the act but amendments vetoed.



CAPITAL SQUARE REVIEW AND ADVISORY BOARD

- Alternates the chair of the Capitol Square Review and Advisory Board between Senate and House of Representatives members of the Board every other year.
- Requires that the Senate majority member serve as chairperson in odd-numbered years and the House majority member serve as chairperson in even-numbered years.

Chairperson

(R.C. 105.41)

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

Under continuing law, four of the 12 members of the Board are current General Assembly members, two from each house, with each house having a majority and minority member appointment. Therefore, under the act, the Governor's appointees, the clerks of each house, and the former members of the General Assembly who are appointed to the Board are not eligible to serve as chairperson. The act maintains the Board's authority to select other officers it considers necessary.



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



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 these 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.

Casino Control Commissioner salary

- Adjusts a Casino Control Commissioner's salary on the act's effective date, September 29, 2015, and on July 1, 2016, and July 1, 2017.

Appeals from Commission orders

(R.C. 119.12)

The act 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 act 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 act 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 act prohibits a court from extending such a suspension.



The act 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 act 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 act 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 act grants the Commission 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 act 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 in carrying out its duties under the Casino Law. Additionally, the act 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 act 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 prior 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 act changes the mental state that must accompany certain violations from knowingly or intentionally to purposely or knowingly.

The act 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 act, the Commission must continue to adopt the rules on the enumerated topics.

Commissioner salary

(R.C. 3772.02)

The act adjusts a Casino Control Commissioner's salary as indicated in the following table:

| Former law | As of September 29, 2015 | 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 act 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.



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 services loans

- 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 ongoing Small Government Fire Department Services Revolving Loan Program.

Liquor provisions

State Liquor Regulatory Fund

- Generally requires all money collected under the Liquor Control Law to be credited to the continuing State Liquor Regulatory Fund, rather than the Liquor Control Fund, as required under prior 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 prior law.
- Authorizes the Division of Liquor Control to issue a D-5l liquor permit (for sales of beer and intoxicating liquor in a revitalization district) to a premises that is located in a township with a population density of less than 450 people per square mile.



- 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.
- Establishes requirements and procedures to allow specified liquor permit holders to serve beer or intoxicating liquor until 4 a.m. during a major event, rather than until 1 a.m. or 2:30 a.m. as is generally provided under continuing law.
- Describes a major event as an event that meets certain conditions, including it is scheduled to occur in a municipal corporation with a population of 350,000 or more on or after September 29, 2015.

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.

Merchandise as gift with purchase of alcoholic beverage

- Allows a manufacturer, supplier, or solicitor of alcoholic beverages to give merchandise or another thing of value to a personal consumer in connection with the purchase of an alcoholic beverage under specified circumstances.

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 former law's two-year grace period.
- Exempts real estate appraisers who have obtained a temporary certification or license from continuing law's continuing education requirements.

Fireworks

- Extends a moratorium on issuing new fireworks manufacturer licenses, new fireworks wholesaler licenses, and the geographic transfer of either of these license types, from December 15, 2015, to December 15, 2017.
- Permits individuals to purchase and possess fireworks without completing a purchaser's form that contains an acknowledgement of responsibility and identifying information.

School door barricade devices

- Requires the Board of Building Standards to adopt rules for a staff member of a public or private school or institution of higher education to use a device that prevents both ingress and egress through a door in a school building, for a finite period of time and in an emergency situation.
- Requires each public and private school and institution of higher education to train its staff members on the use of the barricade device and to maintain a record verifying this training.
- Prohibits the State Fire Code from containing any provision that prohibits the use of a barricade device that is operated in accordance with the Board's rules.

U.S. savings bonds as unclaimed funds

(R.C. 169.051)

The act 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 act 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 act 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 act 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 million.

| Under prior law, "institutional investor" meant: | Under the act, "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 million 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 |



| Under prior law, "institutional investor" meant: | Under the act, "institutional investor" means any of the following, whether acting for itself or for others in a fiduciary capacity: |
|--|--|
| | total assets in excess of \$10 million 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 million, 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. |
| 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 million. |
| | A licensed small business investment company with total assets in excess of \$10 million. |
| | A private business development company with total assets in excess of \$10 million. |
| | 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 million 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 services loans

(R.C. 3737.17)

The act 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.

Liquor provisions

State Liquor Regulatory Fund

(R.C. 4301.12)

The act generally requires all money collected under the Liquor Control Law to be credited to the continuing State Liquor Regulatory Fund rather than the Liquor Control Fund as provided under prior law. The act also removes a provision regarding the use of money in the Liquor Control Fund for paying the operating expenses of the Liquor Control Commission.

Liquor permitting provisions

Affirmative defense to sale of alcohol to a minor

(R.C. 4301.61 and 4301.639)

The act expands the affirmative defense to a violation of the Liquor Control Law for which age is an element of the offense. Under continuing law, no liquor permit holder, agent or employee of a liquor permit holder, or any other person may be found guilty of a violation of the Liquor Control Law for which age is an element of the offense if the 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;

(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 act 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 act alters the population requirements for one type of municipal corporation in which a D-5j liquor permit may be issued. Under continuing law, a D-5j 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 law revised in part by the act, the Division of Liquor Control may issue a D-5j 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 permit may be issued in a municipal corporation to which all of the following apply:

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

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

(3) The municipal corporation has a specified population.

Under former law, the municipal corporation was required to have a population between 10,000 and 20,000. The act requires the municipal corporation to have a population between 7,000 and 20,000.



D-5l liquor permit population requirements

(R.C. 4303.181)

The act modifies the population requirements for issuance of a D-5l liquor permit. A D-5l permit generally authorizes the holder to sell beer and intoxicating liquor at retail by the individual drink for on-premises consumption and to sell certain types of beer and intoxicating liquor for off-premises consumption in specified quantities. Under law revised in part by the act, a D-5l permit may be issued to a premises to which all of the following apply:

(1) The premises has gross annual receipts from the sale of food and meals that constitute not less than 75% of its total gross annual receipts;

(2) The premises is located within a revitalization district;

(3) The premises is located in a municipal corporation or township in which the number of D-5 liquor permits issued equals or exceeds the quota limit for those permits that may be issued in the municipal corporation or township; and

(4) The premises meets any of the following qualifications:

--It is located in a county with a population of 125,000 or less according to the population estimates certified by the Development Services Agency (DSA) for calendar year 2006.

--It is located in the municipal corporation that has the largest population in a county, if the municipal corporation is wholly located in a county and if the county has a population between 215,000 and 225,000 according to the population estimates certified by the DSA for calendar year 2006.

--It is located in the municipal corporation that has the largest population in a county, if the municipal corporation is wholly located in a county and the county has a population between 140,000 and 141,000 according to the population estimates certified by the DSA for calendar year 2006.

The act modifies the fourth requirement by allowing a permit also to be issued to a premises that is located within a township with a population density of less than 450 people per square mile.



D-6 liquor permit for certain state parks

(R.C. 4303.182)

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

Under continuing law, 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.

Service of beer or intoxicating liquor until 4 a.m. during major event

(R.C. 4301.83)

The act authorizes a qualified permit holder, upon issuance of a waiver by the Division, to serve beer, intoxicating liquor, or both between 5:30 a.m. and 4 a.m. the following day during a major event. A qualified permit holder is a person to which both of the following apply: (1) the person is the holder of an A-1, A-1-A, A-1c, A-2, or D liquor permit and (2) the location of the premises for which the person has been issued a liquor permit is in a county in which a major event will occur or in a county contiguous to the county in which a major event will occur. A major event is an event that meets all of the following conditions:

- (1) It is scheduled to occur in a municipal corporation with a population of 350,000 or more on or after September 29, 2015;
- (2) It is expected to attract not less than 3,000 visitors;
- (3) It is scheduled to have a duration of not less than one day and not more than ten days.



Not later than 120 days prior to the commencement of a major event, a qualified permit holder may file an application for a waiver with the chief executive officer of the municipal corporation in which the permit holder's premises is located or the fiscal officer of the township in which the permit holder's premises is located. The Division must establish the form of the application and make it available for use by qualified permit holders. The qualified permit holder must include in the application both of the following:

- (1) The name and address of the qualified permit holder;
- (2) The name and address of the premises that is the subject of the application.

Not later than 90 days prior to the commencement of the major event, the chief executive officer or the fiscal officer that receives an application from a qualified permit holder must review all applications received and compile a list of the applicants. In compiling the list, the chief executive officer or fiscal officer must consult with the chief law enforcement officer of the municipal corporation or township to determine whether to retain each applicant on the list.

Not later than 60 days prior to the commencement of the major event, the chief executive officer or the fiscal officer that compiles a list of qualified permit holders must submit the list to the Division. The Division must review the list and determine whether to retain each qualified permit holder on the list. The Division may remove the name of a permit holder from the list for good cause. After review, the Division must certify the list.

Not later than 30 days prior to the commencement of the major event, the Division must do both of the following:

- (1) Return the certified list to the chief executive officer or the fiscal officer that submitted the original list;
- (2) Issue a waiver to each permit holder on the list that allows the permit holder to serve beer, intoxicating liquor, or both between 5:30 a.m. and 4 a.m. the following day during the major event.

When the provisions specified above regarding a major event do not apply, continuing law prohibits the sale of beer, wine, mixed beverages, and spirituous liquor from Monday to Saturday between either 1 a.m. and 5:30 a.m. or 2:30 a.m. and 5:30 a.m., depending on the type of liquor permit involved. Additional restricted hours apply to Sunday sales of beer, wine, mixed beverages, and spirituous liquor.



Sale of tasting samples, growlers

(R.C. 4303.184)

The act 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, or mixed beverages for on-premises consumption under specified circumstances;

(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 continuing law.

Under continuing 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.

Merchandise as gift with purchase of alcoholic beverage

(R.C. 4301.243)

The act allows a manufacturer, supplier, or solicitor of alcoholic beverages, or an agent or employee of a manufacturer or supplier, that is registered with the Division under ongoing law to give merchandise or another thing of value to a personal consumer in connection with the purchase of an alcoholic beverage provided that both of the following apply:

(1) The value of the merchandise or other thing of value does not meet or exceed the retail price of the alcoholic beverage purchased by the personal consumer;

(2) The merchandise or other thing of value is not made by or awarded through a liquor distributor or retail liquor permit holder.

The act excludes a liquor distributor and a retail liquor permit holder from the authorization established above. Further, the act defines, a "personal consumer" as an individual who is at least 21 years of age, does not hold a liquor permit issued under the Liquor Control Law, and intends to use a purchased alcoholic beverage for personal consumption only and not for resale or other commercial purposes.



Real estate licenses

Real Estate Education and Research Fund

(R.C. 4735.06)

The act 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 act changes the time period within which a licensed real estate broker or salesperson who is a member of the armed forces must complete continuing education requirements. Specifically, the act 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 act). The act 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 act 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 act requires the licensee to submit proper documentation of the spouse's active duty service and the length of that service. The act 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 act 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 act 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. Prior law exempted an appraiser assistant from these requirements for the first two years of being classified as an appraiser assistant. The act 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 act exempts appraisers with a certification or license from another state that is temporarily recognized in Ohio.

The act 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.

Fireworks

(R.C. 3743.07, 3743.20, 3743.44, 3743.45, 3743.63, 3743.65, and 3743.75)

The act extends a moratorium on issuing new fireworks manufacturer licenses, new fireworks wholesaler licenses, and the geographic transfer of either of these license types, from December 15, 2015, to December 15, 2017.

The act enables individuals to purchase and possess fireworks without completing a purchaser's form that contains an acknowledgement of responsibility and identifying information. The act does not change any other requirements relating to the purchase and possession of fireworks.

School door barricade devices

Board of Building Standards rules

(R.C. 3781.106; Section 737.20)

The act requires the Board of Building Standards to adopt rules under the Administrative Procedure Act for the use of a device by a staff member of a public or



private school²² or institution of higher education²³ that prevents both ingress and egress through a door in a school building, for a finite period of time, in an emergency situation, and during active shooter drills. These rules must be adopted by March 27, 2016. The rules must provide that (1) the use of a device is permissible only if the device requires minimal steps to remove it after it is engaged, and (2) the administrative authority of a building must notify the police chief, or equivalent, of the law enforcement agency that has jurisdiction over the building, and the fire chief, or equivalent, of the fire department that serves the political subdivision in which the building is located, prior to the use of the device in a building. Also, the rules may require that the device be visible from the exterior of the door. The act requires that the Board of Building Standards, in consultation with the State Board of Education and the Chancellor of Higher Education, determine and include in the rules a definition of "emergency situation." These rules must apply to both existing and new school buildings.

The act prohibits mounting a device permanently to a door.

The act requires that each public and private school and institution of higher education provide its staff members in-service training on the use of the device, and maintain a record on file verifying this training.

State Fire Code

(R.C. 3737.84; Section 737.30)

The act prohibits the State Fire Code from containing a provision that prohibits the use of a device described above that is used in accordance with rules adopted by the Board of Building Standards. Furthermore, the act states that any provision of the State Fire Code that is in conflict with this provision is unenforceable.

²² "Public school" means a school operated by a school district, a community school, a STEM school, or a public college-preparatory boarding school. "Private school" means a chartered or nonchartered nonpublic school.

²³ "Institution of higher education" means a state institution of higher education, a private nonprofit college or university that possesses a certificate of authorization issued by the Department of Higher Education, or a school that possesses a certificate of registration and one or more program authorizations issued by the State Board of Career Colleges and Schools.



CONTROLLING BOARD

- Would have prohibited the Controlling Board from authorizing expenditure of unanticipated revenue received by the state if the revenue exceeded the lesser of:
 - 10% of the amount appropriated for the specific or related purpose or item for that fiscal year; or
 - \$10 million (VETOED).
- Would have prohibited the Controlling Board from creating additional funds to receive unanticipated revenue in an appropriation act for the biennium in which the new revenues were received if the revenue exceeded \$10 million (VETOED).

Authority regarding unanticipated revenue (VETOED)

(R.C. 131.35)

Expenditure

The Governor vetoed provisions that would have imposed 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 would have applied are those received into any state fund from which transfers may be made by the Controlling Board under ongoing law.

Under ongoing law:

(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 Governor vetoed a provision that would have stipulated that any expenditure authorized under (1) or (2), above, for a specific or related purpose or item



in any fiscal year could not exceed 10% of the amount appropriated for that specific or related purpose or item for that fiscal year, or \$10 million, whichever was less.

Nonfederal funds

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

Under ongoing law:

(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 Governor vetoed a provision that would have stipulated that any expenditure authorized by the Board under (1) or (2), above, for a specific or related purpose or item in any fiscal year could not exceed 10% of the amount appropriated for that specific or related purpose or item for that fiscal year, or \$10 million, whichever was less.

Creation of new funds

The Governor vetoed a provision that would have prohibited the Controlling Board from creating any additional funds under its continuing authority if the revenue received that was not anticipated in an appropriation act exceeded \$10 million.

STATE DENTAL BOARD

- Adds specified types of entities that provide health care services or dental services to indigent and uninsured persons to the entities through which a person may practice dentistry, dental surgery, or dental hygiene.

Not-for-profit dental services

(R.C. 4715.18)

The act adds federally qualified health centers, federally qualified health center look-alikes, free clinics, nonprofit shelters or healthcare facilities, and nonprofit clinics that provide health care or dental services to indigent and uninsured persons to the entities through which a person may practice dentistry, dental surgery, or dental hygiene. The act also authorizes a person to practice dentistry or dental surgery under the name of such an entity. Continuing law prohibits the practice of dentistry and dental surgery under the name of a company, association, or corporation unless it is a (1) for-profit corporation, (2) professional association, or (3) limited liability company.



DEVELOPMENT SERVICES AGENCY

Tax credit transparency

- Requires the Development Services Agency (DSA) Director to make available to the public an estimate of total revenue that will be foregone by the state as a result of each tax incentive approved by the Tax Credit Authority within 30 days after the Authority approves the incentive.

Lakes in Economic Distress Revolving Loan Program

- Creates the Lakes in Economic Distress Revolving Loan Program to assist businesses and other entities that are adversely affected due to economic circumstances that result in the declaration of a lake as an area under economic distress, and requires the DSA Director to administer the Program.
- Requires the Director of Natural Resources to declare a lake as an area under economic distress based on environmental or safety issues and subsequently declare it as an area no longer under economic distress when those issues have been resolved.
- Creates the Lakes in Economic Distress Revolving Loan Fund, requires the DSA Director to use the Fund to make loans, and stipulates that the loans must be zero interest loans during the time that a lake has been declared an area under economic distress.
- Requires the DSA Director to adopt rules that establish requirements and procedures for the making of loans such as eligibility criteria and criteria for repayment of the loans.

Abandoned Gas Station Cleanup Grant Program

- Creates the Abandoned Gas Station Cleanup Grant Program for the cleanup and remediation of Class C release sites, and authorizes the DSA Director to award grants to specified political subdivisions and organizations owning public land for property assessments and cleanup and remediation of sites.
- Requires a grant applicant to certify that the applicant did not cause or contribute to a prior release of petroleum or other hazardous substances on the site.
- Creates the Service Station Cleanup Fund, and authorizes the Director of Budget and Management to transfer to it not more than \$20 million from the Clean Ohio Revitalization Fund.



Third Frontier Internship Program

- Requires the Third Frontier Commission to operate, for fiscal years 2016 and 2017, an Ohio Third Frontier Internship Program.

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 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.

Distribution of federal Community Services Block Grant funds

- Decreases, from 95% to 91%, the minimum percentage of funds that must be distributed to community action agencies and migrant and seasonal farm worker organizations from the federal Community Services Block Grant Act.
- Requires at least 4.5% of the funds to go to one or more nonprofit organizations that train and provide technical assistance to community action agencies.

Report deadlines

- Changes, from August 1 to October 1, the due date of the annual report that must be prepared by 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 DSA 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 Trust 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.

Tax credit transparency

(R.C. 122.942; Section 803.240)

The act requires the Development Services Agency (DSA) Director to estimate the total revenue that will be foregone by the state as a result of each tax incentive approved by the Tax Credit Authority. The DSA Director must base the estimate on the monetary value of the tax incentive and not on potential economic growth. The DSA Director must make each estimate, along with the name and address of the taxpayer that will receive the tax incentive, available to the public within 30 days after the Authority approves the incentive. The act defines "tax incentive" as an exemption, either in whole or in part, of the income, goods, services, or property of a taxpayer from the effect of taxes levied by or under the Revised Code. Further, the act authorizes the DSA Director to adopt rules in accordance with the Administrative Procedure Act for the purpose of implementing the preparation and issuance of such estimates.

Lakes in Economic Distress Revolving Loan Program

(R.C. 122.641)

The act creates the Lakes in Economic Distress Revolving Loan Program to assist businesses and other entities that are adversely affected due to economic circumstances that result in the declaration of a lake as an area under economic distress by the Director of Natural Resources (see below). The DSA Director must administer the Program.

The act requires the Director of Natural Resources to do both of the following:

- (1) Declare a lake as an area under economic distress based solely on environmental or safety issues, including the closure of a dam for safety reasons;



(2) Subsequently declare a lake as an area no longer under economic distress when the environmental or safety issues have been resolved.

The act then creates the Lakes in Economic Distress Revolving Loan Fund. The DSA Director must use money in the Fund to make the loans. A loan must be a zero interest loan during the time that a lake has been declared an area under economic distress. The Fund is to consist of money appropriated to it, payments of principal and interest on loans made from the Fund, and investment earnings on money in it.

The DSA Director must adopt rules that establish both:

(1) Requirements and procedures for making loans such as eligibility criteria, a stipulation that an applicant must demonstrate that the loan will help to achieve long-term economic stability in the area, and criteria for repayments of the loans, including the establishment of an interest rate that does not exceed two points less than prime after a lake has been declared as an area no longer under economic distress; and

(2) Any other provisions necessary to administer the Program.

Finally, the DSA Director must assist businesses and other entities in determining the amount of loans needed.

Abandoned Gas Station Cleanup Grant Program

(Sections 610.20 and 610.21 (amending Section 235.10 of H.B. 497 of the 130th General Assembly))

The act creates the Abandoned Gas Station Cleanup Grant Program for the cleanup and remediation of Class C release sites to provide for and enable the environmentally safe and productive reuse of publicly owned lands. Grants may be used for both:

(1) The cleanup or remediation, or planning and assessment for that cleanup or remediation, of contamination; and

(2) Addressing property conditions or circumstances that (a) may be deleterious to public health and safety or the environment or (b) preclude or inhibit environmentally sound or economic reuse of the property as authorized by the constitutional provisions governing the Clean Ohio Program.

Grants may be awarded to a county, municipal corporation, township, port authority, or an organization that owns publicly owned lands. Publicly owned lands include land that is owned by an organization that has entered into a relevant agreement with such a political subdivision.



Cleanup or remediation is any action at a Class C release site to contain, remove, or dispose of petroleum or other hazardous substances or remove underground storage tanks used to store petroleum or other hazardous substances. A Class C release is a release of petroleum occurring or identified from an underground storage tank system that is subject to the Underground Storage Tanks Law for which the person responsible for the release is specifically determined by the State Fire Marshal not to be a viable person capable of undertaking or completing the corrective actions required under that Law. A Class C release also includes any release designated as such in accordance with rules adopted by the State Fire Marshal under that Law.

Under the program, the DSA Director may do either or both of the following:

- (1) Award a grant of not more than \$100,000 to a property owner for a property assessment on a Class C release site;
- (2) Award a grant of not more than \$500,000 to a property owner for cleanup or remediation of a Class C release site.

For the act's purposes, a property assessment is a property assessment conducted in accordance with the Voluntary Action Program Law or a corrective action process or source investigation process under the State Fire Marshal's rules governing petroleum underground storage tanks.

A property owner must use the grant to create a site that provides opportunities for economic impact through redevelopment. The DSA Director may consult with the Environmental Protection Agency, the State Fire Marshal, the Ohio Water Development Authority, and the Ohio Public Works Commission in connection with the act's grant program and the awarding of the grants. The act states that the statutes governing Clean Ohio grants and loans for brownfield revitalization projects do not apply to the grant program.

Under the act, an authorized representative of the property owner must sign and submit an affidavit with a grant application certifying that the property owner did not cause or contribute to any prior release of petroleum or other hazardous substances on the site. The act requires the DSA Director to examine applications for completion and establishes a process for return and later resubmission. If the DSA Director approves an application, the DSA Director may enter into an agreement with the property owner to award a grant to the property owner. The agreement must be executed prior to paying or disbursing any grant funds approved by the DSA Director under the act.



Service Station Cleanup Fund

The act creates the Service Station Cleanup Fund in the state treasury. Money in the Fund must be used to award the grants. At the request of the DSA Director, the Director of Budget and Management may transfer up to \$20 million from the Clean Ohio Revitalization Fund to the Service Station Cleanup Fund as needed to provide for grants.

Third Frontier Internship Program

(Section 701.90)

The act requires the Third Frontier Commission to operate, for fiscal years 2016 and 2017, an Ohio Third Frontier Internship Program. The Program is to contribute to the expansion of a technologically proficient workforce in Ohio, and is to encourage the retention in Ohio of highly knowledgeable and talented students through employing upon graduation at for-profit companies doing business in Ohio.

The Third Frontier Commission in DSA coordinates and administers science and technology programs to promote the economic growth of the state. The Commission approves funding from the state's Third Frontier Research and Development Fund to support the Internship Program, which is administered by DSA's Business Services Division.

Local Government Safety Capital Grant Program

(Section 701.120)

The act establishes the Local Government Safety Capital Grant Program to be administered by the Local Government Innovation Council.²⁴ Under the Program, the Council may award grants to political subdivisions for the purchase of vehicles, equipment, facilities, or systems needed to enhance public safety.

Applications are to be submitted to 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 act in the state treasury. The Fund is to consist of money appropriated to it.

²⁴ R.C. 189.03, not in the act. The Council expires December 31, 2015; R.C. 189.10, not in the act.



Fund closures

Motion Picture Tax Credit Program Operating Fund

(R.C. 122.174 and 122.85)

The act abolishes the Motion Picture Tax Credit Program Operating Fund. The Fund consisted 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 DSA Director for marketing and promotion of the motion picture industry in Ohio. Money in the Fund was used to cover administrative costs of the Motion Picture Tax Credit Program and the Ohio Film Office.

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

Industrial Site Improvements Fund

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

Under prior law, the DSA Director was authorized to make grants from the Industrial Site Improvement Fund to eligible counties for acquiring commercial or industrial land or buildings and making improvements to commercial or industrial areas, if the grant could create new jobs or preserve existing jobs. The Fund consisted of money appropriated to it by the General Assembly.

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

Rural Industrial Park Loan Fund

(R.C. 122.26 (repealed))

The act abolishes the Rural Industrial Park Loan Fund, which was used by the DSA 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 act.

Distribution of federal Community Services Block Grant funds

(R.C. 122.68)

The act decreases, from 95% to 91%, the minimum percentage of funds that must be distributed to community action agencies and certain migrant and seasonal farm



worker organizations from the federal Community Services Block Grant Act. But it also requires that at least 4.5% of the total funds received go to one or more nonprofit organizations that provide training and technical assistance to community action agencies and that were incorporated in Ohio before 2015. This leaves 4.5% for the state to use for administrative expenses, which is a 0.5% decrease from prior law. Under federal grant requirements, 5% is the *maximum* that states may use for administrative expenses. And states must distribute at least 90% of the funds to qualifying agencies and organizations. The average financial assistance to a state is over \$5.2 million (per fiscal year).²⁵

Report deadlines

Economic assistance programs

(R.C. 122.64)

Under ongoing law, the DSA Director is required to make a report of the activities and operations of DSA's bond financed economic assistance programs for the preceding fiscal year. Prior law required that the report be submitted to the Governor and General Assembly by August 1 of each year. The act changes the due date to October 1.

Career Exploration Internship Program

(R.C. 122.177)

The act 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 continuing 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 act 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 ongoing law and paid to the Treasurer of State. The Treasurer of State deposits the first \$50 million of those housing trust fund fees received each year into the Low- and Moderate-

²⁵ Catalogue of Federal Domestic Assistance, Community Services Block Grant, Number 93.569: Range and Average of Financial Assistance (070) and (123), available at www.cfda.gov/index?s=program&mode=form&tab=core&id=9a01593a6925d3635566f7400e10f6a3.



Income Housing Trust Fund and, under former law, any amounts in excess of \$50 million were deposited into the GRF. Under the act, 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 DSA 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 act, 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 (VETOED)

- Would have modified the procedures to be followed by the Governor when announcing an intent to close a developmental center (VETOED).

Medicaid services provided by sheltered workshops (PARTIALLY VETOED)

- Specifies the General Assembly's intent that individuals being served on September 29, 2015, 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.
- Would have required a Medicaid waiver component administered by the Ohio Department of Developmental Disabilities (ODODD) that covers adult day services provided by sheltered workshops to continue covering the services (VETOED).
- Would have required 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 (VETOED).
- Would have prohibited 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 (VETOED).

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 ODODD Director to forgive the outstanding balance a county board of developmental disabilities 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 ODODD Director to change the terms of an agreement with a county board 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 ICF/IID beds

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

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 services 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 county boards those residents who indicate interest in enrolling in an ODODD-administered Medicaid waiver program.
- Requires a county board 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 services received by such an ICF/IID resident.

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

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.

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 rates for homemaker/personal care 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.
- Permits the Medicaid rate for routine homemaker/personal care services covered by ODODD-administered Medicaid waiver programs and provided during the period beginning January 1, 2016, and ending June 30, 2017, to be, subject to available funds, 6% higher than the rate in effect on June 30, 2015.

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 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.

County board share of expenditures

- Requires the ODODD Director to establish a methodology to be used in fiscal years 2016 and 2017 to estimate the quarterly amount each county board is to pay of the



nonfederal share of the Medicaid expenditures for which the county board 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 ODODD 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 county boards.

Use of county subsidies

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

Updating statute citations

- 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 its authorizing statute to reflect that the act renumbers the authorizing statute or relocates it to another Revised Code section.

Closure of developmental centers (VETOED)

(R.C. 5123.032; Section 803.360)

The Governor vetoed a provision that would have modified the procedures the Governor must follow when announcing an intent to close a developmental center. The provision would have required the creation of a developmental center closure commission to make recommendations to the General Assembly regarding the closure. It would also have repealed a requirement that the Legislative Service Commission prepare a report addressing issues related to the closure.

A detailed description of the vetoed provisions is available on pages 112 through 114 of LSC's analysis of the Senate version of H.B. 64. The analysis is available online at www.lsc.ohio.gov/budget/agencyanalyses131/passedsenate/h0064-ps-131.pdf.



Medicaid services provided by sheltered workshops (PARTIALLY VETOED)

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

The act specifies the General Assembly's intent that individuals being served on September 29, 2015, 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.

The Governor vetoed a provision that would have required Medicaid programs administered by the Ohio Department of Developmental Disabilities (ODODD) to continue covering adult day services provided by sheltered workshops if the program covered those services on the provision's effective date. Additionally, the vetoed provision would have required the Medicaid payment rates for adult day services provided by sheltered workshops from July 1, 2015 through June 30, 2017, to be no less than the payment rates for those services on June 30, 2015.

The Governor also vetoed a provision that would have prohibited 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.

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 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 act 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 act 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 act:

(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 act 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 act 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. Prior law prohibited a person or government entity, and a related party of the person or government entity, from applying for a supported living certificate for a one-year period following the Director's refusal to issue or renew the certificate.

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

(1) Establish procedures for public notice of certain actions taken by the ODODD 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 act permits the ODODD Director to assign the responsibility for conducting residential facility surveys and inspections to the Ohio Department of Health (ODH). Prior law allowed the Director to assign the responsibility to county boards of developmental disabilities only.

The act 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. Prior law prohibited application within one year of the denial.

The act 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 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.²⁶

The act 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:

(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 county board 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 county board or private, nonprofit agency must apply to the ODODD Director for the change in the agreement's terms.

The ODODD Director may authorize a county board or private, nonprofit agency not to repay the amount of an outstanding balance otherwise owed pursuant to the agreement if the county board 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 Director 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 county board 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 services under an ODODD-administered Medicaid waiver program.

Consent for medical treatment

(R.C. 5123.86)

Continuing 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, continuing law authorizes a court to receive the information and give the consent. If a court consents, it must notify the

²⁶ R.C. 5123.36, not in the act.



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 act 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 prior law, only the resident was authorized to consent to experimental procedures.

The act 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.²⁷

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

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

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

The act 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.

²⁷ Telephone interview with ODODD staff (January 28, 2015).



Efforts to reduce ICF/IID beds

(R.C. 5124.67; Section 803.05)

Continuing law requires ODODD to strive to achieve, by 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 HCBS under an ODODD-administered Medicaid waiver program.

The act 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, 2017 (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 act 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 board serving the county in which the individual resides at the time the notice is provided.

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

(3) Not later than seven business days after the ICF/IID provides the county board 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 act permits an ICF/IID to provide a county board written notices about multiple individuals' potential admissions at the same time.

County board evaluations and findings

A county board 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 act 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 county board'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 act 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 services 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 and waiver services.

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 waiver services.

If an ICF/IID resident who receives ICF/IID services, or the resident's guardian, indicates to an ICF/IID an interest in waiver services, the ICF/IID is required by the act to refer the resident or guardian to the board serving the county in which the resident would reside while enrolled in the Medicaid waiver program. The county board, 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 services provided to the resident under the program.

A county board is required, under certain circumstances, to pay the nonfederal share of Medicaid expenditures for services provided under an ODODD-administered Medicaid waiver program to an individual it determines is eligible for the services. The circumstances include when the county board provides the services and when the services are provided by another provider to an individual for whom there is in effect an agreement between the county board and ODODD for the county board to pay the nonfederal share. The act provides that a county board is not required to pay the nonfederal share when the services are provided to an individual who enrolls in the Medicaid waiver program pursuant to a referral made under this provision of the act. Under continuing law, ODODD is to be responsible for the nonfederal share instead.²⁸

²⁸ R.C. 5123.047, not in the act.



ICF/IID sleeping room occupancy

(R.C. 5124.70)

The act prohibits, with limited exceptions, an ICF/IID from allowing more than two residents to share a sleeping room. The act 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 21 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 September 29, 2015, 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 September 29, 2015, 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 services under the Individual Options (IO) waiver;

(2) A discharge planning process that provides residents with information regarding home and community-based services;

(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 act 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 act 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 under the IO Medicaid waiver program. For an explanation of peer groups, see "FY 2016 and 2017 Medicaid rates for ICF/IID Services," below.

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 act 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 continuing 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

(R.C. 5126.15 and 5126.201)

Under continuing law, county boards are authorized, and in certain instances required, to provide service and support administration to individuals with mental retardation or developmental disabilities. 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. The act also prohibits service and support administrators from providing programs or services to individuals 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.²⁹

The act reduces the rate at which the ICF/IID franchise permit fee is assessed. Under prior law, the rate was \$18.17 per bed per day. Under the act, 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 continuing law, ODODD is required to notify each ICF/IID 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 notify the ICF/IID of the date, time, and place of the hearing.

Prior law required ODODD to mail these notices to ICFs/IID. The act requires that these notices be provided electronically or by the U.S. Postal Service.

²⁹ R.C. 5168.69, not in the act.



Conversion of ICF/IID beds to home and community-based services

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

Continuing law includes provisions aimed at increasing the number of slots for services 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 waiver services 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.

Prior law provided that an ICF/IID was not entitled to notice or a hearing under the Administrative Procedure Act (R.C. Chapter 119.) before the Medicaid Director terminated the ICF/IID's Medicaid provider agreement following the ICF/IID's total conversion. Prior law also provided, in the case of an ICF/IID that 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, that the ICF/IID was not entitled to notice or a hearing before the Medicaid Director amended the ICF/IID's provider agreement to reflect its reduced Medicaid-certified capacity resulting from the ICF/IID's partial conversion. The act 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

The act provides that a prohibition against a Medicaid payment being made to an ICF/IID for the day a Medicaid recipient is discharged does not apply if the Medicaid recipient is discharged because all of the ICF/IID's beds are converted to providing waiver services under the provisions discussed above.

Termination or redetermination of fee after a conversion

The act revises the law governing the termination or redetermination of an ICF/IID's franchise permit fee when it converts to providing waiver services.

Under prior law, ODODD was required to terminate an ICF/IID's franchise permit fee if it converted all of its beds to providing waiver services 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 and the ICF/IID's Medicaid certification was terminated because of the conversion. The termination was to take effect on the first day of the quarter immediately following the quarter in which ODODD received ODH's notice of the conversion. ODODD is required by the act to terminate an ICF/IID's franchise permit fee if all of the ICF/IID's beds are converted to providing waiver services and its Medicaid provider agreement is terminated as a consequence, 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 prior law, the requirement to terminate an ICF/IID's franchise permit fee because of a conversion did not apply when the conversion occurred 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. A similar requirement to redetermine an ICF/IID's franchise permit fee because of a partial conversion did not apply under prior law when the partial conversion occurred under that statute. The act makes the termination and redetermination requirements also apply when the conversion or partial conversion occurs under that statute.

Priority status for residents of ICFs/IID and nursing facilities

(R.C. 5126.042)

Continuing law requires that a county board 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 prior law, only the following individuals received 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. Under the act, an individual who resides in a nursing facility or an ICF/IID also receives 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 act 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 by ICFs/IID in peer group 1 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 the U.S. Centers for Medicare and Medicaid Services requires the ICF/IID franchise permit fee to be reduced or eliminated.

Modifications to rate formula

The act 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 act'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 act 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 act to the rates of existing ICFs/IID are to apply to the new ICF/IID's adjusted rate.

Low resource utilization residents

Under the act, 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 act requires ODODD, if the Centers for Medicare and Medicaid Services 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 act 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 the federal government requires the ICF/IID franchise permit fee to be reduced or eliminated.

Modifications to rate formula

The act 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 act'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 act 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 act 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 services 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 act'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 act requires ODODD, if the federal government 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 act 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 the federal government 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 act 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 ICF/IID if certain conditions specified in federal law are met.³⁰

The act 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.³¹

³⁰ R.C. 5124.01(Y), not in the act, and 42 C.F.R. 440.150.

³¹ Section 259.230 of Am. Sub. H.B. 59 of the 130th General Assembly.



Medicaid rates for homemaker/personal care services

(Sections 259.213 and 259.220)

Rates for services provided to qualifying enrollees

The act 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 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 act if all of the following apply:

(1) The enrollee resided in a developmental center, converted ICF/IID,³² 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) warrant paying the higher Medicaid rate.

General rate increase

The act permits the Medicaid payment rate for routine homemaker/personal care services covered by ODODD-administered Medicaid waiver programs and provided during the period beginning January 1, 2016, and ending June 30, 2017, to be 6% higher than the rate in effect on June 30, 2015. The increase is subject to the availability of funds. The increase, if any, is in addition to the rate increase discussed above for such services provided to qualifying enrollees under the IO Medicaid waiver program.

³² A converted ICF/IID is an ICF/IID, or former ICF/IID, that converted some or all of its beds to providing services under the IO Medicaid waiver program.



ICF/IID payment methodology transformation

(Section 259.260)

The act 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 ICF/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 Workgroup³³ 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 act 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:

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

³³ 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.



(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 act 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

(Section 259.60)

The act requires the ODODD Director to establish a methodology to be used in fiscal years 2016 and 2017 to estimate the quarterly amount each county board is to pay of the nonfederal share of the Medicaid expenditures for which the county board is responsible. With certain exceptions, continuing law requires the county board to pay this share for waiver services provided to an individual who the county board determines is eligible for county board 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 county board written notice of the amount for which the county board is responsible. The notice must specify when the payment is due.

Developmental center services

(Section 259.130)

The act 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 act 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 county boards. Under the act, a pilot project may be implemented in a manner inconsistent with the laws or rules governing ODODD and county boards; 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 act requires the ODODD Director to pay the nonfederal share of a claim for ICF/IID services using funds otherwise appropriated for subsidies to county boards 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 ODH Director before June 1, 2003, (3) the ICF/IID services are provided by an ICF/IID whose Medicaid certification by the ODH Director was initiated or supported by a county board, 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.

Updating authorizing statute citations

(Section 259.230)

The act 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 act 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

Formula amount

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

State share index

- Revises the calculation of a district's "state share index" by:
 - Calculating an "income index" that is based on both a district's median Ohio adjusted gross income and average federal adjusted gross income; and
 - Revising the calculation of a district's "wealth index" factor of the computation by basing it on both a district's "median income index" and a district's "income index."

Targeted assistance supplemental funding

- Revises the calculation of targeted assistance supplemental funding by providing this funding to districts with more than 10% agricultural real property but not to those with 10% or less agricultural real property, as well as making other changes to the formula.
- Removes a requirement that districts must receive targeted assistance funding (which is based on a district's value and income) in order to receive targeted assistance supplemental funding.

Categorical payments (PARTIALLY VETOED)

- 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 computing 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.
- Would have eliminated the requirement that a joint vocational school district spend at least 75% of its career-technical education funding on costs directly associated with career-technical education programs and not more than 25% on personnel expenditures (VETOED).

Additional payments

- Requires the Department of Education to make an additional payment of "capacity aid" funds to city, local, and exempted village school districts based on how much one mill of taxation will raise in revenue.
- Requires the Department to pay an additional "graduation bonus" to each city, local, and exempted village school district, joint vocational school district, community school, and STEM school based on how many of its students graduate.
- Requires the Department to pay an additional "third-grade reading bonus" to each city, local, and exempted village school district and community school based on how many of its third grade students score proficient or higher on the English language arts assessment.

Transportation funding

- Specifies that a school district's transportation funding be calculated using a multiplier that is the greater of 50% (rather than 60% as under prior law) or the district's state share index.
- Requires the Department to pay each school district a transportation supplement based on its rider density.
- Removes the requirement that each city, local, and exempted village school district report all data used to calculate transportation funding through the Education Management Information System (EMIS).
- Removes the requirement that a community school that enters into an agreement to transport students or accepts responsibility to do so must provide or arrange free transportation for its students who would otherwise be transported by their districts.



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

Payment caps and guarantees (PARTIALLY VETOED)

- Specifies that a city, local, or exempted village school district's aggregate core foundation funding, excluding specified payments, 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 core foundation funding, excluding specified payments, 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, other than career-technical education and career-technical education associated services funding received for fiscal year 2017.
- Would have guaranteed that all districts received a minimum amount in total per-pupil state operating funding (VETOED).

Straight A Program

- 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 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.

Other funding provisions

- Specifies that the amount a school district or community school must pay to a joint vocational school district providing special education to a student of the district or school for costs that exceed the funding the joint vocational district receives 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 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.

- Permits a district providing special education to a preschool child with a disability who resides in another district under an agreement between the districts to require the district of residence to pay the full amount (rather than half) of the tuition of the district providing the education.
- Modifies the permitted uses of Auxiliary Services Funds.
- Specifies in an uncodified provision 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 than \$360 per pupil as under permanent law.

II. Community Schools

- Requires an educational service center sponsoring a conversion school to be approved as a sponsor by the Department.
- Changes the definition of "Internet- or computer-based community school" to include a school that offers career-technical education, even if it provides some classroom-based instruction.
- Permits a community school that satisfies specified requirements to be licensed by the Department to operate a preschool program and establishes requirements and limitations for that program.
- Requires the Department, by 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 the Department, in conjunction with an Ohio educational service center 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.

Access to school district property and exceptions

- Requires a school district, when it decides to sell real property, to first offer it to high-performing community schools and newly established community schools with a community school model that has a track record of high quality academic performance.



- Requires a school district, when it is required to offer unused school facilities for lease or sale, to first offer the facilities for sale or lease to high-performing community schools sponsored by the district.
- Prohibits community schools and public 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 district property for purchase or lease by a nonprofit corporation operating 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 or conducting a sale by auction.
- Extends the expiration date of a provision permitting a school district to offer highest priority to purchase an athletic field to the current leaseholder from December 31, 2015, to December 31, 2017.

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 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 Superintendent to verify by July 30, 2015, that:
 - The state elementary and secondary achievement assessments for the 2015-2016 school year will be administered once each year, not over multiple testing windows, and in the second half of the school year; and
 - The length of those assessments will be reduced as compared to the assessments that were administered in the 2014-2015 school year, "in order to provide more time for classroom instruction and less disruption in student learning."
- If the 2015-2016 state achievement assessments do not meet the conditions described above, requires the state Superintendent to take the steps necessary to find and



contract with one or more entities to develop and provide assessments that meet the prescribed conditions.

- Extends through the 2015-2016 school year, the prohibition, formerly in effect for the 2014-2015 school year only, that:
 - Prohibits school districts and schools from being required to administer the state achievement assessments in an online format;
 - Permits a district or school to administer the assessments in any combination of online and paper formats at the discretion of the district board or school governing authority; and
 - Requires the Department of Education to furnish, free of charge, all required state assessments for the school year.
- Revises the deadline by which the scores on state elementary and secondary achievement assessments must be sent to school districts and schools beginning with the 2015-2016 school year.
- Makes eligible for high school graduation an individual who entered ninth grade *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 *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:
 - The requirement to complete one of three prescribed pathways for high school graduation;
 - The requirement to take the high school end-of-course examinations; and
 - The requirement to take the nationally standardized assessment that measures college and career readiness.
- Authorizes a non-ISACS chartered nonpublic school to forgo the end-of-course exams if it administers an alternative assessment that may be used as an additional



pathway for high school graduation, and applies this exemption to all students enrolled in such a school, including students attending under a state scholarship program.

- Applies to non-ISACS schools only, instead of all chartered nonpublic schools as under prior law, the separate exemption from administering the end-of-course exams if the school publishes the results of the college and career readiness assessments that must be administered to its students.
- Maintains the scholarship eligibility of a student attending a non-ISACS school that elects to forgo the end-of-course exams, provided that the student continues to satisfy all other conditions of the student's scholarship program.
- Creates an additional pathway for high school graduation for students of a non-ISACS school by authorizing such a student to graduate if the student attains a designated score on an alternative assessment approved by the Department and selected by the school.
- Beginning with the 2015-2016 school year, requires the reading skills assessments administered under the third-grade reading guarantee to be completed annually by September 30 for grades 1 to 3, and by November 1 for kindergarten.

State report cards

- Requires the State Board 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 prior law, the development of the high school student academic progress measure by the State Board.
- Prohibits the grade for the high school student academic progress measure, if developed by the State Board, from being reported sooner than the 2017-2018 school year.
- Prohibits the high school academic progress measure from being included in determining a district or school's overall report card grade.
- Extends through the 2016-2017 school year the provision, previously in effect for the 2014-2015 school year only, that prohibits the Department from assigning an overall letter grade for a school district or school.



- Extends the following prohibitions, which already apply to the state elementary-level achievement assessments and high school end-of-course exams administered in the 2014-2015 school year, to those administered in 2015-2016 and 2016-2017:
 - The prohibition against using a student's score, at any time during a student's academic career, as a factor in any decision to (1) retain the student, (2) promote the student to a higher grade level, or (3) grant course credit; and
 - The prohibition against individual student score reports being released, except to the student's district or school or to the student or the student's parent or guardian.
- Prohibits school districts and schools from using the value-added progress dimension ratings from the 2014-2015 and 2015-2016 school years for:
 - Teacher and principal evaluations; or
 - Decisions regarding the dismissal, retention, tenure, or compensation of teachers and principals, unless the district or school collectively agrees with its teachers or principals to use the ratings from those school years for those purposes.
- Specifies that, for a teacher of a grade level and subject area for which the value-added progress dimension applies and if no other measure is available to determine student academic growth, the evaluation for that teacher or principal must be based solely on teacher or principal performance.
- Requires the Department to request a federal waiver from provisions of the "No Child Left Behind Act of 2001," to account for the act's prohibition against using the value-added ratings for conducting teacher and principal evaluations administered in the 2014-2015 and 2015-2016 school years.
- 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 separate reports regarding students with disabilities for the 2014-2015 school year.
- Requires each school district and school to report to the Department the number and percentage of students who did not take a state achievement assessment administered in the 2014-2015 school year and who were not excused from taking the assessment.

- 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 and Evaluations

Licensing

- Modifies the required components of the Ohio Teacher Residency (OTR) program and requires that one of the measures of progression through the program be the performance-based assessment required by the State Board for resident educators.
- Prohibits career-technical educators from being required to complete the conditions of the first two years of the OTR 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 by specifying that, if the applicant holds an educator license, the permit is valid for the same number of years as the individual's educator license.
- Prohibits the State Board 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 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.
- Removes a requirement that the Ohio State University Fisher College of Business serve as fiscal agent for the corporation that creates and implements the Bright New Leaders for Ohio Schools program.

Evaluation of school counselors

- Requires the Educator Standards Board to develop standards for school counselors.
- Requires the State Board to develop, by May 31, 2016, a standards-based framework for the evaluation of school counselors that aligns with the standards adopted by the



Educator Standards Board and distinguishes between ratings of accomplished, skilled, developing, and ineffective.

- Requires each school district board to adopt, by September 30, 2016, a standards-based school counselor evaluation policy that conforms to the framework developed by the State Board and includes procedures for implementing the framework and using evaluation results.
- Requires each district board to annually submit a report to the Department regarding implementation of its school counselor evaluation policy.

Alternative framework for teacher evaluations

- Modifies the alternative framework for teacher evaluations, beginning with the 2015-2016 school year, by increasing (to 50%) the teacher performance measure, decreasing (to 35%) the student academic growth measure, and permitting districts and schools to use specified components for the remainder.

V. Waivers

- Authorizes community schools, in addition to school districts and STEM schools under continuing 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 to be eligible to submit a request for a waiver.
- Removes STEM schools' 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 its 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. Scholarship Programs

- Increases the maximum Educational Choice (Ed Choice) scholarship that may be awarded to a K-8 student from \$4,250 to \$4,650 and to a high school student from \$5,000 to \$5,900 for the 2015-2016 school year and to \$6,000 for the 2016-2017 school year and thereafter.
- 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.
- Revises the law regarding qualification of nonpublic high schools located outside of the Cleveland Municipal School District to participate in the Cleveland Scholarship Program.
- Removes the limitation on the number of Cleveland scholarships that may be awarded to students who were already enrolled in a nonpublic school when the students applied for the scholarship.
- Increases the maximum scholarship awarded under the Autism Scholarship Program to \$27,000 (from \$20,000).
- Increases the maximum scholarship awarded under the Jon Peterson Special Needs Scholarship Program to \$27,000 (from \$20,000).

VII. Other Education Provisions

College Credit Plus program (PARTIALLY VETOED)

- Specifically permits students to participate in the College Credit Plus (CCP) program during the summer term of a college.
- Would have required all public and participating private and out-of-state colleges to offer an associate degree pathway under the CCP program (VETOED).



- Would have specifically prohibited any requirement of the CCP program, or any rule adopted by the Chancellor or the State Board for the program, from applying to a chartered nonpublic school that chose not to participate in the program (VETOED).
- 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, but specifies that any portion of such a program that grants transcribed credit 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 transcribed credit for college courses while enrolled in high school and college.
- Requires the Chancellor and the state Superintendent to include, in each biennial report on the CCP program, an analysis of quality assurance measures related to the program.

Math curriculum for career-technical students

- 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 required for most students in order to receive a high school diploma.

Credit based on subject area competency

- Requires the State Board, by December 31, 2015, to update its statewide plan on subject area competency to 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 to meet curriculum requirements accordingly.
- Requires the Department to 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 public schools for designing and implementing competency-based models of education during the 2016-2017, 2017-2018, and 2018-2019 school years.
- Requires public schools that wish to participate in the program to submit an application to the Department by November 1, 2015.



- Requires the Department to select, by March 1, 2016, not more than five participants, and to award each participant a grant of up to \$200,000 for each fiscal year of the biennium.
- Requires each participant to satisfy specified requirements for the competency-based education offered and to agree to an annual performance review conducted by the Department.
- Requires the Department to post two reports on its website (the first by January 31, 2017, and the second by December 31, 2018) regarding the program.

Education and business partnerships

- Specifically permits the state Superintendent to form partnerships with Ohio's business community to create and implement initiatives that connect students with the business community to increase student engagement and job readiness.

GED tests

- Specifies that a person may take the tests of general educational development (GED), if the person (1) is or was home-schooled, (2) is excused from attending school due to a physical or mental condition, (3) is moving or has moved out of Ohio, or (4) has an extenuating circumstance.
- Requires a person who is at least 16 but less than 18 years old, when applying to the Department for permission to take the GED tests, to include a high school transcript containing specified information.
- Requires a person who is under 18 and who is approved to take the GED tests to remain enrolled in school and maintain at least a 75% attendance rate until the person (1) passes all required sections of the GED, or (2) reaches age 18.
- 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 as a dropout.
- Specifies that a person who fails to attain the required scores on the GED tests must (1) retake only the specific test on which the person did not attain a passing score, and (2) pay only for the cost of the specific test that must be retaken.

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 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.

Out-of-state STEM school students

- Permits a STEM school to admit out-of-state students and requires the school to charge tuition for that student.

Diplomas for home-schooled and nonchartered nonpublic school students

- Specifies that a home-schooled student may be granted a high school diploma by the student's parent, guardian, or custodian and prescribes requirements for the diploma.
- Specifies that a person who has graduated from a nonchartered nonpublic school in the state and who has successfully fulfilled that school's high school curriculum may be granted a high school diploma by the governing authority of that school.

Student health services

- Specifically permits public schools to contract with a hospital, an appropriately licensed health care provider, a federally qualified health center, or a federally qualified health center look-alike to provide health services to students.
- Specifies that the employees of contract entities providing the services of a nurse are not required to obtain a school nurse license or school nurse wellness coordinator license, but must hold a credential equivalent to that of a registered nurse or licensed practical nurse.

Site-based management councils

- Repeals the law that required certain school districts with total student counts of 5,000 or more to designate one school building to be operated by a site-based management council.

Student transportation

- Specifies that a school district 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 its students to and from 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 school district to submit a resolution declaring impracticality of transportation to the educational service center that contains the district's territory.
- 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.

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.
- Requires that, if a joint vocational school district gains territory on or after January 1, 2015, due to a specified transfer of the entire territory of a "local" school district to another, contiguous "local" school district, then that JVSD must enter into a two-year transition agreement with the JVSD that lost the territory.
- Permits the state Superintendent to adopt guidelines identifying the circumstances in which the Department, after consulting with the lead district of a career-technical planning district, may approve or disapprove a career-technical education program after the prescribed deadline.
- Prohibits the assessment against any client school districts of an educational service center (ESC) that is abolished by July 1, 2015, of any indebtedness to the Department for expenses related to the dissolution that exceed the available assets of the ESC.
- Prohibits a school district or school from altering, truncating, or redacting any part of a student's record so that any information on the record is rendered unreadable or unintelligible during the course of transferring that record to an educational institution for a legitimate educational purpose.
- Abolishes the Healthy Choices for Healthy Children Council.
- Modifies a provision permitting school districts to contract with public and private entities to provide academic remediation and intervention services outside of regular school hours by expanding eligibility for services to students in any grade.



- Permits the State Board to establish an annual Teacher of the Year program, and allows a teacher so recognized 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, 3314.085, 3314.091, 3317.01, 3317.013, 3317.014, 3317.016, 3317.017, 3317.02, 3317.022, 3317.0212, 3317.0213, 3317.0215, 3317.0216, 3317.0217, 3317.0218, 3317.051, 3317.06, 3317.16, 3317.26, 3323.13, 3326.33, and 3326.41; Sections 263.190, 263.220, 263.230, and 263.240)

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 public entities that provide primary and secondary education. This system specified a per-pupil formula amount and then used that amount, along with a district's "state share index" (which depended 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 system also included 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 included 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 act makes changes to the 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 act's school funding system, see the LSC Greenbook for the Department of Education and the LSC Comparison Document of the act. Both documents are published on the LSC website at www.lsc.ohio.gov/. Click on "Budget Bills and Related Documents," then on "Main Operating," and then on "Greenbooks" or "Comparison Document."

Note, as used below, "ADM" means average daily membership. Law unchanged by the act, 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."³⁴ The act clarifies that, in any given fiscal year, prior

³⁴ R.C. 3317.03, not in the act.



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).³⁵

Formula amount

(R.C. 3317.02)

The act specifies a formula amount of \$5,900 per pupil 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 various other payments. (The formula amount for fiscal year 2015 was \$5,800.)

State share index

(R.C. 3317.017)

The act makes revisions to the calculation of the "state share index," which is an index that depends on valuation and, for city, local, and exempted village school districts with relatively low median income, on median income. It is adjusted for school districts where 30% or more of the potential taxable valuation is exempted from taxation, which reduces the qualifying districts' three-year property valuation in the formula and, thereby, increases their calculated core funding.

The act revises the computation of the "state share index" by doing both of the following:

(1) Calculating an "income index" that is based on both a district's "median income index" (which is equal to the district's median Ohio adjusted gross income divided by the median district's median Ohio adjusted gross income) and a district's three-year average federal adjusted gross income per pupil divided by the statewide average per pupil;

(2) Revising the calculation of the "wealth index" factor of the computation by basing it on both a district's "median income index" and a district's "income index," and by making other changes to the formula.

The "state share index" is a factor 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, career-technical education associated services funds, the graduation

³⁵ R.C. 3317.01.



bonus, the third-grade reading bonus, and transportation 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.

Targeted assistance supplemental funding

(R.C. 3317.0217)

The act revises the calculation of targeted assistance supplemental funding, which is based on a district's percentage of agricultural property, by doing all of the following:

(1) Basing the "three-year average valuation" on the average of a district's tax valuation for tax years 2012, 2013, and 2014, for fiscal year 2016, and tax years 2013, 2014, and 2015, for fiscal year 2017. Under prior law, this valuation remained the same for both years of the biennium rather than changing for each fiscal year.

(2) Providing this funding to districts with more than 10% agricultural real property but not to those districts with 10% or less agricultural real property. Prior law provided funding to those districts that had less than 10% (but greater than 0%) agricultural real property in an amount less than that paid to districts with at least 10% agricultural real property, with the amount of funding for districts with greater than 0% but less than 10% agricultural real property varying based on the district's percentage of agricultural real property.

(3) Making other changes to the formula for the computation of this funding.

Additionally, the act removes a requirement that districts must receive targeted assistance funding (which is based on a district's value and income) in order to receive targeted assistance supplemental funding.

Targeted assistance supplemental funding is paid to city, local, and exempted village school districts.



Special education funding

(R.C. 3317.013)

The act specifies 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 under prior law 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 act revises the dollar amounts for the calculation of kindergarten through third grade literacy funds for city, local, and exempted village school districts, community schools, and STEM schools.

Economically disadvantaged funds

(R.C. 3314.08(C)(1)(e), 3317.02(E), 3317.022(A)(5), 3317.16(A)(3), and 3326.33(E))

The act maintains 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 from fiscal year 2015 for both years of the biennium.



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 act 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 act 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 act specifies 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 specified under prior law for fiscal year 2015.

| Category | Type of student | 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 |
| 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 act maintains the dollar amount for gifted identification funding (\$5.05) from fiscal year 2015 for both years of the biennium. This funding is paid to city, local, and exempted village school districts.

Gifted unit funding

The act also maintains the dollar amount for each gifted unit (\$37,370) from fiscal year 2015 for both years of the biennium. The Department must pay gifted unit funding to a city, local, or exempted village school district in an amount equal to the dollar amount for each gifted unit times the number of units allocated to a district. Under continuing law, the Department must allocate funding units to a district for services to identified gifted students as follows:

(1) One gifted coordinator unit for every 3,300 students in the 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 the district.

(2) One gifted intervention specialist unit for every 1,100 students in the district's gifted unit ADM, with a minimum of 0.3 units allocated for the district.

Career-technical education funding (PARTIALLY VETOED)

(R.C. 3317.014 and 3317.16(D)(2))

The act specifies 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 under prior law for fiscal years 2014 and 2015.

| Category | Career-technical education programs ³⁶ | Dollar amount for fiscal year 2016 | Dollar amount for fiscal year 2017 |
|----------|---|------------------------------------|------------------------------------|
| 1 | Workforce development programs in | \$4,992 | \$5,192 |

³⁶ 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).



| Category | Career-technical education programs ³⁶ | Dollar amount for fiscal year 2016 | Dollar amount for fiscal year 2017 |
|----------|--|------------------------------------|------------------------------------|
| | agricultural and environmental systems, construction technologies, engineering and science technologies, finance, health science, information technology, and manufacturing technologies | | |
| 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 |

The Governor vetoed a provision that would have eliminated the requirement that a joint vocational school district spend at least 75% of its career-technical education funding on costs directly associated with career-technical education programs and not more than 25% on personnel expenditures. (Law unchanged by the act applies this requirement to city, local, and exempted village school districts, community schools, and STEM schools.³⁷)

Career-technical associated services funding

(R.C. 3317.014)

The act specifies the following amounts for career-technical education associated services: \$236, for fiscal year 2016, and \$245, for fiscal year 2017. These amounts are multiplied by a district's total career-technical ADM and a district's state share index in order to calculate the district's career-technical education associated services funding. These amounts, too, are increased from those specified under prior law for fiscal years 2014 and 2015.

³⁷ R.C. 3314.08(C)(5), 3317.022(E), and 3326.39, latter section not in the act.



Capacity aid

(R.C. 3317.0218)

The act requires the Department to make an additional payment of "capacity aid" to school districts based on how much one mill of taxation will raise in revenue for the district.

Graduation bonus

(R.C. 3314.085(B)(1), 3317.0215, 3317.16(A)(7), and 3326.41(B))

The act requires the Department to make an additional "graduation bonus" payment to each city, local, and exempted village school district, joint vocational school district, community school, and STEM school based on how many students graduate from the district or school, as indicated on the district's or school's most recent report card.

Third-grade reading bonus

(R.C. 3314.085(B)(2) and 3317.0216)

The act requires the Department to make an additional "third-grade reading bonus" payment to each city, local, and exempted village school district and community school based on how many of the district's or school's third grade students score at a proficient level of skill or higher on the district's or school's most recent administration of the English language arts assessment.

Transportation funding

(R.C. 3317.0212)

The act specifies that a school district's transportation funding must be calculated using a multiplier that is the greater of 50% (rather than 60% as under prior law) or the district's state share index.

Additionally, the act requires the Department to pay each district a transportation supplement that is based on the district's rider density (the total ADM per square mile of the district).

Finally, the act eliminates 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 act 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 act retains this requirement for the enrolled students who are required to be transported under continuing law.

The act also clarifies that payments made to a community school for transporting students must be calculated "on a per rider basis."

Payments prior to September 29, 2015

(Section 263.220)

The act requires the Superintendent of Public Instruction, prior to September 29, 2015, 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 (PARTIALLY VETOED)

(R.C. 3317.26; Sections 263.230 and 263.240)

The act adjusts a city, local, or exempted village school district's aggregate amount of core foundation funding (excluding specified payments listed below) 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. For purposes of this provision, "core foundation funding" does not include the district's payments for the following:

--For fiscal years 2016 and 2017, capacity aid, the graduation bonus, the third-grade reading bonus, and the transportation supplement;

--For fiscal year 2017, career-technical education and career-technical education associated services.



A district's core foundation funding and pupil transportation 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, except that districts are not guaranteed to receive the same amount of career-technical education and career-technical education associated services funding for fiscal year 2017 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, except they are not guaranteed to receive the same amount of career-technical education and career-technical education associated services funding for fiscal year 2017 as in fiscal year 2015. They 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 (excluding specified payments listed below) in each fiscal year of the biennium. For purposes of this provision, "state aid" does not include the district's payments for the following:

--For fiscal years 2016 and 2017, the graduation bonus;

--For fiscal year 2017, career-technical education and career-technical education associated services.

The act 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 Governor vetoed a provision that would have guaranteed each district a minimum amount of total per-pupil state operating funding. That provision would have phased in a guarantee of 20% of the formula amount times a district's formula ADM. Under the phase-in, an eligible district could have received only 15% of the guarantee in fiscal year 2016 and only 25% of the guarantee in fiscal year 2017.

Straight A Program

(Section 263.350)

The act 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 was 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 act 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 those 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(C))

Law not changed by the act 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 act, the amount of this payment must be calculated using a formula approved by the Department. This replaces the requirement in prior 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 act 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 act specifies that the district providing the education may require the child's district of residence to pay the tuition of the district providing the education as calculated in accordance with continuing law, rather than half of that amount as provided under prior law.

Auxiliary Services funds

(R.C. 3317.06)

The act 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 device, (2) permitting the purchase of any mobile application for less than \$20 (instead of \$10 as under prior 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. Permanent law unchanged by the act prescribes \$360 as the maximum amount per pupil that may be reimbursed to a school each year.³⁸ The act

³⁸ R.C. 3317.063, not in the act.



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, Toledo, or Youngstown), (2) a poorly performing school district as determined by the school's performance index, value-added progress dimension, or other specified ratings or grades 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

³⁹ R.C. 3314.02(A)(3).

⁴⁰ R.C. 3314.02(C)(1)(a) through (g).



separate from the school's contract with its sponsor. Operators may be either for-profit or nonprofit entities.

Educational service center sponsorship of conversion schools

(R.C. 3314.02(B)(2))

Under prior law, an educational service center (ESC) was permitted to sponsor a conversion community school located within its service territory or in a contiguous county without approval from the Department and without entering into an agreement with the Department regarding the manner in which the ESC would conduct its sponsorship. The act 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 other sponsors.

Definition of Internet- or computer-based community schools ("e-schools")

(R.C. 3314.02(A)(7))

The act revises the definition of "Internet- or computer-based community school" ("e-school") to assure inclusion of an e-school that offers career-technical education,⁴¹ even if it offers some classroom-based instruction. The act specifies that such a community school that operates mainly as an e-school but provides some classroom-based instruction is still an e-school, so long as it provides instruction electronically.

Preschool programs operated by community schools

(R.C. 3301.52, 3301.53, 3301.541, 3301.55 to 3301.58, 3314.03, 3314.06, and 3314.08; Section 263.20)

The act permits a community school that satisfies any of the following requirements to be licensed by the Department 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;

⁴¹ R.C. 3314.086, not in the act.



(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 continuing law.

If a community school operates a preschool program that is licensed by the Department, the act 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.

The act 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.

The act also 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 act 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).⁴²

Study on direct authorization and sponsor evaluations

(Section 263.660)

Under continuing law, the Department'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 sponsorship of a community school whose contract has been voided due to its sponsor being prohibited from sponsoring additional schools.

⁴² Previous budget acts also enacted similar early childhood education funding provisions. The act also specifically permits a community school operating a Montessori program in a municipal school district (Cleveland) to apply for early childhood funding for fiscal years 2016 and 2017. Under prior law, a community school operating a Montessori program in any school district was permitted to 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.)



The act requires the Department, by July 1, 2016, to submit and present to the House and the Senate Education committees both of the following:

(1) A plan that proposes the expansion of the Department's authority to directly authorize community schools; and

(2) Recommendations for a ratings rubric for evaluating sponsors. The recommendations must include research-based evidence that demonstrates that the rubric will result in improved academic results.

Gifted community school feasibility analysis

(Section 263.590)

The act requires the Department, in conjunction with an association of education service centers 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 and the Senate by July 1, 2016.

Community school access to school district property

(R.C. 3313.413 (conforming changes in R.C. 3313.41 and 3313.411))

The act requires a school district board, when it decides to sell real property, to first offer that property for sale to the governing authorities of (1) high-performing community schools and (2) newly established community schools with a model that has a track record of high quality academic performance, as determined by the Department, before offering it to all start-up community schools and any college-preparatory boarding schools located in the district as required under continuing law.⁴³ (Also under continuing law, after offering these rights of first refusal, the district must offer the property at public auction or it may sell the property directly to specified entities.⁴⁴ If the property is offered at public auction, but is not sold, the district board may sell it at a private sale.)

⁴³ There are no college-preparatory boarding schools operating as of the date of this analysis. They are authorized under R.C. Chapter 3328.

⁴⁴ These entities include state colleges and universities or their branch campuses, private colleges and universities, chartered nonpublic schools, the Adjutant General, political subdivisions, taxing authorities, park commissioners, and school library district.



Additionally, the act requires a school district board, when it is required under continuing law to offer "unused school facilities" for lease or sale, prior to offering those separate facilities to all start-up community schools and any college-preparatory boarding schools located in the district, to first offer the facilities for sale or lease to the governing authorities of high-performing community schools.⁴⁵

The act further specifies that the purchase price of any property or unused facilities sold under the act's provisions must not be more than the appraised fair market value of that property as determined by an appraisal that is not more than one year old.

High-performing community school

Under the act "high-performing community school" means a community school that meets one of the following conditions:

(1) The school received a grade of "A," "B," or "C" for the performance index score or has increased its performance index score for the previous three years, and received a grade of "A" or "B" for the value-added progress dimension on its most recent report card rating;

(2) If the school serves only grades K through 3, the school received a grade of "A" or "B" for making progress in literacy on its most recent report card;

(3) If the school is a dropout recovery school, the school received a rating of "exceeds standards" on its most recent report card.

School district property purchased by community school

(R.C. 3313.411)

The act prohibits the governing authority of a community school or board of trustees of a college-preparatory boarding 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.

⁴⁵ Property that is subject to this mandatory offer of sale or lease is real property that (1) was used by the district for school operations since July 1998, but (2) has not been used in that capacity for two years.



Exceptions to community school rights of first refusal

Sale of school district property to a pro sports museum

(Sections 263.600 and 263.601)

The act permits a city school district, until July 1, 2017, to offer for sale property it owns to a nonprofit corporation operating a professional sports museum that is located in the same municipal corporation, or to an entity in which such a nonprofit corporation has an interest, prior to offering that property for sale according to continuing law, including the rights of first refusal for community schools or college-preparatory boarding schools. The act also provides that the property may be leased by the district to the nonprofit corporation or an entity in which the nonprofit corporation has an interest, or to a port authority, for a term of up to 99 years.

The act specifies that this provision is intended to promote economic development and create and preserve jobs and employment opportunities and improve the economic welfare of the people of the state.

Sale or lease of school district athletic field

(Sections 610.35 and 610.36 of the act, amending Section 7 of H.B. 532 of the 129th General Assembly)

The act extends the expiration of a separate provision of law that temporarily permits a city school district to offer highest priority to purchase an athletic field to the chartered nonpublic school that is the current leaseholder of the property from December 31, 2015, to December 31, 2017. It also specifically exempts that provision from changes made by the act that gives first priority to high-performing and certain newly established community schools when a school district decides to dispose of a property as described above. The act continues the exemption for the authorized sale to the nonpublic school from general right of refusal for other community schools and college-preparatory boarding schools located in the district.

III. State Testing and Report Cards

Prohibition on use of state GRF to purchase PARCC assessments

(R.C. 3301.078)

The act 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. The assessments developed by PARCC were prescribed for the 2014-2015 school year as the state's elementary-level



assessments in English language arts and mathematics and as the high school end-of-course examinations in English language arts I, English language arts II, Algebra I, and geometry.

Prohibition on use of RTTP funding for state achievement assessments

(Section 263.283)

The act 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 263.620)

The act requires the state Superintendent, by July 30, 2015, to verify that the state elementary and secondary achievement assessments for the 2015-2016 school year will be administered (1) once each year, (2) not over multiple testing windows, and (3) in the second half of the school year (except for end-of-course examinations for courses completed during the first semester of the school year). The state Superintendent also must verify by that same deadline that the length of those assessments will be reduced as compared to the assessments for the 2014-2015 school year, "in order to provide more time for classroom instruction and less disruption in student learning."

If the state Superintendent verifies that the assessments and their administration do not meet the prescribed conditions, the Superintendent must take the steps necessary to find and contract with one or more entities to develop and provide assessments that meet the prescribed conditions.

The act also states that, "(for) the online administration of assessments, a single technology platform is preferred but not required."

Online administration of state assessments

(Section 10 of H.B. 487 of the 130th General Assembly, as amended in Sections 610.17 and 610.18)

The act extends through the 2015-2016 school year, the prohibition previously in effect for the 2014-2015 school year only that (1) prohibits school districts and schools from being required to administer the state elementary and secondary achievement assessments in an online format, (2) permits a district or school to administer such assessments in any combination of online and paper formats at the discretion of the district board or school governing authority, and (3) requires the Department of Education to furnish, free of charge, all required state assessments for the school year.



The act also states that "school districts and schools are encouraged to administer the assessments in an online format."

Delivery of assessment scores to districts and schools

(R.C. 3301.0711(G))

The act revises the deadlines by which the individual scores of state assessments must be sent to school districts and schools. Beginning with the 2015-2016 school year, the Department, or an entity with which it contracts for the scoring of state achievement assessments, must send to each district and school a list of individual scores for all students who took a state achievement assessment by the following deadlines:

(1) For all elementary and secondary assessments except for the third-grade English language arts assessment, within 45 days of the assessment's administration or by June 30 of each school year, whichever is earlier;

(2) For the third-grade English language arts assessment, within 45 days of the assessment's administration or by June 15 of each school year, whichever is earlier.

The act also permits the results from the writing component of any assessment in the area of English language arts, except for the third-grade English language arts assessment, to be sent after 45 days of the assessment's administration as long as the results are sent by June 30 of each school year.

High school graduation testing requirements

(R.C. 3313.614)

The act provides additional pathways to high school graduation for students who entered ninth grade prior to the 2014-2015 school year. Under continuing law changed in part by the act, such students must attain a passing score on each of the Ohio Graduation Tests (OGT),⁴⁶ 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.⁴⁷

⁴⁶ R.C. 3301.0710(B)(1) and 3313.61, not in the act.

⁴⁷ R.C. 3313.618, not in the act.



The act 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
- (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 act, 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 act's revised graduation provisions;
- (2) Include methods of replacing individual assessments of the OGT and methods of integrating the three graduation pathways; and
- (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 exams

(R.C. 3301.0711 and 3313.612; conforming changes in R.C. 3301.0712, 3310.03, 3310.14, 3310.522, 3313.615, and 3313.976)

ISACS-accredited schools

The act 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), (2) the requirement to take the high school end-of-course exams, and (3) the requirement to take the nationally standardized assessment that measures college and career readiness. This exemption *does not apply* to students attending an ISACS-accredited school under the Educational Choice Scholarship Program, Pilot Project Scholarship Program (Cleveland), Jon Peterson Special Needs Scholarship Program, or the Autism Scholarship Program. Those students must still complete a graduation pathway and take the end-of-course exams.



Non-ISACS schools

For a chartered nonpublic school not accredited through ISACS, the act permits the school to forgo the administration of the end-of-course exams if it administers to its students an alternative assessment that may be used for high school graduation (see "**Graduation requirements for certain chartered nonpublic schools**" below). Unlike the exemptions for ISACS-accredited schools, the act applies this exemption to students attending the school under a state scholarship program. Thus, a student attending a non-ISACS school under a state scholarship is not required to take the end-of-course exams, if the student's school administers to all of its students an alternative assessment that may be used for high school graduation.

The act also revises a separate conditional exemption from administering the end-of-course exams that previously applied to all chartered nonpublic schools. That exemption authorizes a school to forgo the administration of the end-of-course exams, if it publishes the results of the college and career readiness assessments that must be administered to its students. The act applies this exemption to non-ISACS schools only, instead of all chartered nonpublic schools as under prior law.

Neither the act nor continuing law exempt such students in non-ISACS schools from the requirement to complete a high school graduation pathway, which, under the act, no longer applies to students in an ISACS-accredited chartered nonpublic school. That is, all students enrolled in a non-ISACS school, including students attending the school under a state scholarship, must complete a high school graduation pathway (including the act's new alternative assessment pathway).

Eligibility under a state scholarship

The act maintains the scholarship eligibility of a student attending a non-ISACS school that elects to forgo the end-of-course exams, provided that student continues to satisfy all other prescribed conditions of the student's respective scholarship program. Prior law required a scholarship student to take all state-required assessments, which include the end-of-course exams.

Finally, the act removes a provision that delayed the conditional exemption for chartered nonpublic schools described above until October 1, 2015, unless the General Assembly did not enact different requirements regarding end-of-course exams for chartered nonpublic schools that were effective by that date. This change makes the exemption effective on September 29, 2015.



Graduation requirements for certain chartered nonpublic schools

(R.C. 3313.612 and 3313.619; conforming changes in R.C. 3313.614 and 3313.902)

The act creates another additional pathway for high school graduation for students enrolled in a chartered nonpublic school that is *not* accredited through ISACS. Such a student may receive a high school diploma if the student attains a designated score on an alternative assessment approved by the Department and selected by the student's school.

For that purpose, the act requires the Department to approve assessments that (1) are nationally norm-referenced, (2) have internal consistency reliability coefficients of at least "0.8," (3) are standardized, (4) have specific evidence of "content, concurrent, or criterion validity," (5) have evidence of norming studies in the previous ten years, (6) have a measure of student achievement in core academic areas, and (7) have high validity evidenced by the alignment of the assessment with nationally recognized content. The Department also must designate passing scores on each of the assessments it approves.

Despite the act's creation of an additional pathway for high school graduation, the act specifically states that the new pathway *does not* prohibit a chartered nonpublic school from granting a high school diploma to a student under one of the three graduation pathways already prescribed under continuing law.

Third-grade reading guarantee diagnostic assessments

(R.C. 3313.608)

The act specifies a deadline for the administration of the reading skills assessment for students in kindergarten through third grade for purposes of identifying students who are reading below grade level under the third-grade reading guarantee. Under the act, beginning with the 2015-2016 school year, the reading skills assessment must be completed by September 30 for students in grades 1 to 3, 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.

The act also permits the reading skills assessment to be administered electronically using "live, two-way video and audio connections whereby the teacher administering the assessment may be in a separate location from the student."

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 eventually an overall grade.

The act makes several revisions to the report card system.

Proficiency percentages

(R.C. 3302.02)

The act requires the State Board 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. Continuing 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.⁴⁸

The act 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 prior law, adopting rules to establish such measures for the 2014-2015 school year and each school year thereafter was optional for the State Board.

⁴⁸ R.C. 3302.03(C)(1)(c) and (C)(3)(b).



High school value-added component

(R.C. 3302.03(D))

The act makes changes regarding the high school value-added component. First, it permits, rather than requires as under prior law, the State Board to develop the high school student academic progress measure on or after July 1, 2015. Second, the act 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 act prohibits the measure from being included in determining a district or building's overall grade.

Delay of overall report card grades

(R.C. 3302.03 and 3302.036; conforming changes in R.C. 3302.05, 3310.03, 3314.02, and 3314.05)

The act delays the first issuance of overall letter grades on the state report card until the 2017-2018 school year.

Prior law required the first issuance of overall grades for the 2015-2016 school year.

Safe harbor provisions

Districts, schools, and students

(R.C. 3302.036)

The act extends through the 2016-2017 school year the safe harbor provisions related to achievement assessment score results and report card ratings that, under prior law, were in effect for only the 2014-2015 school year for students and public schools and school districts. Essentially, the act'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 (see 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) 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

(5) 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.

Teachers and principals

(Section 263.650; Section 13 of H.B. 487 of the 130th General Assembly repealed in Section 690.10)

The act repeals the former safe harbor provision in effect for only the 2014-2015 school year that authorized a school district or school to enter into a memorandum of understanding with its teachers' labor union stipulating that the value-added progress dimension rating that is based on the results of the state achievement assessments administered in the 2014-2015 school year would not be used for (1) teacher or principal evaluations, or (2) making decisions regarding dismissal, retention, tenure, or compensation.

Instead, the act enacts a new provision that *prohibits* a school district or school from using the value-added ratings from assessments administered in both the 2014-2015 and 2015-2016 school years for the purposes described in (1) and (2) above. However, the act does permit a district or school to enter into a memorandum of understanding collectively with its teachers or principals stipulating that value-added ratings from those school years may be used for those purposes.

Finally, for a teacher of a grade level and subject area for which the value-added rating is applicable and if no other measure is available to determine student academic growth, the act requires the evaluation for that teacher or principal to be based solely on teacher or principal performance (e.g., walkthroughs, class observations, and professional growth plans).

Waiver from NCLB

(Section 263.630)

Ohio's 2014-2015 flexibility waiver from provisions of the federal "No Child Left Behind Act of 2001" (NCLB) requires (and state law implements) a state-developed system of teacher evaluations that must be conducted by school districts and by



community schools and STEM schools that receive federal Race to the Top grant funds. Among other items, the waiver requires the inclusion of student growth in the teacher evaluation system, but it does not specify how much student growth is to be accounted for in an evaluation. Instead, the U.S. Department of Education stated in a guidance document that the waiver requires student growth to be included as a "significant factor" in the system, and requires the Ohio Department of Education to determine the degree of such inclusion.⁴⁹

The act requires the Department, by July 30, 2015, to apply to the U.S. Secretary of Education for a waiver from provisions of NCLB to account for the act's two-year prohibition on using value-added ratings to calculate student academic growth for teacher or principal evaluations and for making decisions regarding dismissal, retention, tenure, or compensation.

Report card deadline for the 2014-2015 school year

(Section 263.510)

The act temporarily extends the deadline for the issuing of the 2014-2015 state report card from September 15, 2015, to January 15, 2016. Continuing permanent law otherwise requires the Department to issue the report cards annually not later than September 15 or the preceding Friday when that day falls on a Saturday or Sunday.⁵⁰

Reports for students with disabilities

(Section 263.520)

The act temporarily extends, from October 1, 2015, to January 31, 2016, the deadline for the report the Department 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. Those performance measures are the value-added progress dimension score, performance index score, and four- and five-year adjusted cohort graduation rates.⁵¹ Continuing permanent law otherwise requires the Department to submit this report not later than October 1 each year.

⁴⁹ www.ed.gov/sites/default/files/esea-flexibility-faqs.doc.

⁵⁰ R.C. 3302.03.

⁵¹ R.C. 3302.035, not in the act.



Report of students who do not take state assessments

(Section 263.640)

The act requires each school district, community school, and STEM school to report to the Department the number and percentage of its students who did not take a state-required achievement assessment administered in the 2014-2015 school year and who were not excused from that assessment because of being a special education student or a limited English proficient student.

School district and school rankings

(Section 263.490)

The act temporarily prohibits for the 2014-2015 school year only, the Department 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 score, 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 state Superintendent. The act also sets a deadline of January 31, 2016, for the Department to rank districts and 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.⁵²

IV. Educator Licensing and Evaluations

Ohio Teacher Residency program

(R.C. 3319.223)

Under continuing law, most newly licensed educators are issued either a resident educator license or an alternative resident educator license under which they also must complete the four-year Ohio Teacher Residency (OTR) program. The act modifies several required components of the program and exempts career-technical education instructors from completing the conditions prescribed for the first two years of the program.

⁵² R.C. 3302.21, not in the act.



Required components of the program

Former law required that the OTR program include mentoring by teachers who hold a lead professional educator license issued by the State Board. Instead, the act requires the program to include mentoring by any teacher during only the first two years of the program. Additionally, the act specifies that districts or schools may determine if the counseling component of the program is necessary. Finally, the act 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.

Exemption for career-technical education instructors

The act specifies that a career-technical education instructor teaching under an alternative resident educator license is not required to complete the conditions of the first two years of the OTR program. However, prior to applying for a professional educator license, the instructor must successfully complete the conditions of the last two years of the program.

Renewal of licenses for consistently high-performing teachers

(R.C. 3319.22)

The act requires the State Board, 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 act also requires the State Board to define "consistently high-performing teachers" for the purpose of this provision.

Pupil-activity program permits

(R.C. 3319.303)

Under continuing law, the State Board 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 programs in music, language, arts, speech, government, and athletics.⁵³ The act 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 permit is valid for the same number of years as the individual's educator license, certificate, or permit.

⁵³ R.C. 3313.53, not in the act.



However, the act does not specify how to determine the duration of the permit if the applicant holds multiple licenses, certificates, or permits.

Under continuing law, if an applicant does not hold an educator license, certificate, or permit issued by the State Board, the pupil-activity program permit is valid for three years.

Licensure fees, Junior ROTC program

(R.C. 3319.51)

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

Bright New Leaders for Ohio Schools program

(R.C. 3319.271; Sections 610.10 and 610.11)

The act requires the State Board 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. The program provides an alternative path for individuals to receive training, earn degrees, and obtain licenses in public school administration.

(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 licenses⁵⁴ as guidance.

The act also removes a requirement, as set forth in Section 733.40 of H.B. 59 of the 130th General Assembly, that the articles of incorporation for the nonprofit corporation that creates and implements the Bright New Leaders for Ohio Schools program include a provision requiring the Ohio State University Fisher College of Business to serve as fiscal agent for the corporation.

⁵⁴ R.C. 3319.27, not in the act.



Evaluation of school counselors

(R.C. 3319.113 and 3319.61)

Standards for school counselors

The act requires the Educator Standards Board to develop standards for school counselors that align with the American School Counselor Association's professional standards and the additional minimum operating standards for school districts adopted by the State Board.⁵⁵ These standards must reflect all of the following:

- (1) What school counselors are expected to know and be able to do at all stages of their careers;
- (2) Knowledge of academic, personal, and social counseling for students;
- (3) Effective principles to implement an effective school counseling program; and
- (4) Ohio-specific knowledge of career counseling for students and education options that provide flexibility for earning credit, such as earning units of high school credit based on a demonstration of subject area competency and earning college credit through the College Credit Plus program.

State framework for evaluation of school counselors

The act requires the State Board, by May 31, 2016, to develop a standards-based state framework for the evaluation of school counselors. The State Board may update this framework periodically by adoption of a resolution.

The framework must establish an evaluation system that does the following:

- (1) Requires school counselors to demonstrate their ability to produce positive student outcomes using metrics, including those from the school's or district's state report card;⁵⁶
- (2) Is aligned with the standards for school counselors adopted by the Educator Standards Board and requires school counselors to demonstrate ability in those standards;
- (3) Requires that all school counselors be evaluated annually, except as otherwise appropriate for high-performing school counselors;

⁵⁵ R.C. 3301.07(D)(3), not in the act.

⁵⁶ R.C. 3302.03.



(4) Assigns a rating on each evaluation in accordance with standards and criteria developed by the State Board (see below);

(5) Designates the personnel that may conduct evaluations of school counselors;

(6) Requires that each school counselor be provided with a written report of the results of that counselor's evaluation; and

(7) Provides for professional development to accelerate and continue school counselor growth and provide support to poorly performing school counselors.

Ratings for school counselor evaluations

The act also requires the State Board to develop specific standards and criteria that distinguish between the following levels of performance for school counselors for the purpose of assigning ratings on school counselor evaluations:

(1) Accomplished;

(2) Skilled;

(3) Developing; or

(4) Ineffective.

In developing these standards and criteria, the State Board must consult with experts, school counselors, and principals employed in public schools, as well as representatives of stakeholder groups.

District evaluation policies for school counselors

The act requires each school district board, by September 30, 2016, to adopt a standards-based school counselor evaluation policy that conforms with the standards-based state framework (see above). The policy must include both of the following:

(1) Beginning with the 2016-2017 school year, the implementation of the standards-based state framework for the evaluation of school counselors; and

(2) Beginning with the 2017-2018 school year, procedures for using the evaluation results for decisions regarding the retention, promotion, and removal of school counselors.

The district's policy must become operative at the expiration of any collective bargaining agreement that (1) covers school counselors employed by the board and (2)



is in effect on September 29, 2015. The policy also must be included in any renewal or extension of such an agreement.

Finally, each district board must annually submit a report to the Department, in a form and manner prescribed by the Department, regarding the implementation of its evaluation policy. However, the act specifically prohibits the Department from permitting or requiring the name or any personally identifiable information of a school counselor to be reported to the Department as part of this annual report.

Collective bargaining agreements

The act specifies that its requirements regarding school counselor evaluations prevail over any conflicting provision of a collective bargaining agreement entered into on or after September 29, 2015.

Alternative framework for teacher evaluations

(R.C. 3319.114)

Under continuing law, each district or school may choose to use the alternative framework for the evaluation of teachers in lieu of the prescribed state framework under the Ohio Teacher Evaluation System (OTES). The prescribed state framework is unaffected by the act. However, beginning with evaluations conducted for the 2015-2016 school year, the act makes the following changes to the alternative framework:

(1) Requires the teacher performance measure to account for 50% of each evaluation (former law required 42.5% to 50%);

(2) Decreases the student academic growth measure to account for 35% (former law required 42.5% to 50%);

(3) Removes the former requirement that the teacher performance measure and the student academic growth measure be an equal percentage of each evaluation;

(4) Specifies that the remainder of each evaluation must be one (continuing law) or any combination (added by the act) of the following: (a) student surveys, (b) teacher self-evaluations, (c) peer review evaluations, and (d) student portfolios. The act also adds to the list of permissible components "any other component determined appropriate" by the district board or school governing authority.

Additionally, the act permits, but does not require as under former law, districts and schools to use instruments approved by the Department when evaluating the component or components chosen.



V. Waivers

Conditional waiver for innovative programs

(R.C. 3302.15 and 3326.29 (repealed))

The act makes several changes to a law enacted in 2014 that permits STEM schools and school districts to submit to the state Superintendent a request for a waiver 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.

First, the act eliminates the provision that presumptively makes all STEM schools eligible to be granted the 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 act 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 be granted a waiver under the program. The act limits requests for a waiver to be submitted during the 2015-2016 school year only.

The act also makes the following additional 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 (under prior law) to "upon receipt of a waiver" (under the act); and

(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

Continuing law provides that a district, STEM school, or community school (added by the act) that obtains a waiver must use an alternative assessment system in place of the state-mandated assessments. The state Superintendent must approve or deny the request or may request additional information from the district or 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 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 (revised under the act), (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 school wishes to be exempt, which are the administration of state assessments, teacher evaluations, and reporting of student achievement data.

For purposes of the waiver program, the Department must seek a waiver from the testing requirements prescribed under the federal "No Child Left Behind Act" if necessary to implement the program. The Department also 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. Scholarship Programs

Ed Choice scholarship

(R.C. 3310.03 and 3310.09)

The act makes two changes to the Educational Choice Scholarship Program. First, it raises the maximum amount that can be awarded under the program as described in the table below.

| | Prior Maximum | 2015-2016 school year | 2016-2017 school year and thereafter |
|-------------|----------------------|------------------------------|---|
| Grades K-8 | \$4,250 | \$4,650 | \$4,650 |
| Grades 9-12 | \$5,000 | \$5,900 | \$6,000 |



Second, it changes the basis for eligibility according to performance index score. Prior law qualified for a scholarship a student who would be assigned to a school building that was ranked, in at least two out of the three most recent years, in the lowest 10% of *all public school buildings* according to performance index score. That ranking, required of the Department in separate law, includes not only school district-operated buildings, but community schools and STEM schools as well.⁵⁷ The act, instead, requires the Department, for Ed Choice purposes only, to base the qualifying performance index score ranking on the lowest 10% among all school buildings operated by school districts, as determined by the Department.

Cleveland Scholarship Program

Qualification of nonpublic high schools

(R.C. 3313.976)

The act revises the law regarding the qualification of nonpublic high schools (grades 9-12) located outside of the Cleveland Municipal School District to participate in the Cleveland Scholarship Program (officially known as the Pilot Project Scholarship Program). Under the act, in order to enroll high school students with a scholarship under the program, a school located outside the district must be located in another district that is both (1) within five miles of the district's border, rather than adjacent to the district as under prior law, and (2) located in a municipal corporation with a population of at least 50,000, as under continuing law.

The act continues to qualify nonpublic high schools located in the Cleveland School District to participate in the program. It also continues the requirement that nonpublic elementary schools must be located in the district in order to participate in the program.

Eligibility of students already enrolled in nonpublic schools

(R.C. 3313.975)

The act removes a provision that formerly specified that no more than 50% of all scholarships under the Cleveland Scholarship Program could be awarded to students who were already enrolled in nonpublic schools.

⁵⁷ R.C. 3302.21(A)(1), not in the act.



Autism Scholarship Program

(R.C. 3310.41)

The act increases the maximum scholarship awarded under the Autism Scholarship Program to \$27,000 (from \$20,000 under prior law).

Jon Peterson Special Needs Scholarship Program

(R.C. 3310.56)

The act increases the maximum scholarship awarded under the Jon Peterson Special Needs Scholarship Program to \$27,000 (from \$20,000 under prior law).

VII. Other Education Provisions

College Credit Plus program changes (PARTIALLY VETOED)

(R.C. 3365.02, 3365.034, 3365.07, 3365.14, and 3365.15)

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.

Participation during the summer

The act specifically permits students who are eligible for the CCP program to participate in the program during the summer term of a public or a participating private or out-of-state college. It also requires the Chancellor of Higher Education, in consultation with the state Superintendent, to adopt rules regarding summer participation. Unless otherwise specified, all requirements of the program apply to such students.

In order to participate in CCP during the summer, a student must (1) meet the eligibility requirements of the program and (2) provide notification of the intent to participate by a date prescribed by the Chancellor. Additionally, the student or the student's parent must be responsible for any transportation related to participation during the summer. Finally, if a student chooses to participate under "Option B," the Department must reimburse the college in the same manner as for students who participate under that option during the school year. Payments must be made by September of each year, or as soon as possible thereafter.



Associate degree pathway (VETOED)

The Governor vetoed a provision that would have required all public colleges, and participating private and out-of-state colleges, to offer an associate degree pathway under the CCP program so that participants could earn an associate degree upon completion of the pathway. In order to complete the pathway, students would have been required to earn at least 60, but not more than 72, semester credit hours (or the equivalent number of quarter hours). To meet this requirement, students would have been specifically permitted to enroll in more than 60 credit hours, but not more than 72 credit hours, over two school years.

The vetoed provision also would have required the Department to reimburse colleges for students who (1) participated under "Option B" of CCP and (2) enrolled in the associate degree pathway, in the same manner as other CCP students, except for the calculation of payments. Under continuing law, the formula for 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.⁵⁸ Therefore, in order to reflect the increased number of credit hours that would have been required under the pathway, the Chancellor, in consultation with the state Superintendent, would have been required to adopt rules prescribing a method to calculate payments for students under the pathway.

Participation of chartered nonpublic schools (VETOED)

Under continuing 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 schools also may choose to participate in CCP, and, if they do so, they are also subject to requirements of the program.

The Governor vetoed a provision that would have specifically prohibited any requirement of the CCP program, and any rule adopted by the Chancellor or the State Board for purposes of the CCP program, to apply to a chartered nonpublic high school that chose not to participate in the program.

⁵⁸ R.C. 3365.01(B) and (I), not in the act.



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 transcribed credit⁵⁹ from the college. However, specified programs are exempt from the requirements of the program, including career-technical education programs that grant articulated credit.⁶⁰ The act maintains this exemption, but removes the end date of July 1, 2016, thus extending the exemption indefinitely. It also clarifies that any portion of a career-technical education program that grants transcribed credit still must be governed by the CCP program.

Funding

Former law stipulated that the CCP program was the sole mechanism by which state funds were 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 act modifies that law in part by stipulating that the CCP program is the sole mechanism by which state funds are paid to colleges for students to earn transcribed credit for college courses while enrolled in both a high school and a college. However, all programs and courses described above continue to be exempt from this funding stipulation.

Biennial report

Under continuing law, the Chancellor and the state Superintendent 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 act adds a requirement that each biennial report also include an analysis of "quality assurance measures" related to the program.

⁵⁹ "Transcribed 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 act.

⁶⁰ "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 act.



Math curriculum for career-technical students

(R.C. 3313.603(C)(3))

Under continuing 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 act 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)

The act requires the State Board, by December 31, 2015, to update the statewide plan on subject area competency for high school students to also include methods for students enrolled in 7th and 8th grade to meet curriculum requirements based on either (1) subject area competency or (2) a combination of classroom instruction and subject area competency. Additionally, the Department must provide assistance to the State Board for purposes of updating the plan, 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, 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.

A conforming provision in the Community School Law states that compliance must begin with the 2016-2017 school year.⁶¹

Competency-Based Education Pilot Program

(Sections 263.280 and 733.30)

The act 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

⁶¹ R.C. 3314.03(A)(11)(f).



and implementing competency-based models of education for their students during the 2016-2017, 2017-2018, and 2018-2019 school years.⁶²

Selection of participants

A district, school, or consortium that wishes to participate in the program must submit an application to the Department by November 1, 2015, in a form and manner prescribed by the Department. By March 1, 2016, the Department must select not more than five districts, schools, or consortia to participate in the program.

Awarding of grants

The Department must award each district, school, or consortium selected to participate in the program a grant of up to \$200,000 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.

Competency-based education requirements

A district, school, or consortium selected to participate in the 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;
- (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; and
- (6) It must incorporate partnerships with post-secondary institutions and members of industry.

⁶² The act 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.



Accountability

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 program.

The act also specifies that a district, school, or consortium selected to participate in the program remains subject to all accountability requirements in state and federal law that apply to it.

State funding

The act specifies that, if a district or school is selected to participate in the 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

The Department must post two separate reports regarding the program on its website.

First, it 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 program.

Next, it 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 program;

(2) An evaluation of the implementation of competency-based education by the districts, schools, and consortia selected to participate in the program and student outcomes resulting from that competency-based education; and

(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 act specifically permits the state Superintendent 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 the career connections learning strategies that are included in the model curriculum developed by the State Board of Education for grades K-12 (which embeds these 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); and

(3) Inform the development of student success plans for students who are at-risk of dropping out of school.

GED tests

(R.C. 3313.617)

In order to obtain a certificate of high school equivalence, a person must take and pass the tests of general educational development (GED), which consist of five subjects (social studies, science, reading, mathematics, and writing). The act modifies and adds several requirements related to the GED tests.

Eligibility requirements

Continuing law and the act prescribe two ways in which a person may qualify to take the GED tests – automatic qualification or approval by the Department.

Automatic qualification

Under continuing law, a person who is at least 18 years old may take the GED tests without additional requirements, if the person is officially withdrawn from school and has not received a high school diploma. The act also qualifies the following persons, without additional administrative requirements and regardless of age, to take the GED tests:



(1) A person who has a bodily or mental condition that does not permit attendance at school. In order to be excused from school for such a condition, a separate provision of law, unchanged by the act, requires that (a) a physical condition must be certified in writing by a licensed physician, (b) a mental condition must be certified in writing by a licensed physician, a licensed psychologist, a licensed school psychologist, or a certificated school psychologist, and (c) a provision must be made for appropriate instruction of that person.⁶³

(2) A person who is currently home-schooled or has completed the final year of instruction at home.

(3) A person who is moving or has moved out of Ohio after previously attending school in the state.

(4) A person who has an extreme, extenuating circumstance, as determined by the Department, that requires the person to withdraw from school.

Approval by the Department

Under continuing law, a person who is at least 16 but less than 18 years old may apply to the Department for permission to take the GED tests. When submitting an application, the person must submit written approval from the person's parent or guardian or a court official.

In addition to these requirements, the act also specifies that a person who is under 18 years old (1) must not have received a high school diploma, and (2) must submit, along with the application to the Department, an official high school transcript that includes the previous 12 months of enrollment in a program approved to grant a high school diploma. If the Department approves a person's application, 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.

Finally, the act prescribes several additional requirements regarding the Department's approval of such applications. 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 at least 75% during that semester, and (3) shows good cause. The State Board must adopt rules determining what qualifies as "good cause" for this purpose.

⁶³ R.C. 3321.04(A)(1), not in the act.



Graduation rates for persons taking the GED

The act 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 as a dropout from the school in which the person was last enrolled. Previously, any person who obtained approval to take the GED tests from the person's parent or guardian or a court official was counted as a dropout. This change conforms to the act's provision specifying that a person who is under 18 may take the GED tests but must remain enrolled in school (therefore, is prohibited from dropping out) until the person passes the GED tests.

Retaking GED tests

The act specifies that if a person takes the GED tests but fails to attain the required scores to earn a high school equivalence diploma, the person is required to do the following:

- (1) Retake only the specific test on which the person did not attain a passing score.
- (2) Pay only for the cost of the specific test that must be retaken.

Furthermore, the act specifically prohibits a person who fails to attain the required scores from paying again for the entire battery of tests, unless that person must retake the entire battery.

Adult Diploma Pilot Program

(R.C. 3313.902; Section 263.260)

The act 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 program, which are described below.

Under law not changed by the act, the 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 program, an eligible institution is a community college, technical college, state



community college, or "Ohio technical center" recognized by the Chancellor of Higher Education that provides post-secondary workforce education.

Program approval

Under prior law, an eligible institution had to obtain approval from the State Board and the Chancellor in order to participate in the program. The act requires an eligible institution to obtain this approval from the state Superintendent instead of 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 act requires the State Board 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.

Funding

Calculation of funding

The act 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:

$$\text{(The student's career pathway training program amount + the student's work readiness training amount) X 1.2}$$

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 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 program that requires more than 300 hours 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 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.

Payments

The act requires the Department to pay the amount calculated for each student under the act'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 act 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 act specifies that these services include counseling, advising, assessment, and other services as determined or required by the Department.

Rules

Law unchanged by the act requires the state Superintendent, in consultation with the Chancellor, to adopt rules for the implementation of the program, including the requirements for applying for program approval. The act specifies that these rules must also address all of the following:

(1) The requirements for obtaining a high school diploma through the 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 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 in 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, 3317.23, 3317.231, 3317.24, and 3345.86; Section 733.20 of H.B. 483 of the 130th General Assembly repealed in Section 690.10)

Under separate provisions of continuing 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 act makes several modifications to these provisions, as described below.

Time period of enrollment

The act 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 prior law. It does not, however, change the provisions of continuing law specifying that students enrolled in adult education programs at JVSDs may enroll for up to two *cumulative* school years.

Program of study

The act 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 prior law.

A "competency-based educational program" is defined by the act 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 act specifies that the Department 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 continuing law.

Under prior law, the Department was required to 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 was enrolled 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 continuing 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 act 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 act requires the Department, rather than the State Board, to adopt rules regarding the enrollment of eligible individuals.

Report

The act repeals a requirement that the Department, 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.

Out-of-state STEM school students

(R.C. 3326.10, 3326.101, 3326.32, and 3326.50)

The act permits STEM schools to admit, on a tuition basis, individuals who are not residents of Ohio. Under prior law, such individuals were explicitly not permitted to enroll in a STEM school. If a STEM school admits an out-of-state student, the act requires the school to charge tuition for that student in an amount equal to the amount of state funds that the school would have received for the student if the student were a resident of Ohio, as calculated by the Department. Additionally, the act prohibits a STEM school from receiving any state funds for an out-of-state student. Finally, the act requires a STEM school to report the total number of students enrolled in the school who are not residents of Ohio and any additional information regarding those students that the Department requires the school to report.

Diplomas for home-schooled and nonchartered nonpublic school students

(R.C. 3313.6110)

The act specifies that a person who has completed the final year of instruction at home and has successfully fulfilled the high school curriculum may be granted a high school diploma by that person's parent, guardian, or custodian. It further states that a diploma issued on or after July 1, 2015, must contain either: (1) a certification signed by the superintendent of the school district in which the person is entitled to attend school or (2) the official letter of excuse issued by the district superintendent for the student's final year of home education. If the diploma includes a signed certification, the certification must include the following statement:

I certify that the student named in this diploma and the student's parent have complied with division (A)(2) of



section 3321.04 of the Ohio Revised Code regarding instruction at home and the related rules of the Ohio State Board of Education.

The act requires a district superintendent to sign the diploma if the student and the parent have complied with the home instruction requirements.

The act also specifies that a person who has graduated from a nonchartered nonpublic school in the state and who has successfully fulfilled the high school curriculum may be granted a high school diploma by the governing authority of that school.

The act states that such a diploma serves as proof of successful completion of that person's applicable high school curriculum and fulfills any legal requirement that requires proof of a high school diploma. Further, that diploma is considered proof of completion of high school for purposes of application for employment. This is regardless of whether the diploma holder participated in the state achievement assessments, Ohio Graduation Test (OGT), or the College and Work-Ready Assessment System.

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 act permits the board 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, an appropriately licensed health care provider, a federally qualified health center, or a federally qualified health center "look-alike" 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 act specifically exempts employees of the hospital, the health care provider, the federally qualified health center, or the federally qualified health center look-alike 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 act also exempts those employees from any requirement prescribed by rule of the State Board related to either license. On the other hand, the act specifies that they must, at a minimum, hold a credential equivalent to being licensed as a Registered Nurse or Licensed Practical Nurse.



Site-based management councils

(Repealed R.C. 3313.473)

The act repeals the law requiring each school district having 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 on its most recent state report card an "A" or "B" for the performance index score and the value-added dimension or an "A" or "B" for the overall grade.

Student transportation

Transportation of nonpublic and community school students

(R.C. 3327.01 and 3327.02)

The act specifically provides that a school district board is not required to transport elementary or high school students to and from a nonpublic or community school on weekends, unless the 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 former law.

Furthermore, the act 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.

District resolution declaring student transportation impractical

(R.C. 3327.02)

The act 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 educational service center (ESC) containing the district's territory. The act 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, 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 act 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 act also requires all state agencies to provide assistance to the Task Force as is requested by the Task Force.

JVSD board membership

(R.C. 3311.19 and 3311.191)

The act 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 former 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; and

(2) The JVSD board has a plan on file with the Department that provides for an additional member to be appointed on a rotating basis by one of the appointing boards.

Under the act, 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 the member vacates that office for any reason prior to the expiration of the member's term, the act 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.



JVSD transition agreement

(R.C. 3311.221)

The act requires a JVSD that gains territory on or after January 1, 2015, due to an "eligible school district transfer" to enter into a two-year transition agreement with the JVSD that lost the territory gained by the other JVSD due to the transfer. An "eligible school district transfer" means the transfer, by June 30, 2015, of the entire territory of a "local" school district that has fewer than 500 students to another, contiguous "local" school district with the same educational service center that results in the cancellation of the amount owed to the State Solvency Assistance Fund by either or both local districts under a temporary provision of continuing law enacted in 2014.⁶⁴

The act specifies that the transition agreement must require all of the following:

(1) Each student of the local school district that is transferred who is enrolled, at the time of the transfer, in the JVSD that lost territory must remain enrolled in that JVSD for the remainder of the student's secondary education, so long as the student is enrolled in the local school district that received territory in the transfer and continues to enroll in a career-technical program.

(2) In the first year following the transfer, the JVSD that gains territory must pay the JVSD that lost territory 100% of the revenue collected from taxes levied by the JVSD that gains territory for the transferred portion of the district.

(3) In the second year following the transfer, the JVSD that gains territory must pay the JVSD that lost territory 50% of the revenue collected from taxes levied by the JVSD that gains territory for the transferred portion of the district.

Additionally, the agreement must include any other terms mutually agreed upon by both JVSDs "to ensure an orderly transition of territory that maximizes opportunities for students."

Approval of career-technical education programs

(R.C. 3317.161)

Continuing law requires each city, local, or exempted village school district's, community school's, or STEM school's career-technical education programs to be approved in order for the district or school to receive state funding for the students enrolled in the program. Approval is obtained through a two-step process that involves an initial decision to approve or disapprove by the lead district of the district's or

⁶⁴ Section 7 of H.B. 487 of the 130th General Assembly, not in the act.



school's career-technical planning district (CTPD) and a review of that decision and approval by the Department, which must occur not later than May 15 prior to the first fiscal year for which the district or school is seeking funding for the program. Approval is valid for the five fiscal years following the fiscal year in which the program is approved. However, if a district or school becomes a new member of a CTPD, its programs must be approved or disapproved by the lead district of the CTPD during the fiscal year in which the district or school becomes a member of the CTPD even if the five-year approval period has not yet expired. A program's approval is subject to annual review and may be renewed at the end of the five-year approval period.

The act permits the state Superintendent to adopt guidelines identifying circumstances in which the Department, after consulting with the lead district of a CTPD, may approve or disapprove a district's or school's career-technical education program after the prescribed deadline has passed.

Expenses related to abolishing an educational service center

(Section 263.610)

In the case of an educational service center (ESC) governing board that is abolished in accordance with continuing law by July 1, 2015, the act prohibits the assessment against any client school districts of the ESC of any indebtedness to the Department of Education for expenses related to the dissolution that exceed the available assets of the ESC. A "client school district" of an ESC is a city, exempted village, or local school district that had entered into an agreement to receive any services from the ESC.

Under continuing law, the state Superintendent may assess against the remaining assets of an ESC that is abolished the amount of the costs incurred by the Department in performing the Superintendent's duties related to the dissolution, including the fees, if any, owed to the individual appointed to administer the Superintendent's dissolution order for the ESC. After assessing that amount against the remaining assets of the ESC, any excess cost must be divided equitably among the school districts that were client school districts of the ESC for its last fiscal year of operation. The law provides for the dissolution of an ESC if all of its client districts have terminated their service agreements with the ESC.⁶⁵

⁶⁵ R.C. 3311.0510, not in the act.



Transfer of student records

(R.C. 3319.323)

The act prohibits a school district or school from altering, truncating, or redacting any part of a student's record so that any information on the record is rendered unreadable or unintelligible during the course of transferring that record to an educational institution for a legitimate educational purpose. Under continuing state and federal law, release without consent of personally identifiable student data is permitted for several prescribed purposes, one of which is the release to other school officials, including teachers, within the agency or institution who have a legitimate educational interest in or purpose for that information.⁶⁶

Healthy Choices for Healthy Children Council

(R.C. 3301.92 and 3301.921 (repealed); conforming changes in R.C. 3301.922, 3301.923, and 3313.674)

The act abolishes the Healthy Choices for Healthy Children Council.

The Council (1) monitored progress in improving student health and wellness, (2) made periodic policy recommendations to the State Board regarding ways to improve the nutritional standards for food and beverages for sale at schools, (3) made recommendations for changes to nutritional standards in response to federal regulatory revisions, (4) made periodic recommendations to the Department for the development of a clearinghouse of best practices in the areas of student nutrition, physical activity for students, and body mass index screenings, and (5) reviewed developments in science and nutrition.

Contracting for academic remediation and intervention

(R.C. 3313.6010)

The act 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 in the subjects of math, science, reading, writing, or social studies.

Prior law limited such contracts for remediation and intervention services in those subject areas to services for only grades 1 through 6. It also required the State Board to adopt rules for the contracts.

⁶⁶ 20 U.S.C. 1232g and R.C. 3319.321, not in the act.



Ohio Teacher of the Year award

(R.C. 3319.67)

The act permits the State Board to establish an annual Teacher of the Year recognition program for outstanding teachers. Under the act, a teacher who is recognized as a Teacher of the Year may accept gifts and privileges as part of the recognition program. Further, the act permits a person or entity to make a voluntary contribution to the recognition program.



OHIO ELECTIONS COMMISSION

- Allows a nonprofit corporation that is a tax-exempt business organization to transfer contributions received as part of regular dues payments from its unincorporated member businesses to its political action committee (PAC).
- Requires the PAC to itemize those contributions and allocate them to individuals in its campaign finance filings.

Nonprofit corporation contributions to PACs

(R.C. 3599.03)

The act allows a nonprofit corporation that is tax-exempt under subsection 501(c)(6) of the Internal Revenue Code – generally, a business organization – to transfer certain funds to its political action committee (PAC).⁶⁷ Under the act, such a nonprofit corporation may transfer contributions it receives as part of regular dues payments from unincorporated member businesses to its PAC. When the PAC files its campaign finance statements, the PAC must itemize those contributions and allocate them to individuals, subject to the contribution limits that apply under continuing law.

Continuing law generally prohibits any corporation from using its money or property for or against a candidate or other political entity. Part of the law is not being enforced because the U.S. Supreme Court has ruled that corporations have a First Amendment right to make independent expenditures to influence the outcome of an election without coordinating with a candidate.⁶⁸ However, Ohio has continued to enforce the law that prohibits corporations from making campaign contributions, whether directly or indirectly. The act makes an exception to that prohibition, to the extent that a nonprofit corporation's PAC may give the contributions described above to a campaign committee or other political entity.

⁶⁷ 26 U.S.C. 501(c)(6).

⁶⁸ *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).



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 counties for 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 program, including requirements that it must be a decentralized program and must include a new car exemption.

Waste Management Fund

- Renames the Solid Waste Fund as 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 (EPA);
 - 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 was credited to that Fund to the Waste Management Fund, and retains the use of that money exclusively for administration and enforcement of the Construction and Demolition Debris Law and rules.
- Eliminates the Infectious Waste Management Fund and does the following:
 - Credits the money that was credited to it to the Waste Management Fund; and



--Requires, rather than authorizes, the Director of Environmental Protection to use that money exclusively to administer and enforce the infectious waste provisions in the Solid, Hazardous, and Infectious Wastes Law and rules adopted under them.

Solid waste transfer and disposal fees

- Extends the expiration of four state fees levied on the transfer or disposal of solid wastes 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 the statute governing the state solid waste management plan;
 - 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 the statute governing the plan;
 - Researching and responding to questions posed by the Director; 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.

Source separated recyclable materials

- Authorizes source separated recyclable materials to be taken to any legitimate recycling facility rather than only to a facility designated by a solid waste management district.

Transfer of Storm Water Management Program

- Transfers, effective January 1, 2016, the administration of the Storm Water Management Program from DNR to EPA.
- Authorizes the Director of Environmental Protection, in effecting the transfer, to develop technical guidance and offer technical assistance to minimize wind or water erosion of soil and assist in compliance with permits for storm water management issued under the Water Pollution Control Law and rules.

Study of nutrient loading to Ohio watersheds

- Authorizes the Director to study, examine, and calculate nutrient loading to watersheds in the Lake Erie basin and the Ohio River basin from point and nonpoint sources.
- Requires the Director or the Director's designee, in order to evaluate nutrient loading contributions, to use available data, including data on water quality and stream flow and point source discharges into those watersheds.
- Requires the Director or designee to report and update the study's results to coincide with the release of the Ohio Integrated Water Quality Monitoring and Assessment Report.

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;



- The sunset of the annual discharge fees for holders of national pollutant discharge elimination system permits under the Water Pollution Control Law;
- The sunset of license fees for public water system licenses;
- A higher cap on the total fee due for plan approval for a public water supply system 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; 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 Safe Drinking Water Laws.

Shale and clay products

- Prohibits a person from using, managing, or disposing of certain structural products created from clay or shale in a manner resulting in any of specified occurrences, including:
 - An exceedance of a water quality standard;
 - An exceedance of a primary or secondary maximum contaminant level established for safe drinking water purposes; or
 - An emission of an air contaminant.
- Generally prohibits a person from placing, accumulating, or storing for further processing structural products in specified locations, including within the boundaries of a sole source aquifer.
- Authorizes the Director or the Director's authorized representative to enter property to inspect and investigate conditions or examine records relating to alleged noncompliance with the above prohibitions and to apply for a warrant permitting the entrance and inspection or examination.
- Excludes certain shale and clay products from regulation as solid wastes under the Solid, Infectious, and Hazardous Wastes Law.

Isolated wetlands permits

- Revises the statutes governing permits for impacts to isolated wetlands by:
 - 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.



Extension of E-Check

(R.C. 3704.14)

The act authorizes the extension of the motor vehicle inspection and maintenance program (E-Check) through June 30, 2021, in counties where a program is federally mandated. It accomplishes the extension by both:

--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 EPA Director request the DAS Director to enter into a new contract with a vendor to operate a program in counties where a program is federally mandated through June 30, 2019, with an option for the state to renew for a period of up to 24 months through June 30, 2021.

The act retains the requirement that the new contract ensure that the program achieves at least the same emissions reductions achieved under the contract that was extended. It also retains the requirement under which the DAS Director must use a competitive selection process when entering into a new contract with a vendor. Finally, the act retains all statutory requirements governing the program, including requirements that it be a decentralized program and 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 act renames the Solid Waste Fund as 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 was 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 wastes (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:

--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; and

(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:

--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, with regard to the use of money collected from the sources specified in item (5), above, the act requires, rather than authorizes, the Director to use that money for the specified purposes.

Solid waste transfer and disposal fees

(R.C. 3734.57 and 3745.015)

The act 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 wastes 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 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 20¢, rather than 30%, of the fee to the Hazardous Waste Facility Management Fund and 70¢, rather than 70%, to the Hazardous Waste Clean-Up Fund;

(2) Decreases from \$1 to 75¢ the per-ton fee the proceeds of which are credited to the Solid Waste Fund (renamed the Waste Management Fund by the act), 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 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 act extends from June 30, 2016, to 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 act also extends from June 30, 2016, to 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.

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 act 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 certifying, 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 continuing 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 act deletes the requirement that the Solid Waste Management Advisory Council had to annually review implementation of solid waste management plans of solid waste management districts.

Under the act, the Governor, with the advice and consent of the Senate, must appoint the following 13 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) Six members, representing private industry, 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 act 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 act 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 act provides for the necessary transfer of assets and liabilities to the new Council and provides that legal actions initiated by either of the former Councils are to be continued by the new Council.

Source separated recyclable materials

(R.C. 343.01)

The act authorizes source separated recyclable materials, defined to mean materials separated from other solid wastes at the location where the materials are



generated for the purpose of recycling at a legitimate recycling facility, to be taken to any legitimate recycling facility rather than only to a facility designated in the plan of a solid waste management district or otherwise designated by a district. Under the act, a legitimate recycling facility is an engineered facility or site where recycling of material other than scrap tires is the primary objective of the facility.

Transfer of Storm Water Management Program

(R.C. 939.02 and 6111.03; Section 737.40)

The act transfers, effective January 1, 2016, the administration of the Storm Water Management Program from the Division of Soil and Water Resources in DNR to EPA. The act effects the transfer by doing, in part, both of the following:

(1) Authorizing the Director of Environmental Protection to develop technical guidance and offer technical assistance, upon request, for the purpose of minimizing wind or water erosion of soil and assist in compliance with permits for storm water management issued under the Water Pollution Control Law and rules adopted under it; and

(2) Stating that, subject to the layoff provisions of the law governing state and local personnel or the applicable collective bargaining agreement, all of the Division's employees relating to the Program are transferred to EPA and retain their same positions and all benefits accruing to them.

Under former law, the Chief of the Division of Soil and Water Resources administered the Program by adopting rules that established all of the following:

(1) Technically feasible and economically reasonable standards to achieve a level of management and conservation practices that would abate wind or water erosion of the soil or abate the degradation of water by soil sediment in conjunction with certain soil-disturbing activities on land used or being developed for nonfarm purposes as well as criteria for determination of the acceptability of such management and conservation practices;

(2) Procedures for administration of rules governing urban sediment pollution abatement; and

(3) Procedures for administering grants to soil and water conservation districts for urban sediment pollution abatement programs and requirements governing the execution of projects to encourage the reduction of erosion and sedimentation associated with soil-disturbing activities.



Additionally, former law authorized the Chief to recommend criteria and procedures for the approval of urban sediment pollution abatement plans and issuance of permits prior to any soil-disturbing activities of five or more contiguous acres of land owned by one person or operated as one development unit and to require implementation of such a plan.

Study of nutrient loading to Ohio watersheds

(R.C. 6111.03(U))

The act authorizes the Director to study, examine, and calculate nutrient loading to watersheds in the Lake Erie basin and the Ohio River from point and nonpoint sources. The study must determine comparative contributions by those sources and utilize the information derived from those calculations to determine the most environmentally beneficial and cost-effective mechanisms to reduce nutrient loading to those watersheds. In order to evaluate nutrient loading contributions, the Director or the Director's designee must conduct a study of the nutrient mass balance for both point and nonpoint sources in watersheds in the Lake Erie basin and the Ohio River basin using available data, including data on water quality and stream flow and on point source discharges into those watersheds. The Director or the Director's designee must report and update the study's results to coincide with the release of the Ohio Integrated Water Quality Monitoring and Assessment Report.

Extension of various air and water fees

Synthetic minor facility emissions fees

(R.C. 3745.11(D))

Under continuing 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 continuing law. Former law required the fee to be paid through June 30, 2016. The act extends the fee through June 30, 2018.



Water pollution control and safe drinking water fees

(R.C. 3745.11(L), (M), and (N))

Under law revised in part by the act, a person applying for a plan approval for a wastewater treatment works is required to pay a fee of \$100 plus 0.0065% 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 0.002% of the estimated project cost, up to a maximum of \$5,000, on and after July 1, 2016. Under the act, the first tier fee is extended through June 30, 2018, and the second tier applies to applications submitted on or after July 1, 2018.

Continuing 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 former law, the fees were due by January 30, 2014, and January 30, 2015. The act 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, continuing law imposes a \$7,500 surcharge to the annual discharge fee for major industrial dischargers. Under prior law, the surcharge was required to be paid by January 30, 2014, and January 30, 2015. The act requires it to be paid annually by January 30, 2016, and January 30, 2017.

Under continuing 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 former law, the fee was due annually not later than January 30, 2014, and January 30, 2015. The act 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 continuing law. Under prior law, the fee for initial licenses and license renewals was required in statute through June 30, 2016, and had to be paid annually prior to January 31, 2016. The act 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 law retained in part by the act, the fee cannot exceed \$20,000 through June 30, 2016, and \$15,000 on and after July 1, 2016. The act 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.

Continuing 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. Under law retained in part by the act, a schedule with higher fees applies through June 30, 2016, and a schedule with lower fees applies on and after July 1, 2016. The act 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 act also 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.

Water supply, wastewater systems operators

(R.C. 3745.11(O))

Continuing 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. Under law retained in part by the act, a higher schedule is established through November 30, 2016, and a lower schedule applies on and after December 1, 2016. The act extends the higher fee schedule through November 30, 2018, and applies the lower fee schedule beginning December 1, 2018.

Application fees – safe drinking water and water pollution control

(R.C. 3745.11(S))

Law retained in part by the act requires any person applying for a permit other than an 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 act extends the \$100 fee through June 30, 2018, and applies the \$15 fee on and after July 1, 2018.



Similarly, under law retained in part by the act, a person applying for an 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 act 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 act eliminates the prohibition in former 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.

Shale and clay products

(R.C. 6111.051 and 6111.99)

The act prohibits a person from using, managing, or disposing of structural products created from clay or shale in a manner that results in any of the following: (1) a nuisance, (2) an exceedance of a water quality standard, (3) an exceedance of a primary or secondary maximum contaminant level established for safe drinking water purposes, (4) an emission of an air contaminant, or (5) a threat to public health or safety or the environment.

The act also prohibits a person from placing, accumulating, or storing for further processing such structural products in any of the following locations:

- (1) Within the boundaries of a sole source aquifer;
- (2) Within the boundaries of a source water protection area; or
- (3) Above an unconsolidated aquifer capable of yielding at least 100 gallons per minute.

The act stipulates that the prohibition regarding placement, accumulation, or storage does not apply to structural products that have been sold and distributed in the stream of commerce as desired commodities. The Director or the Director's authorized representative may enter private or public property to inspect and investigate conditions or examine records relating to alleged noncompliance with the above



prohibitions and may apply for a warrant permitting the entrance and inspection or examination.

By operation of continuing law, anyone who violates one of the above prohibitions must pay a civil penalty of not more than \$10,000 per day of violation. Additionally, the Attorney General, upon the request of the Director, must bring an action for an injunction against the person.⁶⁹ Finally, under the act and by operation of continuing law, 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, and 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.

Under the act, structural products are products that are created from clay, shale, or a combination of clay and shale, are generated as a result of a manufacturing process that is designed to create products intended to form part of a building or other structure, and are no longer wanted for that originally intended use. Structural products include floor tiles, bricks, paving bricks, terra-cotta facing tiles, roofing tiles, clay pipes, chimney pipes, flue liners, and drainage tiles and pipes.

The Director may adopt rules establishing procedures and requirements that are necessary to administer the above provisions.

Exclusion from regulation as solid wastes

(R.C. 3734.01)

The act excludes from regulation as solid wastes under the Solid, Infectious, and Hazardous Wastes Law nontoxic, nonhazardous, unwanted fired and unfired, glazed and unglazed, structural products made from shale and clay products.

Isolated wetlands permits

(R.C. 6111.02 and 6111.027)

The act 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.

⁶⁹ R.C. 6111.07 and 6111.09, not in the act.



Section 401 water quality certification; certified water quality professionals

(R.C. 6111.30)

The act 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 act 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:

(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 act 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 act | Former 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 fine of not more than \$10,000, imprisonment for not more than | A violation was punishable by a fine of not more than \$25,000, imprisonment for not more than one year, or both.* |



| Type of violation | The act | Former law |
|---|---|---|
| | <p>one year, or both.</p> <p>Each day of violation is a separate offense.</p> | |
| <p>Violations of provisions regarding submission of false information.</p> | <p>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.</p> <p>Each day of violation is a separate offense.</p> <p>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.</p> <p>Each day of violation is a separate offense.</p> | <p>A violation was punishable by a fine of not more than \$25,000.*</p> |
| <p>Violations of orders, rules, or terms or conditions of a permit.</p> | <p>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.</p> <p>Each day of violation is a separate offense.</p> <p>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.</p> <p>Each day of violation is a separate offense.</p> | <p>A violation was punishable by a fine of not more than \$25,000, imprisonment for not more than one year, or both.*</p> |
| <p>Violations of provisions regarding waste minimization and treatment plans and fees per ton of waste.</p> | <p>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.</p> <p>Each day of violation is a separate offense.</p> | <p>A violation was punishable by a fine of not more than \$10,000.*</p> |
| <p>Violations of provision requiring approval of plans for disposal of industrial waste.</p> | <p>A knowing violation is a misdemeanor punishable by a fine of not more than \$10,000,</p> | <p>A violation was punishable by a fine of not more than \$500.*</p> |



| Type of violation | The act | Former law |
|--|--|---|
| | imprisonment for not more than one year, or both. Each day of violation is a separate offense. | |
| 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 was punishable by a fine of not more than \$100.* |

* No culpable mental state was specified. The default culpable mental state was recklessness prior to the enactment of S.B. 361 of the 130th General Assembly.

** No culpable mental state is specified.

The act 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. 3704.05)

The act corrects an erroneous cross-reference.



OHIO ETHICS COMMISSION

- Changes the deadline for public officials and employees to file financial disclosure statements with the appropriate ethics commission from April 15 to May 15.
- Alters the deadline by which an ethics commission that adopts a rule requiring a class of public officials or employees to file statements must notify them of the filing requirement.
- Makes confidential financial disclosure statements filed by members of the Board of Trustees and the Executive Director of the Southern Ohio Agricultural and Community Development Foundation.

Financial disclosure statement filing deadline

(R.C. 102.02, 102.022, and 187.03)

The act changes the deadline from April 15 to May 15 for public officials and employees to file annual financial disclosure statements with the appropriate ethics commission – the Joint Legislative Ethics Commission, the Ohio Ethics Commission, or the Supreme Court Board of Commissioners on Grievances and Discipline, depending on the person's position.⁷⁰ And, under the act, if an ethics commission adds a class of public officials or employees to the list of individuals who must file statements, the commission must send those officials or employees written notice of the requirement not less than 30 days before the filing deadline, instead of by February 15. If such an official or employee is appointed after the deadline to send the notice, the notice must be sent within 30 days after appointment.

Under continuing law, a candidate for elective office (including a person who is currently a public official or employee) must file that statement no later than 30 days before the first election at which the person appears on the ballot, except that a write-in candidate must file that statement no later than 20 days before the election. A person who is appointed to fill a vacancy in an elective office must file a statement within 15 days after qualifying for office. Other persons who are appointed or employed after the general filing deadline must file a statement within 90 days.

⁷⁰ R.C. 102.01(F), not in the act. While continuing law refers to the Board of Commissioners on Grievances and Discipline, the Supreme Court changed that entity's name to the Board of Professional Conduct, effective January 1, 2015. See Rule V of the *Supreme Court Rules for the Government of the Bar of Ohio*.



Southern Ohio Agricultural and Community Development Foundation

(R.C. 102.02)

The act makes confidential financial disclosure statements that are filed by members of the Board of Trustees and the Executive Director of the Southern Ohio Agricultural and Community Development Foundation (SOACDF). Prior law made those financial disclosure statements public records under an exemption that specifically applied to the SOACDF. Under the act, financial disclosure statements filed by members of the Board of Trustees and the Executive Director of SOACDF are confidential in the same manner as those statements are confidential for other members of unpaid boards, commissions, and bureaus.



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 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 the Public Works and Public Improvements Laws, but subjects the agreement and actions to phases of those laws relating to cultural facilities and the use of domestic steel and to 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.

State agency bid specifications requiring project labor agreements

- Requires a state agency to hold a public hearing before issuing bid specifications for a proposed public improvement that require a contractor or subcontractor to enter into a project labor agreement.
- Requires the state agency to decide whether to include that requirement in the bid specifications not earlier than 30 days after the hearing.



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 (SFC)

- Provides that the new conditional approval of a district's project scope and basic project cost, after a lapse of a previous conditional approval, are valid for 13 months, rather than one year as under prior law.
- Permits certain funds appropriated to SFC for classroom facilities projects that were not spent or encumbered during the first year of each biennium to be used for various SFC programs.
- Permits a school district, educational service center, or community school to enter into a lease-purchase agreement providing for the construction or improvement and eventual acquisition of "facilities or improvements to facilities," rather than just "buildings" as under prior law.
- Requires that a lease-purchase agreement must provide for a series of one-year renewable lease terms totaling not more than the number of years equivalent to the useful life of the asset but not to exceed 30 years.



- Requires 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 SFC program with cash-on-hand resulting from a lease-purchase agreement.
- Eliminates the Education Facilities Trust Fund and the Ohio School Facilities Commission Fund.
- Requires SFC to provide funding to a "qualifying partnership" of school districts that are part of a career-technical education compact in the acquisition of classroom facilities for a joint STEM education program.
- Authorizes a "qualifying partnership," subject to voter approval, to levy a property tax for up to ten years to pay its portion of the cost the classroom facilities for the joint STEM program.
- Permits SFC to provide grants to (1) high-performing community schools that satisfy specified conditions or (2) newly established community schools implementing a community school model that have a track record of high quality academic performance, as determined by the Department of Education.

Declaration of public exigency

(R.C. 123.10)

The act expands the authority of the Executive Director of the Ohio Facilities Construction Commission (OFCC) to declare a public exigency. Under prior law, the Executive Director was authorized to declare a public exigency when an injury or obstruction occurred in any public work of the state maintained by the Director of Administrative Services. The act 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.

Continuing 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 act 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 act changes the name "cooperative contract" to "cooperative use agreement." The act 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 previous requirement that a cooperative use agreement include a provision specifying that a project is to be completed and ready "for full occupancy" without exceeding appropriated funds, the act requires the specification to be that the project is to be completed and ready "to support culture" without exceeding appropriated funds.

Prior law provided that a cooperative use agreement generally was not subject to Public Works Law. The act subjects a cooperative use agreement to provisions of the Public Works Law regarding cultural facilities and the use of domestic steel.

The act 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, generally 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 to the Prevailing Wage Law.

State agency bid specifications that require project labor agreements

(R.C. 153.83)

The act requires a state agency to hold a public hearing before a state agency may issue a bid specification for a proposed public improvement that requires a contractor or subcontractor to enter into a project labor agreement. The state agency must publish notice of the hearing not less than 30 days before the hearing date. The state agency must decide whether to include the project labor agreement requirement in the bid specification not earlier than 30 days after the hearing.

For purposes of this provision, "public improvement" means any of the following:



- (1) A road, bridge, highway, street, or tunnel;
- (2) A waste water treatment system or water supply system;
- (3) A solid waste disposal facility or a storm water and sanitary collection, storage, and treatment facility;
- (4) Any structure or work constructed by a state agency or by another person on behalf of a state agency pursuant to a contract with the state agency.

State-financed historical facilities

(R.C. 123.281)

The act 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.

Continuing 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 History Connection (OHC), owned at least partly by the state or the OHC, 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.⁷¹

⁷¹ Internal Revenue Code sec. 148; 26 C.F.R. 1.148-6.



Surety bond authority

(R.C. 9.333 and 153.70)

The act transfers from the Director of Administrative Services to the Executive Director of the OFCC 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 act 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. Previously, a public bid opening could be broadcast by electronic means. The act limits this to allow only the opening of bids filed electronically to be broadcast by electronic means. Continuing law requires all electronically filed bids to be made available to the relevant public authority after the public bid opening. The act 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 act removes a prior 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 act 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 act 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

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 state funding are based on the district's relative wealth. 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.

New conditional approval for CFAP funding

(R.C. 3318.054)

For a district for which offered state funding lapses due to failure to secure voter approval of local funding, the law prescribes procedures for the district board to follow if it wishes to revive its project. To do so, the board must request that SFC set a new scope and basic project cost for the project based on the district's current wealth percentile and tax valuation. The act extends the validity of the new scope and basic project cost to 13 months, instead of one year as under prior law.

Reuse of unspent funds

(R.C. 3318.024)

In addition to CFAP as under continuing law, the act permits funds appropriated to 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 Facilities 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

(R.C. 3313.375; Section 285.80)

The act permits a school district, educational service center, or community school to enter into a lease-purchase agreement providing for the construction or improvement and eventual acquisition of "facilities or improvements to facilities," rather than merely to "buildings" as under prior law. Moreover, the act expressly states that such facilities or improvements may include buildings, playgrounds, parking lots, athletic facilities, and safety enhancements.

The act also specifies that a lease-purchase agreement must provide for a series of one-year renewable lease terms "totaling not more than the number of years equivalent to the useful life of the asset" but not to exceed 30 years. Prior law specified only that the one-year renewable lease terms could not exceed 30 years.

Study

The act requires 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 SFC program with cash-on-hand resulting from a lease-purchase agreement. The study must be completed by March 31, 2016 (nine months after the provision's effective date) and must be submitted to the Governor and the General Assembly. Except in limited circumstances specified by the act and with approval of SFC, until the study is completed, the act prohibits a school district from funding its share of the cost of a project with cash-on-hand resulting from a lease-purchase agreement. With SFC 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.

Education Facilities Trust Fund

(R.C. 183.26 (repealed); conforming change in R.C. 3318.40)

The act eliminates the Education Facilities Trust Fund, which consisted of a portion of the state's tobacco master settlement agreement proceeds.



Ohio School Facilities Commission Fund

(R.C. 3318.33 (repealed); conforming changes in R.C. 3318.02 and 3318.30)

The act eliminates the Ohio School Facilities Commission Fund, which consisted 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 Building Program Assistance Fund, and (3) revenues received by SFC.

Career-technical compact facilities for STEM education

(R.C. 3318.71, 5705.214, and 5705.2112)

The act requires SFC to establish guidelines for assisting a qualifying partnership in the acquisition of classroom facilities to be used for a joint science, technology, engineering, and mathematics (STEM) program. For purposes of this provision, a "qualifying partnership" is a group of city, exempted village, or local school districts that meets all of the following criteria:

(1) The districts that comprise the group are part of a career-technical education compact;

(2) The districts have entered into an agreement for joint or cooperative establishment and operation of a STEM education program;

(3) The aggregate territory of the districts is located in two adjacent counties, each having a population greater than 40,000 but less than 50,000, and at least one of which borders another state.

Proposal

A qualifying partnership must submit a written proposal to SFC in order to receive funding for the acquisition of classroom facilities to be used for a STEM program. The proposal must be submitted in a form and in the manner prescribed by SFC and must indicate both the total amount of funding requested from SFC and the amount of other funding pledged for the acquisition of the classroom facilities, the latter of which must not be less than the total amount of funding requested from SFC.

Funding provided by SFC

Upon receiving a written proposal from a qualifying partnership, subject to the approval of the Controlling Board, SFC must provide funding to assist that qualifying partnership in the acquisition of classroom facilities to be used for a joint STEM program. In doing so, it must enter into an agreement with the qualifying partnership and must encumber the approved funding from the amounts appropriated to SFC for



classroom facilities assistance projects. This agreement must include a stipulation of the ownership of the classroom facilities in the event the qualifying partnership ceases to exist.

Qualifying partnership classroom facilities levy

The act authorizes a qualifying partnership to levy a tax for the purpose of funding the acquisition of classroom facilities to be used for the joint STEM program. To propose such a levy, the board of education of each participating school district must adopt an identical resolution specifying the rate, purpose, term of the levy, and the date of the election at which the levy will be submitted for voter approval. The term of the levy may be for any period of time up to ten years. The levy may not be renewed or replaced upon its expiration. The levy is subject to the approval of the majority voters in the combined territory of all school districts participating in the qualifying partnership.

Before submitting a classroom facilities levy to the voters, the qualifying partnership must designate the board of education of one of the participating school districts as the "fiscal board" of the qualifying partnership. The fiscal board is responsible for submitting the resolutions proposing the tax levy to the appropriate county boards of elections, administering levy funds, and issuing bonds and anticipation notes backed by such funds. The fiscal board has the same rights and responsibilities with respect to funds levied for a qualifying partnership as boards of education do with respect to traditional tax levies.

Revenue from a classroom facilities levy is to be credited to a special fund established by the fiscal board of the qualifying partnership. The fiscal board may issue anticipation notes in a principal amount not exceeding 50% of the estimated proceeds of the levy to be collected in the ensuing five-year period. Issuance of the notes is governed by the state Public Securities Law.

The act specifies that a classroom facilities levy by a qualifying partnership is a proper public purpose. The act also specifies that where, in the school funding law, reference is made to the amount of a school district's taxes, the reference does not include taxes levied by the fiscal board of a qualifying partnership in which the school district is a participant.

Community school classroom facilities assistance funding

(Section 501.10)

The act permits SFC to provide grants for the purchase, construction, reconstruction, renovation, remodeling, or addition to classroom facilities to (1) "eligible high-performing community schools" and (2) newly established community schools that have a track record of high quality academic performance, as determined by the



Department of Education. The act requires that SFC's guidelines or rules for administration of these grants include provisions for the ownership and disposal of the facilities in the event a community school closes at any time.

For purposes of this provision, an "eligible high-performing community school" is a community school that has available and has certified that it will supply at least 50% of the cost of the project and that meets the following other conditions:

(1) Except as provided in (2) or (3), the school has received a grade of "A," "B," or "C" for the performance index score or has increased its performance index score in each of the previous three years of operation, and the school has received a grade of "A" or "B" for the value-added progress dimension on its most recent report card rating.

(2) If the school serves only grades kindergarten through three, the school received a grade of "A" or "B" for making progress in improving literacy in grades kindergarten through three on its most recent report card.

(3) If the school primarily serves students enrolled in a dropout prevention and recovery program, the school received a rating of "exceeds standards" on its most recent report card.

The act appropriates \$25 million for the grants.



GOVERNOR

- Requires messages of the Governor, and the inaugural address of the Governor-elect, to be produced and distributed in electronic form, rather than pamphlet form, and requires that a physical copy be provided upon request to recipients of electronic copies.

Messages of the Governor

(R.C. 149.04)

The act 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. Prior law, repealed by the act, required these documents to be printed in pamphlet form, and 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 act requires that a physical copy of the message or address be provided, upon request, to any recipient of an electronic copy named above.



DEPARTMENT OF HEALTH

State-level review of child deaths

- Requires the Ohio Department of Health (ODH) Director to establish guidelines for the state-level review of deaths of children under 18 years of age.
- Allows the Director to access certain information when reviewing a death, provides immunity from civil liability to 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 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.

ASF variance determination deadline

- Requires the Director to grant or deny a written transfer agreement variance to an ambulatory surgical facility (ASF) not later than 60 days after the ASF submits a variance application.
- Provides that if the Director has not made a determination on an ASF's variance application after 60 days, the variance is denied and the ASF's license to operate is automatically suspended.
- Provides that the Director may reinstate the ASF's license if it obtains a written transfer agreement, a variance, or an order issued in accordance with the Administrative Procedure Act requiring the license to be reinstated.
- Requires a facility that desires to operate as an ASF to apply for a new license, if its existing license expires during the suspension.
- Requires the Director to grant or deny all variance applications pending on September 29, 2015, and provides that an application is considered denied if not granted within 60 days after that date.



Local hospital location for an ASF

- Provides that a "local hospital" may not be further than 30 miles from the ASF:
 - With which the local hospital has a written transfer agreement; or
 - Whose consulting physicians under a variance from the transfer agreement requirement have admitting privileges at the local hospital.

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.

Bloodborne infectious disease prevention programs

- Authorizes a board of health to establish a bloodborne infectious disease prevention program to reduce the transmission of HIV, hepatitis B, and hepatitis C.
- Requires a board of health to consult with specified interested parties before establishing a prevention program.
- Authorizes a board of health to determine a prevention program's operation and participants and requires a prevention program to provide certain screening, education, and referrals for care and services.
- Specifies that the local governing authority of the area where a prevention program is located retains all zoning rights.
- Provides immunity from criminal prosecution to employees, volunteers, and participants of prevention programs.

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 toward the service hours of a participating dentist.



Signature on vital records

- Repeals a provision that (1) requires birth, fetal death, and death records and certificates to be printed legibly or typewritten in unfading black ink and (2) 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 Director.

Photograph or copy a birth or death record

- Requires a local registrar to allow an individual to photograph or otherwise copy a birth or death record.

Newborn screening for Krabbe disease

- Generally requires each child born on or after July 1, 2016, to undergo certain testing for Krabbe disease as part of ODH's Newborn Screening Program.
- Specifies that the Krabbe disease screening requirement does not apply to a child whose parents forgo the screening.

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.

Uterine cytologic exams (pap smears) in hospitals

- Permits (rather than requires) hospitals to offer uterine cytologic exams (pap smears) to female inpatients who are at least 21 (rather than 18) years old and establishes record-keeping requirements.

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 care transparency (VETOED)

- Would have required hospitals to either provide patients with an estimated out-of-pocket cost for certain common services or enable the patient to obtain this information from the patient's insurer (VETOED).



- Would have created the Health Services Cost Estimate Study Committee to study the impact and feasibility of requiring health services providers to provide estimates of a consumer's out-of-pocket cost for common products, procedures, and services (VETOED).

Hope for a Smile Program (VETOED)

- Would have established 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 (VETOED).
- Would have required the ODH Director to secure, maintain, and operate a bus as a mobile dental unit (VETOED).
- Would have created a state income tax deduction, to be used by a dentist or dental hygienist, equal to the fair market value of services provided for free under the program (VETOED).

Legislative Committee on Public Health Futures

- Re-establishes the Legislative Committee on Public Health Futures.
- Requires the Committee to review the effectiveness of previous reports, and to make legislative and fiscal policy recommendations that would improve local public health services.

Moms Quit for Two Grant Program

- Creates the Moms Quit for Two Grant Program to provide grants to private, nonprofit entities or government entities that demonstrate the ability to deliver evidence-based tobacco cessation interventions to pregnant women and women living with children who reside in communities with high infant mortality.

Infant mortality data collection and report

- Requires the Director to prepare an annual report on (1) identified government programs that have the goal of reducing infant mortality and negative birth outcomes or the goal of reducing disparities among women who are pregnant or capable of becoming pregnant and who belong to a racial or ethnic minority, and (2) data collected from birth certificates.
- Requires the identified government programs to provide data for the first part of the report.



Violation of smoking prohibitions

- Requires ODH to adopt rules prescribing 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.

State-level review of child deaths

(R.C. 121.22, 149.43, 2151.421, 3701.045, 3701.70 to 3701.703, and 4731.22)

Guidelines

The act requires the Director of the Ohio Department of Health (ODH) 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. It largely parallels continuing law provisions regulating county and regional child fatality review boards. Continuing law 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. Continuing law also requires that each county or regional board report its findings to ODH.

Purpose

According to the act, the purpose of a review of child death conducted by the ODH 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 act provides that, under the guidelines, the ODH Director may not conduct a review while either 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. Moreover, it specifies that a person, entity, law enforcement agency, or prosecuting attorney may not provide any information regarding the death of a child to the 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. At the Director's request, a law enforcement agency or prosecuting attorney, on the conclusion of an investigation or prosecution, must notify the Director of the conclusion.

Information provided to ODH Director

The act requires that, on the request of the Director, any of the following submit a summary sheet of information to the Director:

(1) An individual, public children services agency, private child placing agency, or agency that provides services specifically to individuals or families;

(2) A law enforcement agency;

(3) A public or private entity that provided services to a child whose death is being reviewed by the Director pursuant to the guidelines.

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 act 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 act grants 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. It also requires that the Director preserve the confidentiality of such a report.

Use of information obtained by the Director

The act 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 act, a person who knowingly permits or encourages the unauthorized dissemination of confidential information is guilty of a misdemeanor of the second degree.

Civil immunity

The act grants the following immunity from civil liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of providing information, documents, or reports to the Director or participating in a review:

- (1) A public or private entity providing information, documents, or reports to the Director;
- (2) A person participating in a review.

Open meetings and public records law

Continuing 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." Under the act, the exceptions include meetings related to a review of a child's death by the Director.

Continuing law also requires that, upon request, records kept by any public office be promptly prepared and made available for inspection. The act 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.

Distribution of money from the "Choose Life" Fund

(R.C. 3701.65)

The act modifies the distribution of money from the "Choose Life" Fund. The "Choose Life" Fund consists of contributions that are paid to the Registrar of Motor Vehicles by applicants who elect to obtain "choose life" license plates. The ODH Director allocates money in the Fund 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 continuing 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 for funding, the funds may be allocated to eligible organizations located in contiguous counties. Under the act, the funds also may be allocated 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. An eligible organization, as defined under continuing law, 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.

ASF variance determination deadline

(R.C. 3702.304 and 3702.309; Section 737.13)

The act requires the ODH Director to grant or deny a variance application from the written transfer agreement requirement for an ambulatory surgical facility (ASF) within 60 days of receiving the application. If the Director does not grant or deny the application within the 60 days, it is considered denied. Similarly, the act provides the Director 60 days to grant or deny variance applications pending on September 29, 2015, or they too are considered denied.

The act provides that if an ASF's application has been denied as described above, that ASF's license is automatically suspended. The Director may reinstate the license if any of the following occurs:

--The facility files with the Director a copy of a valid written transfer agreement;

--The Director grants the facility a variance from the written transfer agreement requirement;

--The license is required to be reinstated pursuant to an order issued in accordance with the Administrative Procedure Act.

If the ASF's license expires before the suspension is lifted, the ASF must apply for a new license.

Local hospital location for an ASF

(R.C. 3702.3010)

The act requires a local hospital to be not further than 30 miles from an ASF (1) with which the local hospital has a written transfer agreement or (2) whose consulting physicians under a variance from the transfer agreement requirement have admitting privileges at the local hospital.

The local hospital would provide care for ASF patients in medical emergencies. Under continuing law, an ASF must have either a written transfer agreement with such a local hospital, or a variance from that requirement. To receive a variance, the ASF must have an agreement with one or more consulting physicians who have admitting



privileges at a local hospital to provide back-up coverage when medical care beyond the level the ASF can provide is needed.⁷²

Public Health Emergency Preparedness Fund

(R.C. 3701.834; Section 289.50)

The act 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 act requires ODH to use money in the Fund to pay expenses related to public health emergency preparedness and response activities.

Bloodborne infectious disease prevention programs

(R.C. 3707.57)

The act authorizes boards of health to establish bloodborne infectious disease prevention programs to reduce the transmission of bloodborne pathogens. "Bloodborne pathogens" are defined as the human immunodeficiency virus (HIV), hepatitis B virus, and hepatitis C virus.

Consultation with interested parties

Before a board of health may establish a bloodborne infectious disease prevention program, it must consult with two groups of interested parties. The first group consists of interested parties from the health district represented by the board, including law enforcement representatives, prosecutors, representatives of state-certified community addiction services providers, persons recovering from substance abuse, private nonprofit organizations (such as hepatitis C and HIV advocacy organizations), residents of the health district, and the board of alcohol, drug addiction, and mental health services that serves the area in which the health district is located. The second group consists of representatives selected by the governing authority of the city, village, or township in which the prevention program is proposed to be established.

Program cost and requirements

The act specifies that the cost of a bloodborne infectious disease prevention program is the responsibility of the board of health that establishes the program. Generally, the board is to determine the manner in which a prevention program is

⁷² R.C. 3702.304; R.C. 3702.303, not in the act.



operated and individuals eligible to participate. Specifically, the act requires each program to do the following:

(1) **Screening** – provide on-site screening for HIV, hepatitis B, and hepatitis C, if resources are available;

(2) **Education** – educate program participants regarding exposure to bloodborne pathogens;

(3) **Referral agreements** – identify health and supportive services providers and substance abuse treatment programs in the area served by the prevention program and, as appropriate, develop and enter into referral agreements with the identified providers and programs;

(4) **Referral for care and services** – encourage program participants to seek appropriate medical care, mental health services, substance abuse treatment, or social services and, as appropriate, make referrals to health and supportive services providers and substance abuse treatment programs with which the prevention program has entered into referral agreements;

(5) **Recordkeeping** – ensure participant anonymity in the program's recordkeeping;

(6) **Confidentiality** – comply with applicable state and federal laws governing participant confidentiality;

(7) **Participant identification** – provide program participants with documentation identifying the individual as an active participant in the program.

Reports

The act requires a board of health that establishes a bloodborne infectious disease prevention program to include details about the program in its comprehensive annual report submitted to the ODH under continuing law. Additionally, a prevention program may report to the Department of Mental Health and Addiction Services demographic information about each program participant.

Notice of prevention program location

A board of health that decides to establish a bloodborne infectious disease prevention program must provide written notice of the proposed location to the governing authority of the city, village, or township in which the program is to be located. The act specifies that the governing authority retains all zoning rights.



Immunity from criminal prosecution

The act provides that if carrying out a duty under a component of a bloodborne infectious disease prevention program would be considered a violation of laws regarding possessing criminal tools, possessing drug abuse instruments, possessing drug paraphernalia, or furnishing hypodermic needles, an employee or volunteer of the program is not subject to criminal prosecution for the violation.

With regard to program participants, the act provides that if participating in a component of a prevention program would be considered a violation of laws regarding possessing criminal tools, possessing drug abuse instruments, or possessing drug paraphernalia, a program participant who is within 1,000 feet of a program facility and in possession of documentation from the prevention program identifying the individual as an active participant is not subject to criminal prosecution for the violation.

Physician and Dentist Loan Repayment Programs

(R.C. 3702.74 and 3702.91)

The act 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 act repeals a provision that required the amount of state funds included in a participant's repayment to equal the amount of federal funds that was included in the repayment if the source of the federal funds was the Bureau of Clinician Recruitment and Services (BCRS) in the U.S. Department of Health and Human Services. Instead, the act requires the amount of state funds included in a participant's repayment to equal the amount of federal funds included in the repayment if the repayment includes funds from any federal source.

With respect to the Dental Loan Repayment Program, the act repeals a provision that permitted teaching activities to count as service hours only if they involved supervising dental students and dental residents at the service site. The act provides instead that teaching activities consist of 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 act changes requirements in the Vital Statistics Law for signatures on vital records to permit signatures to be made by electronic means. Prior to the act, all birth,



fetal death, and death records and certificates had to be printed legibly or typewritten in unfading black ink and facsimile signatures were prohibited. The act 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.

Photograph or copy a birth or death record

(R.C. 3705.231)

The act requires a local registrar to allow an individual to photograph or otherwise copy a birth or death record.

Newborn screening for Krabbe disease

(R.C. 3701.501)

The act generally requires Krabbe disease to be a disorder for which newborns born on or after July 1, 2016, are screened under ODH's Newborn Screening Program, and prescribes the testing process that must be used for the screening. The screening requirement does not apply to a child whose parents have chosen to forgo the screening.

Immunizations

(Section 289.30)

The act 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 act, 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.

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 act 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 a provision that required a hospital to offer the exam to every inpatient female age 18 or older, unless the exam was contrary to the attending physician's orders or had been performed within the preceding year.

Law unchanged by the act permits the patient to refuse the exam. If a hospital offers the exam, the act requires it to maintain records of the results or to record that the exam was refused.

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:

- (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.

Hospital transparency (VETOED)

(Section 289.60)

The Governor vetoed a provision that would have required, within one year, all hospitals operating in Ohio to have either of the following in place:

- A process under which the hospital could provide, upon a consumer's request, a reasonable, good faith estimate of a patient's out-of-pocket expenses associated with the hospital's 100 most frequently provided nonemergency, outpatient services;



- A process under which the hospital could direct consumers to a source, including the consumer's health plan issuer, where the consumer could get that information.

Within two years, all hospitals operating in Ohio were to have had either of these same processes in place for the hospital's 100 most frequently provided inpatient services.

A good faith estimate was to include information, provided in a conspicuous manner if the estimate was written, that informed the patient that the information provided was a good faith estimate based on information available at the time, and that the actual cost to the patient could be different. The act would have required health plan issuers to provide information to hospitals as needed to provide the estimates. On or about the act's respective deadlines related to these estimates, a representative of the Ohio Hospital Association was to provide to the Joint Medicaid Oversight Committee a collective report of hospitals' experience in providing these estimates.

Health Services Cost Estimate Study Committee (VETOED)

(Section 227.20)

The Governor vetoed a provision that would have established, under the Office of Health Transformation, the Health Services Cost Estimate Study Committee. The Committee would have studied the impact and feasibility of requiring health services providers to provide, upon request by a consumer, estimates of the consumer's out-of-pocket cost for common products, procedures, and services offered by the provider for the purpose of cost comparison on the part of the consumer. Not later than December 31, 2015, the Committee would have made a report of its findings and deliver that report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. If the report viewed the implementation of such a requirement favorably, the report would have included recommendations regarding legislation and associated rules for enactment and adoption.

Hope for a Smile Program (VETOED)

(R.C. 3701.139 and 5747.01(A); Section 803.370)

The Governor vetoed a provision that would have established 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. Under the Program, the Director of Health would have been required to secure, maintain, and operate a bus as a mobile dental unit. The vetoed provision also would have created 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.

A detailed description of the vetoed provision is available on pages 250 through 252, and page 422, of LSC's analysis of the House version of H.B. 64. The analysis is available online at www.lsc.ohio.gov/budget/agencyanalyses131/passedhouse/h0064-ph-131.pdf.

Legislative Committee on Public Health Futures

(Section 737.10)

Re-establishment and purpose

The act re-establishes the Legislative Committee on Public Health Futures, that was established in 2012 by H.B. 487 of the 129th General Assembly. It requires the Committee to review (1) the June 2012 report of the Public Health Futures Project Steering Committee of the Association of Ohio Health Commissioners and (2) the October 2012 report of the previous Legislative Committee on Public Health Futures. The Committee must review the effectiveness of recommendations from those reports that are being or that have been implemented. Based on the knowledge and insight gained from its reviews, the Committee must make legislative and fiscal policy recommendations that it believes would improve local public health services in Ohio.

The Committee, by January 31, 2016, must prepare a report that describes its review of the reports and of the recommendations that are being or that have been implemented, and that states and explains the Committee's new policy recommendations. The Committee must transmit its report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House. Upon transmitting its report, the Committee ceases to exist.

Appointment and membership

ODH and each of the following associations must appoint one individual to the Committee: the County Commissioners Association of Ohio, the Ohio Township Association, the Ohio Public Health Association, the Ohio Environmental Health Association, the Ohio Boards of Health Association, the Ohio Municipal League, and the Ohio Hospital Association. The Association of Ohio Health Commissioners must appoint two individuals. The President and Minority Leader of the Senate each must appoint two members. The Speaker and Minority Leader of the House each must appoint two members to the committee. Of the two appointments made by each legislative leader, one must be a member of the General Assembly from the appointing member's chamber.



Appointments must be made as soon as possible, but not later than October 29, 2015. Vacancies must be filled in the same manner as the original appointment.

As soon as all members have been appointed, the President of the Senate must fix a time and place for the Committee to hold its first meeting. At that meeting, the Committee must elect from among its membership a chairperson, a vice-chairperson, and a secretary. The ODH Director must provide the Committee with meeting and office space, equipment, and professional, technical, and clerical staff as necessary to enable it successfully to complete its work.

Moms Quit for Two Grant Program

(Sections 289.10, 289.20, and 289.33)

The act requires ODH to create the Moms Quit for Two Grant Program. Under the Program, ODH – recognizing the significant health risks posed to women and their children by tobacco use during and after pregnancy – must award grants to private, nonprofit entities or government entities that demonstrate the ability to deliver evidence-based tobacco cessation interventions to women who (1) reside in communities that have the highest incidence of infant mortality, as determined by the ODH Director, and (2) are pregnant or live with children. The act authorizes ODH to adopt rules it considers necessary to administer the Program.

ODH must create a grant application and develop a process for receiving and evaluating completed grant applications on a competitive basis. ODH must select grant recipients not later than December 31, 2015, giving first preference to the private and government entities that are able to target the interventions to pregnant women and second preference to those entities that are able to target the interventions to women living with children. The act specifies that ODH's decision regarding a submitted grant application is final.

ODH must establish performance objectives to be met by grant recipients and monitor the performance of each grant recipient in meeting the objectives.

After the Program's conclusion, ODH must evaluate the Program. Not later than December 31, 2017, ODH must prepare a report describing its findings and make a recommendation on whether the Program should be continued. A copy of the report must be provided to the Governor and the General Assembly. In addition, ODH must make the report available to the public on its website.



Annual report on government programs to reduce infant mortality

(R.C. 3701.95)

The act requires the ODH Director to identify each government program (other than the Help Me Grow program) providing benefits that has the goal of reducing infant mortality and negative birth outcomes or the goal of reducing disparities among women who are pregnant or capable of becoming pregnant and who belong to a racial or ethnic minority. The Director is to identify only those programs that provide education, training, and support services to program participants in their homes. The Director may consult with the Ohio Partnership to Build Stronger Families to assist in identifying the programs.

For each program the Director identifies, the program's administrator must report to the Director data on performance indicators that assess the program's progress toward achieving its goals. The specific performance indicators that must be reported by the programs are to be established by the Director in rules. The act specifies that the performance indicators must, to the extent possible, be consistent with federal reporting requirements for federally funded home visiting services. The Director must also adopt rules establishing the format and time frame in which the administrators are to report the data. The rules are to be adopted in accordance with the Administrative Procedure Act.

Using the reported data, the Director must prepare an annual report that assesses the performance of each identified program during the 12-month period covered by the report. In addition, the report must summarize and provide an analysis of information contained in the "information for medical and health use only" section of the records for children born during the relevant 12-month period. The Director must provide a copy of the report to the General Assembly and the Joint Medicaid Oversight Committee.

Violation of smoking prohibitions

(R.C. 3794.07)

The act requires ODH to adopt rules prescribing fines for violations committed by retail tobacco stores regarding filings with ODH for an exemption from 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 act exempts fines charged for violations regarding filings with ODH for the retail tobacco store exemption from this progressive schedule of fines.



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." (Retains the title of "Chancellor" as the title for the head of the agency.)

Tuition and fees

- For fiscal years 2016 and 2017, prohibits an increase in in-state undergraduate instructional and general fees for all state institutions of higher education, except a state university that establishes an undergraduate tuition guarantee program.
- Requires state institutions of higher education to develop and implement a plan to provide all in-state, undergraduate students the opportunity to reduce the student cost of earning a degree by 5%.
- Beginning with the 2015-2016 academic year, requires state institutions of higher education to annually report to the Chancellor any increase in, or addition of, auxiliary fees charged by the institution and the justification for the increase or addition.
- 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) lives in the state as of the first day of a term of enrollment.
- Qualifies a person for in-state tuition at a state institution of higher education, if the person (1) is receiving certain federal veterans' education benefits from a veteran who served on active duty for at least 90 days, and (2) lives in the state as of the first day of a term of enrollment.
- 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.
- 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.

Ohio Appalachian Teaching Fellowship

- Establishes the Ohio Appalachian Teaching Fellowship.



Transfer of college courses and associate degrees

- Requires the Chancellor to update, by December 1, 2018, policies for the transfer and articulation of college courses and degrees to ensure that any associate degree offered at a state institution of higher education may be transferred to any other state institution and applied to a bachelor degree program.
- Requires the Chancellor, at the end of each academic year, to develop and release a report regarding the transfer of college courses and degrees at state institutions of higher education.

College credit for International Baccalaureate courses

- Requires each state institution 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.
- Prohibits a student from being disqualified as a voting student trustee on the basis that the student receives financial aid or is employed in certain student employment positions.
- Exempts voting student trustees from the law that disqualifies 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 in order to provide students with education and training in a targeted industry.
- Requires the Chancellor to (1) adopt rules for the program, (2) to administer the program, and (3) select five partnerships to participate in the program.
- Provides a grant of \$150,000 for each partnership selected for participation in the program, which must be used for transportation, classroom supplies, and primary instructors for the program.



On-campus student housing

- Prohibits a state university from requiring a student to live in on-campus student housing, if the student lives within 25 miles of campus.

Reports

- Moves, from December 31 to February 15, the annual deadline for the Chancellor to report to the Governor and the General Assembly the aggregate academic growth data for students of graduates of teacher preparation programs.
- Eliminates a requirement that the Chancellor annually (1) submit to the Governor and the General Assembly a report including a description of advanced standing courses offered by public and chartered nonpublic schools and (2) post the information on the Chancellor's website.
- Requires each state institution of higher education, by January 1, 2016, and every five years thereafter, to evaluate, based on enrollment and student performance, all courses and programs the institution offers.
- Requires the University of Toledo's Human Trafficking and Social Justice Institute, in conjunction with other state universities, to develop and submit a plan by January 31, 2016, to address human trafficking.

OU committee

- Eliminates the requirement that the Ohio University College of Osteopathic Medicine 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 September 29, 2015, to be fingerprinted and to be fingerprinted only once.

Higher Education Innovation Grant Program

- Requires the Chancellor 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

- Requires the Chancellor, in consultation with state and private nonprofit institutions of higher education, by December 31, 2015, to develop implementation strategies regarding career counseling.

Response to Task Force report (PARTIALLY VETOED)

- Requires all state institutions of higher education, upon submission of the report of the Task Force on Affordability and Efficiency in Higher Education, to complete an efficiency review based on the report and to provide a report to the Chancellor that describes how it will implement the recommendations and other cost savings measures.
- Would have specified that no recommendation of the Task Force could be implemented without the approval of the General Assembly or the enactment by the General Assembly of any required changes in Ohio law (VETOED).

Higher education health benefits plans

- Prohibits a state institution of higher education from providing excess health benefits to an employee that would trigger the excise tax on the plans under federal law.

Scholarship reserve funds

- Makes changes regarding the administration of scholarship program reserve funds.

Board of Regents name change

(R.C. 121.03, 3333.012, and 3333.03 (primary); R.C. 121.40, 125.901, 1713.02 to 1713.06, 1713.09, 1713.25, 3301.0712, 3313.603, 3313.902, 3319.22, 3319.223, 3333.01, 3333.011, 3333.021, 3333.032, 3333.04, 3333.042 to 3333.0413, 3333.05 to 3333.31, 3333.33 to 3333.37, 3333.372 to 3333.375, 3333.39, 3333.391, 3333.392, 3333.43, 3333.44, 3333.50, 3333.55, 3333.58, 3333.59, 3333.61 to 3333.69, 3333.71 to 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 to 3345.76, 3345.81, 3354.01, 3365.02, 3365.034, 3365.07, 3365.15, 4763.01, 5104.30, 5709.93, 5747.01, 5751.20, 5910.08, and 5919.341; Sections 263.210, 263.260, and 733.13; Uncodified Chapter 369.)



The act renames the administrative office of the Ohio Board of Regents as the "Department of Higher Education." The act maintains law that the head of the agency is called "Chancellor" and that the Board of Regents itself acts as an advisory board to the Chancellor.

Prohibition on undergraduate tuition increases

(Section 369.170)

For fiscal years 2016 and 2017 (the 2015-2016 and 2016-2017 academic years), the act prohibits the board 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 2014-2015 academic year.

As in previous biennia when the General Assembly capped tuition increases, the act's prohibition does 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 Chancellor, with Controlling Board approval, may approve or increase to respond to exceptional circumstances as the Chancellor identifies.

The act specifies that its prohibition on increases also does not apply to institutions that participate in an undergraduate tuition guarantee program (see below).

Reducing college costs (5% challenge)

(R.C. 3345.39; Section 369.600)

The act requires each state institution of higher education to develop and implement a plan to provide all in-state, undergraduate students the opportunity to reduce the student cost of earning a degree by 5%. Each institution must submit its plan to the Chancellor by October 15, 2015.

The plan may include, but is not limited to, the following methods to reduce costs:

(1) Reducing the credit hours required to complete an associate or baccalaureate degree offered by the institution;

(2) Offering a tuition discount or rebate to any student that completes a full load of coursework, as determined by the institution;

(3) Offering a tuition discount or rebate or reduced tuition option to students enrolling in a summer semester or quarter;



- (4) Offering online courses or degrees;
- (5) Reducing the cost of textbooks using cost-saving measures identified and implemented by the institution;
- (6) Incorporation of remediation in the coursework and curriculum of credit-bearing courses;
- (7) Offering a fixed rate of instructional and general fees for any additional credits taken by students above a full course load, as determined by the institution;
- (8) Offering fast-track degree completion programs;
- (9) Eliminating, reducing, or freezing auxiliary fees;
- (10) Increased participation in the College Credit Plus program; and
- (11) Offering programs to reduce or eliminate the need for remediation coursework.

In addition, beginning with the fall semester, or equivalent quarter, of the 2015-2016 academic year, the act requires each state institution of higher education annually to report to the Chancellor any increase in, or addition of, auxiliary fees charged by the institution and the justification for such action. The act requires the Chancellor to establish procedures for reporting the information.

For these purposes, the act defines "auxiliary fees" as charges assessed by an institution to a student for various educational expenses (including course-related fees, lab fees, books and supplies, room and board, transportation, enrollment application fees, and other miscellaneous charges), but do not include instructional or general fees (tuition).

In-state tuition for veterans and other specified persons

(R.C. 3333.31)

The act 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) live in the state as of the first day of a term of enrollment at the institution.



The act also qualifies a person who is the recipient of either (1) the federal Marine Gunnery Sergeant John David Fry Scholarship or (2) transferred education benefits under either of the aforementioned G.I. Bills, for in-state tuition at state institutions of higher education. To qualify, the person must live in the state as of the first day of a term of enrollment at the institution, and the veteran through whom such benefits were obtained must have served on active duty for at least 90 days.

Finally, the act defines "veteran" for the purpose of the provision as "any person who has completed service in the uniformed services." The uniformed services include the U.S. armed forces, the National Guard and organized militia, the Merchant Marine, the Commissioned Corps of the Public Health Service, and the Commissioned Corps of the National Oceanic and Atmospheric Administration.⁷³

Continuing law on in-state tuition for veterans, spouses, and dependents

Continuing law, not affected by the act, 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 act, veterans and their spouses and dependents may continue to qualify under this provision or may qualify under the act's new provision (see above), so long as all of the criteria are met.

Overload fees

(R.C. 3345.46)

The act prohibits state institutions of higher education from charging overload fees for courses taken in excess of the institution's full course load, except for the following:

(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).

⁷³ R.C. 3511.01, not in the act.



(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 act 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 act revises the provision of law that authorizes a state university to establish a tuition guarantee program to permanently specify that 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, except for limits explicitly imposed by that provision.

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 for an academic year, then no limit applies to the one-time increase under the guarantee for a cohort that first enrolls in that academic year.

Ohio Appalachian Teaching Fellowship

(Section 263.130)

The act earmarks \$125,000 in each of fiscal years 2016 and 2017 for the Ohio Appalachian Teaching Fellowship to provide funding to assist with the costs of college tuition, instructional materials, and fees for exceptional students who commit to teach in the Appalachian region of the state for four years upon graduating from college. Fellows are to be selected during their senior year of high school.



The fellowship is to be led and managed by a nonprofit education organization, selected by the state Superintendent, with diverse experience in teacher, leader, and system development in school districts across the country, including experience working with schools in the Appalachian region. The selected nonprofit organization must provide enrichment activities to supplement the fellows' educational experiences to prepare them for the unique challenges of teaching in the Appalachian region.

Transfer of college courses and associate degrees

(R.C. 3333.16 and 3333.165)

Under continuing law, the Chancellor is required to establish policies and procedures to ensure the transfer and articulation of college courses and degrees without unnecessary duplication or institutional barriers, which are applicable to all state institutions of higher education. The act requires the Chancellor, by December 1, 2018, to update and implement these policies and procedures to ensure both of the following:

(1) Any associate degree offered at a state institution of higher education may be transferred to any other state institution of higher education and applied to a bachelor degree program in an equivalent field; and

(2) Each transferred associate degree applies to the student's degree objective in the same manner as equivalent coursework completed at the receiving institution.

When updating and implementing these policies and procedures, the Chancellor must seek input from faculty and academic leaders in each academic field or discipline.

Additionally, the act requires the Chancellor, at the end of each academic year, to develop and release a report on the transfer of college courses and degrees that are subject to the articulation and transfer policies developed by the Chancellor. Specifically, the report must include all of the following information:

(1) The total number of courses successfully transferred to state institutions of higher education during the most recent academic year for which data is available;

(2) The total number of courses that were not accepted for transfer at state institutions of higher education during the most recent academic year for which data is available; and

(3) The number of students who earned an associate degree at a community college, a state community college, or a university branch and successfully transferred that degree to a state university.



College credit for International Baccalaureate courses

(R.C. 3345.38)

The act requires 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). 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; and

(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.

OSU student trustee voting power

(R.C. 3335.02 and 3335.09)

The act 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 generally 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 act exempts student trustees who are granted voting power from this disqualification.

STEM Public-Private Partnership Pilot Program

(Section 733.13)

The act 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 program is to operate for fiscal year 2017. A partnership selected for participation may use the grants awarded only for transportation, classroom supplies, and primary instructors for a course offered under the program.



The Chancellor must select five partnerships to participate in the STEM Public-Private Partnership Pilot Program – one from each quadrant of the state and one from the central part of the state. Each partnership will receive a one-time grant of \$150,000.

The Chancellor must adopt rules for implementation of, and also must administer, the program. The rules must 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, but may partner with multiple private companies within that industry.

(3) Students will earn college credit from the community college or state community college for courses taken under the program.

(4) Students, high schools, and colleges that participate in the program must do so under the College Credit Plus program.

(5) The curriculum offered by the 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.

Selection of partnerships

In order to select the partnerships, the Chancellor must develop an application and review process. The community college or state community college is responsible for submitting the application for the partnership to the Chancellor, which must include a proposed budget for the program (presumably insofar as the applicant's participation in the program is concerned).

The Chancellor is to select the five partnerships for the 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 program; and
- (7) The level of investment made by the private company partners in the partnership (financially and through the use of facilities, equipment, and staff).

On-campus student housing

(R.C. 3345.47)

The act prohibits a state university from requiring a student to live in on-campus student housing, if the student lives within 25 miles of campus. For purposes of this provision, "on-campus student housing" includes dormitories or other student residences that are owned or operated by, or located on the campus of, the university.⁷⁴

Annual report on teacher preparation graduates

(R.C. 3333.041)

The act moves, from December 31 to February 15, the annual deadline for the Chancellor to report to the Governor and the General Assembly the aggregate academic growth data for students of graduates of teacher preparation programs.

Annual report on advanced standing programs

(R.C. 3333.041)

The act eliminates a requirement that the Chancellor annually submit to the Governor and the General Assembly a report including a description of advanced standing courses offered by public and chartered nonpublic schools. It also eliminates the requirement to post the information in the report on the Chancellor's website. Advanced standing programs include the College Credit Plus program, Advanced Placement courses, International Baccalaureate diploma courses, and Early College High School programs.⁷⁵

⁷⁴ R.C. 3345.85, not in the act.

⁷⁵ R.C. 3313.6013(A), not in the act.



Evaluation of courses and programs

(R.C. 3345.35)

The act requires each state institution of higher education to evaluate, by January 1, 2016, and by January 1 every five years thereafter, 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, not later than 30 days after completion of the evaluation, each institution must submit its findings to the Chancellor.

Plan to address human trafficking

(Section 369.620)

The act requires the University of Toledo's Human Trafficking and Social Justice Institute, in conjunction with other state universities, to develop a plan that does both of the following:

- (1) Outlines how state universities can work with federal, state, and local officials and other organizations to respond to the global problem of human trafficking; and
- (2) Includes methods to ensure that university-level research, legal information, and educational programs are available statewide.

The plan must be submitted to the General Assembly, the Governor, and the Chancellor by January 31, 2016.

OU committee

(R.C. 3337.10; R.C. 3337.11 (repealed))

The act 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. Finally, it eliminates a duty of the committee to annually submit recommendations to OU's Board of Trustees.

OSU Extension fingerprinting of 4-H volunteers

(R.C. 3335.361)

The act 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 September 29, 2015, 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.

Higher Education Innovation Grant Program

(R.C. 3333.70)

The act requires the Chancellor 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 Chancellor 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.

The act requires the Chancellor to adopt rules to administer the program, including requirements that each grant application provide for all of the following:

- (1) A system to measure academic achievement and reductions in expenditures;
- (2) Demonstration of how the project's value will be sustained beyond the grant period and continue to provide substantial value and lasting impact;
- (3) Proof of commitment from all parties responsible for implementing the project; and
- (4) Implementation of an ongoing evaluation process and improvement plans, as necessary.

Work experiences and career counseling in curriculum programs

(Section 369.570)

The act requires the Chancellor, in consultation with state institutions of higher education and private nonprofit institutions of higher education, to develop implementation strategies by December 31, 2015, to do all of the following:

- (1) Embed work experiences, including 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 also must include the use of the OhioMeansJobs website as a central location for students to access information on work experiences and career opportunities. Moreover, by December 31, 2015, each institution must display a link to the OhioMeansJobs website in a prominent location on the institution's website.

Finally, the act requires the Chancellor to work with institutions of higher education to have a career counseling program in place by December 31, 2015.

Response to Task Force report (PARTIALLY VETOED)

(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.⁷⁶ 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.

The act 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 Chancellor that describes how it will implement the recommendations and any other cost savings measures.

The Governor vetoed a provision that would have specified that no recommendation of the Task Force could be implemented without the approval of the General Assembly or, if a change to Ohio law were necessary for the recommendation to take effect, without the enactment of the required changes in Ohio law by the General Assembly.

Higher education health plans – excess benefits prohibited

(R.C. 3345.311 and 4117.10)

The act prohibits a state institution of higher education from providing "excess benefits" to an employee that would trigger the federal excise tax on high cost employer-sponsored health coverage (commonly referred to as the "Cadillac Tax"). A state institution of higher education may provide excess benefits to an employee that would trigger the excise tax if the excess benefits are provided pursuant to a policy or

⁷⁶ Executive Order 2015-01K.



contract that was issued or entered into prior to September 29, 2015. This provision prevails over any conflicting provision of a collective bargaining agreement entered into on or after that date.

This provision may conflict with division (B) Article I, Section 21, Ohio Constitution, which prohibits any federal, state, or local law or rule from prohibiting the purchase or sale of health care or health insurance.

Scholarship reserve funds

(R.C. 3333.124, 3333.613, 5910.08, and 5919.341)

The act authorizes the Director of Budget and Management to transfer funds from the reserve funds of the Ohio College Opportunity Grant Program, Choose 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. Continuing law authorizes the Director to transfer "any unencumbered balance" of those funds to the GRF.

The act also authorizes the Director 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 needed. Additionally, the act eliminates an authorization for the Director to seek Controlling Board approval to establish appropriations for the National Guard Scholarship Reserve Fund.

Finally the act 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 Chancellor must certify to the Director the unencumbered balance of GRF appropriations made in the immediately preceding fiscal year for the Ohio College Opportunity Grant Program, Choose 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 an actuarial certification.

Use of genetic information by insurers

- Prohibits public employee benefit plans and MEWAs from using genetic information in relation to reviewing applications, determining insurability, determining benefits, or the setting of premiums.
- Expands the prohibition against health insuring corporations and sickness and accident insurers using genetic information for specified purposes to include the setting of premiums.

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.



Continuing education for insurance agents

- Modifies the continuing education requirements for licensed insurance agents to specify that an agent must complete at least 24 hours of continuing education for each licensing period.

Innovative waiver regarding health insurance coverage

- Requires the Superintendent to apply for a federal waiver authorized by the Patient Protection and Affordable Care Act of 2010 for the purpose of establishing a system that provides access to affordable health insurance coverage for Ohio residents.
- Requires the Superintendent to include in the application a request for waivers of the federal employer and individual mandates established by the Patient Protection and Affordable Care Act.

Pharmacy benefit managers and maximum allowable cost

- Requires pharmacy benefit managers to be licensed as third-party administrators.
- Places requirements relating to maximum allowable cost on contracts between pharmacy benefit managers and plan sponsors.
- Prescribes disclosure requirements for health benefit plans offered through an exchange.
- Permits the Superintendent to assess a fine against a pharmacy benefit manager if the pharmacy benefit manager commits fraud or violates any of the act's requirements pertaining to pharmacy benefit managers.

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.
- Specifies that an insurer that does not provide the required information is committing an unfair and deceptive practice in the business of insurance.



Multiple employer welfare arrangements

Eligibility

(R.C. 1739.02; conforming changes in R.C. 1739.03 and 1739.20)

The act makes changes to the eligibility requirements pertaining to groups forming a multiple employer welfare arrangement (MEWA). The act 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 act also extends to five years the time period a group must have been organized and maintained before registering as a MEWA. Under former law, only a trade association, industry association, or professional association that was maintained continuously for one year could form a MEWA.

Surplus requirement

(R.C. 1739.13; Section 812.10)

Continuing 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 act increases the required minimum surplus from \$150,000 to \$500,000. These requirements take effect September 29, 2017, 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 act 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 act 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 former 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.⁷⁷ The act 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 act additionally prohibits a MEWA from 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 act 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:

- Comply with accepted actuarial practices;
- Are uniformly applied to arrangement members, employees of members, and the dependents of members or employees;

⁷⁷ R.C. 1739.01(B), not in the act.



- 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(B), 1751.18, 1751.65, and 3901.491)

The act prohibits health plan issuers from using genetic information in relation to providing health insurance coverage. Continuing law prohibits health insuring corporations and sickness and accident insurers from using genetic information in relation to reviewing applications, determining insurability, or determining benefits. The act expands this prohibition to apply to MEWAs 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 act removes the 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 act requires such an insurance agent to obtain a signed statement that does not need to be notarized from the insured acknowledging the same information.

Continuing education for insurance agents

(R.C. 3905.481)

The act modifies the continuing education requirements for licensed insurance agents to specify that an agent must complete at least 24 hours of continuing education *for* each licensing period. Former law required 24 hours of continuing education *in* each licensing period.

Innovative waiver regarding health insurance coverage

(R.C. 3901.052)

The act requires the Superintendent of Insurance to apply to the U.S. Secretary of Health and Human Services and the U.S. Secretary of the Treasury for an innovative waiver regarding health insurance coverage in Ohio as authorized by the Patient Protection and Affordable Care Act. The application is to provide for the establishment



of a system that provides access to affordable health insurance coverage for Ohio residents. The Superintendent must include in the application a request for waivers of the employer and individual mandates in the Patient Protection and Affordable Care Act. The employer mandate requires an employer with at least 50 full-time equivalent employees to offer qualifying health insurance coverage to at least a certain percentage of its full-time equivalent employees and their dependent children or pay a tax penalty.⁷⁸ The individual mandate is a requirement that an individual, unless exempt, obtain qualifying health coverage or pay a tax penalty.⁷⁹

Pharmacy benefit managers and maximum allowable cost

(R.C. 3959.01, 3959.111, and 3959.12)

Licensure

Continuing law requires third-party administrators to obtain a license from the Department of Insurance. The act specifies that pharmacy benefit managers are a type of third-party administrator, and by extension, requires pharmacy benefit managers to be licensed as third-party administrators. A "pharmacy benefit manager" is an entity that contracts with pharmacies on behalf of a plan sponsor to provide pharmacy health benefit services or administration. "Plan sponsor" means an employer, an MEWA, public employee benefit plan, state agency, insurer, managed care organization, or other third-party payer that facilitates a health benefit plan that provides a drug benefit that is administered by a pharmacy benefit manager.

Maximum allowable cost

The act also sets requirements relating to maximum allowable cost on contracts between pharmacy benefit managers and pharmacies. "Maximum allowable cost" means a maximum drug product reimbursement for an individual drug or for a group of therapeutically and pharmaceutically equivalent multiple source drugs that are listed in the U.S. Food and Drug Administration's Orange Book (formally known as Approved Drug Products with Therapeutic Equivalence Evaluations).

Maximum allowable cost list

In order to place a prescription drug on any maximum allowable cost list (a list of drugs for which a pharmacy benefit manager imposes a maximum allowable cost), in the contract the pharmacy benefit manager must be required to ensure that all of the following conditions are met:

⁷⁸ 26 U.S.C. 4980H.

⁷⁹ 26 U.S.C. 5000A.



- The drug is listed as "A" or "B" rated in the most recent version of the Orange Book, or has an "NR" or "NA" or similar rating by a nationally recognized reference.
- The drug is generally available for purchase by Ohio pharmacies from a national or regional wholesaler and is not obsolete.

The act requires a pharmacy benefit manager to maintain a procedure to eliminate drug products from the maximum allowable cost list in a timely manner.

Maximum allowable cost pricing

The act requires each contract between a pharmacy benefit manager and a pharmacy to include a provision granting the pharmacy the right to obtain, within ten days of any request, a current list of the sources the pharmacy benefit manager used to determine maximum allowable cost pricing. Additionally, the pharmacy benefit manager is required to update and implement its pricing information at least every seven days and provide a means by which pharmacies can promptly review pricing updates in a readily accessible format.

Appeal process

Each contract between a pharmacy benefit manager and a pharmacy must include an appeal, investigation, and dispute resolution process regarding maximum allowable cost pricing. The process must include 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 where the pharmacy may contact the pharmacy benefit manager to speak to a person responsible for processing appeals;
- A requirement that a pharmacy benefit manager provide a reason for any appeal denial and the national drug code of a drug that may be purchased in Ohio by the pharmacy at a price at or below the benchmark price determined by the pharmacy benefit manager;
- A requirement that a pharmacy benefit manager make an adjustment not later than one day after the date of determination of the appeal. The adjustment must be retroactive to the date the appeal was made and must apply to all similarly situated pharmacies. This requirement does not, however, prohibit a pharmacy benefit manager from retroactively



adjusting a claim for the appealing pharmacy or for another similarly situated pharmacy.

Disclosures

The act requires a pharmacy benefit manager to disclose to a plan sponsor whether or not the pharmacy benefit manager uses the same maximum allowable cost list when billing a plan sponsor as it does when reimbursing a pharmacy. If the pharmacy benefit manager uses multiple lists, the pharmacy benefit manager must disclose to the plan sponsor any difference between the amount paid to a pharmacy and the amount charged to the plan sponsor. The disclosures must be made within ten days of a pharmacy benefit manager and a plan sponsor signing a contract or within ten days of any applicable update to a maximum allowable cost list.

Health insurer compliance

The act specifies that a health insuring corporation or a sickness and accident insurer must comply with the act's maximum allowable cost provisions and is subject to the penalty imposed by the act (see "**Fining authority**," below) if the corporation or insurer is a pharmacy benefit manager.

Fining authority

The act permits the Superintendent to assess a fine against a third party administrator, including a pharmacy benefit manager, for (1) committing fraud or engaging in illegal activity in connection with administering pharmacy benefit management services or (2) violating any of the act's requirements pertaining to pharmacy benefit managers.

Health insurer required provision of information

(R.C. 3901.241)

The act requires an insurer offering a health benefit plan through a health benefit exchange established pursuant to the Patient Protection and Affordable Care Act, 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 act 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.⁸⁰

⁸⁰ R.C. 3901.19 to 3901.26, not in the act.



DEPARTMENT OF JOB AND FAMILY SERVICES

Child support

- 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.
- Repeals the Uniform Interstate Family Support Act (UIFSA), as previously enacted in Ohio, and replaces it with the 2008 version of UIFSA to adopt the 2001 and 2008 recommended changes.

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 immediate and irreparable financial harm as a basis for obtaining an emergency order for protective services that does not require 24-hour advance notice to the adult allegedly in need of protective services.
- Establishes procedures for obtaining an ex parte emergency protective services order.
- 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.



- Codifies the Step Up to Quality Program to require ODJFS and the Department of Education (ODE) to develop a tiered quality rating and improvement system for all Ohio early learning and development programs.
- Requires ODJFS and ODE to identify and implement ways to accelerate early learning and development programs' movement to higher tiers and to report their recommendations to the General Assembly by October 31, 2015.
- Requires the ODJFS Director to adopt rules establishing standards for minimum instructional time for child care facilities rated through the Step Up to Quality rating system.
- Consolidates ongoing 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.
- 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 (R.C. Chapter 119.).
- Requires ODJFS to suspend, without prior hearing, the license of a child care facility under specified circumstances.
- Permits child-care staff members to furnish evidence of qualifications to a designee of the Director.
- Raises to 300% (from 200%) of the federal poverty line, the maximum 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.
- Provides that a caretaker parent may not receive full-time publicly funded child care from more than one child care provider per child during a week unless the CDJFS grants the parent an exemption.
- Specifies by year the percentage of children that must be served by early learning and development programs with specific quality ratings.
- Requires the Director to establish an hourly reimbursement ceiling for in-home aides who provide publicly funded child care, rather than a reimbursement ceiling that is 75% of the ceiling for type B family day-care homes.

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.

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

- Authorizes boards of county commissioners to establish local healthier buckeye councils rather than county councils.



- Specifies the contents of a resolution that establishes a local council.
- Authorizes the formation of joint local councils.
- 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 ongoing 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 Pilot Program

- Repeals the Healthier Buckeye Grant Program and establishes the Healthier Buckeye Grant Pilot Program to award grants to local healthier buckeye councils, individuals, and organizations in fiscal year 2016 and fiscal year 2017.
- Creates the Healthier Buckeye Fund in the state treasury during fiscal year 2016 and fiscal year 2017 from which grants can be awarded under the Program.

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 ongoing 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.

Administrative Funds

- Creates the Unemployment Compensation Administrative Support Other Sources Fund, the Human Services Projects Fund, and the Workforce Development Projects Fund in the state treasury for use by ODJFS.

Administration of Workforce Innovation and Opportunity Act

- Requires the ODJFS Director to administer the Workforce Innovation and Opportunity Act (WIOA) during fiscal years 2016 and 2017.

Comprehensive Case Management and Employment Program (PARTIALLY VETOED)

- Requires ODJFS, in consultation with the Governor's Office of Workforce Transformation, to create, coordinate, and supervise the Comprehensive Case Management and Employment Program (CCMEP) during fiscal years 2016 and 2017.
- Requires that CCMEP, to the extent funds under the TANF block grant and WIOA are available, make certain employment and training services available to participants in accordance with comprehensive assessments of their employment and training needs.
- Requires work-eligible individuals between ages 16 and 24 to participate in CCMEP as a condition of participating in Ohio Works First (OWF).
- Permits OWF participants who are not work-eligible individuals and individuals receiving benefits and services under the Prevention, Retention, and Contingency Program (between ages 16 and 24) to volunteer to participate in CCMEP.



- Requires low-income adults, in-school youth, or out-of-school youth (between ages 16 and 24) who have barriers to employment to participate in CCMEP as a condition of enrollment in workforce development activities funded by the TANF block grant.
- Requires CCMEP to serve participants beginning July 1, 2016.
- Requires each board of county commissioners to designate, by May 15, 2016, either the CDJFS or workforce development agency (WDA) as the lead agency for purposes of CCMEP.
- Assigns to the lead agency certain duties, including the duty to administer CCMEP.
- Would have created an advisory board to submit an evaluation system for CDJFSs' and WDAs' administration of CCMEP, and would have required an evaluation system approved by ODJFS to be in place by July 1, 2016 (VETOED).
- Requires ODJFS, in consultation with CDJFSs and WDAs, to review the agencies' existing functions to discover opportunities for efficiencies so that CCMEP's capacity may be increased.

County TANF funding allocation review

- Requires ODJFS, by June 30, 2016, to complete a study of funding allocations to each county for programs funded by the TANF block grant in the most recently completed federal fiscal year.
- Requires the study to include a determination of the benefits and services provided in each county through the Prevention, Retention, and Contingency Program and other programs funded by the TANF block grant.

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 December 30, 2015, and for the program to last no longer than 18 months after it begins.

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.

Children's Trust Fund Board

- Divides the state into eight regions for the purpose of applying for, receiving, and implementing child abuse and child neglect services approved by the Children's Trust Fund Board (CTF Board).
- Eliminates child abuse and child neglect prevention advisory boards and creates child abuse and child neglect regional prevention councils for each region.
- Requires boards of county commissioners that oversee a child abuse and child neglect prevention advisory board to oversee the transfer of advisory board assets and liabilities and to complete or delegate any pending business of the advisory board.
- Requires the CTF Board to appoint a regional prevention coordinator to each region, selected by a competitive process conducted by the CTF Board.
- Removes the requirement that the CTF Board adopt a state plan for allocation of child abuse and child neglect prevention funds and instead requires it to adopt a strategic plan and allocate funding to councils and children's advocacy centers.
- Modifies the requirements governing the award of one-time, start-up costs for children's advocacy centers.

Child support

Support processing charge

(R.C. 3119.27)

The act 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 prior law, the amount charged was the greater of 2% of the support amount or \$1 per month.



Seek work orders for child support obligors

(R.C. 3121.03)

The act requires a court or a child support enforcement agency (CSEA), 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.

Uniform Interstate Family Support Act

The act repeals the Uniform Interstate Family Support Act (UIFSA), as previously enacted in Ohio, and replaces it with the 2008 version of UIFSA ("UIFSA-2008"). UIFSA-2008 includes the 2001 amendments to UIFSA adopted by the Uniform Law Commission that were never adopted in Ohio. Federal law requires each state to enact the 2008 UIFSA amendments by the end of its 2015 legislative session to continue receiving federal funding for state child support programs.⁸¹ The 2008 UIFSA amendments primarily focus on incorporating the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, signed by the United States in 2007. The Convention required certain changes to the uniform procedures established by UIFSA for handling international child support cases. The 2001 amendments cut across all aspects of UIFSA procedures and requirements. Highlights of the major provisions of UIFSA-2008 are provided below.

Determination of controlling order

(R.C. 3115.207, 3115.305, 3115.307, 3115.602, 3115.605, and 3115.607)

The act modifies several provisions of UIFSA related to the determination of a controlling order. Under UIFSA, one child support order (issued by an appropriate tribunal) is identified as the "controlling order" with which other states and international courts must abide. The process of determining the controlling order (DCO) is modified by UIFSA-2008.

⁸¹ Uniform Law Commission, "Legislative Fact Sheet – Interstate Family Support Act Amendments (2008)," www.uniformlaws.org/LegislativeFactSheet.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20%282008%29. See also Preventing Sex Trafficking and Strengthening Families Act, Public Law No. 113-183, Sec. 301 (2014).



Personal jurisdiction required

UIFSA-2008 clarifies that personal jurisdiction over the obligor and obligee subject to the order is necessary for determining the controlling order. The prior version of UIFSA was not clear about the requirement for personal jurisdiction.

Who may request a DCO and when?

UIFSA-2008 clarifies that a CSEA may request a DCO, in addition to an individual party. Additionally, UIFSA-2008 clarifies that a request for a DCO may be filed with a registration for enforcement, a registration for modification, or may be filed as a separate proceeding.

Notice requirements

With respect to a proceeding of registration for enforcement or registration for modification, if the registering party asserts that two or more orders are in effect, the notice issued to the nonregistering party must do the following:

- (1) Identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;
- (2) Notify the nonregistering party of the right to a determination of which is the controlling order;
- (3) State that the notice procedures generally applicable in a registration proceeding apply to the determination of which is the controlling order;
- (4) State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

Contesting a DCO

UIFSA-2008 provides that proving the alleged controlling order is not the controlling order is a defense for a party contesting the registration of a support order or who seeks to vacate the registration.

Required documents for a DCO

UIFSA-2008 requires a DCO request to be accompanied by a copy of every child support order in effect.



Required findings for a DCO

A tribunal that determines a controlling order or issues a new controlling order must state the following:

- (1) The basis upon which the tribunal made its determination;
- (2) The amount of prospective support, if any;
- (3) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made under any other child support order for support of the same child are credited.

Other DCO-related changes

UIFSA-2008 makes other changes to the DCO procedures:

- (1) Specifically authorizes a tribunal to determine the controlling child support order;
- (2) Requires a CSEA to make all necessary efforts to obtain a DCO for a party;
- (3) Provides guidelines and limitations regarding how a CSEA pursues a registration action. For example, UIFSA-2008 prohibits a CSEA from registering the support order with the highest support amount if multiple orders are in effect, and requires instead that a CSEA investigate and determine which order is actually controlling.

Registration of a foreign support order

(R.C. 3115.616)

UIFSA-2008 provides that a party or CSEA seeking to modify or to modify and enforce a foreign support order from a country that has not signed the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance may do so using the registration for enforcement process.

Calculation of arrears

(R.C. 6115.604(A)(2))

UIFSA-2008 requires a tribunal in a DCO proceeding to also determine the total amount of consolidated arrearages and accrued interest under all orders. Additionally the calculation of arrears and interest are to be governed by the law of the state or foreign country that issued the order.



Jurisdiction to modify orders

(R.C. 3115.201, 3115.205, 3115.611, 3115.613, and 3115.615)

Continuing, exclusive jurisdiction

Under UIFSA, a tribunal that has issued a controlling order has continuing, exclusive jurisdiction to modify the order if the obligor, obligee, or child who is the subject of the order lives in the state. UIFSA-2008 clarifies that the residence of those parties is determined at the time a request for modification is filed.

UIFSA-2008 also provides that a tribunal may modify a controlling order even if the obligor, obligee, or child who is the subject of the order does not live in the court's state if all the parties consent in a record or in open court for the tribunal to exercise jurisdiction.

UIFSA-2008 additionally clarifies that a tribunal may not exercise continuing, exclusive jurisdiction if all the parties consent to a tribunal in another state assuming continuing, exclusive jurisdiction.

Long-arm jurisdiction

Under UIFSA, it was not clear exactly how far a court could go to exercise its "long-arm" jurisdiction authority – meaning how and when the court can take action involving a nonresident of the court's state (that is, exercise "personal jurisdiction" over the person). UIFSA-2008 clarifies that a tribunal may not use UIFSA's long-arm provisions and thereby gain personal jurisdiction to modify a child support order of another state or country unless other conditions under UIFSA-2008 are met.

Authority to modify another jurisdiction's order when both parties live out of state

UIFSA-2008 provides that, notwithstanding the general requirements regarding modification of support orders and the long-arm jurisdiction requirements, a tribunal retains jurisdiction to modify an order issued by a tribunal of the same state if one party to the order resides in another state and the other party resides outside the United States.

Modification of support duration

UIFSA-2008 clarifies that the general prohibition against one state modifying any aspect of a child support order that could not otherwise be modified under the law of the issuing state includes the duration of the obligation of support. In any proceeding to modify a child support order, the law of the state that is determined to have issued the "initial" controlling order governs the duration of the obligation of support. Also, if the obligor has fulfilled the obligor's duty of support established by the initial controlling



order, UIFSA-2008 precludes imposition of a further obligation of support by a court in another state.

Redirection of payments

(R.C. 3115.307 and 3115.319)

Under UIFSA-2008, if the obligor, obligee, and child who is the subject of the child support order do not live in the state that issued the controlling order, the CSEA or tribunal of the issuing state must direct the support payment to the CSEA in the state in which the obligee receives services and issue and send to the obligor's employer an appropriate income withholding order or notice of change of payee regarding the redirected payments. UIFSA-2008 requires the CSEA of the state receiving redirected funds from another state to furnish to a requesting party or tribunal of the issuing state, upon request, a certified statement regarding the amount and dates of redirected payments. Similarly, a CSEA of one state can require a tribunal or CSEA of another state to issue a child support order and income withholding order that redirect payment of current child support, arrears, and interest.

Contesting income withholding

(R.C. 3115.506)

UIFSA-2008 permits an obligor to challenge a withholding order by registering it using the standard registration process and seeking protection from the tribunal pending the resolution of the challenge.

Hague Convention changes

(R.C. 3115.701 to 3115.713)

UIFSA-2008 adopts a series of changes required as a result of the United States joining the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. The Convention lays out uniform procedures for the processing of international child support cases. Changes to UIFSA provide guidelines and procedures for the registration, recognition, enforcement, and modification of foreign support orders from countries that are parties to the Convention. In general, it provides that foreign child support orders that a party seeks to be enforced in Ohio must be immediately registered in Ohio unless an Ohio tribunal determines that the registration would go against the policy of the state.



Other international law changes

Foreign currency exchange

(R.C. 3115.304, 3115.305, and 3115.307)

UIFSA-2008 places the burden on CSEAs and tribunals to convert the amount of support ordered in the foreign currency into the equivalent amount of dollars under the applicable exchange rates as publicly reported.

Modification across international borders

(R.C. 3115.615)

UIFSA-2008 permits a U.S. tribunal to modify an order issued by a foreign tribunal if the foreign tribunal would have authority to modify under the rules of UIFSA-2008 but it cannot or will not exercise jurisdiction due to limitations in the law of the foreign county or political subdivision. Under these circumstances, the order issued by an Ohio tribunal becomes the controlling order.

Comity under UIFSA

(R.C. 3115.104 and 3115.105)

UIFSA-2008 makes changes in order to incorporate the principles of comity regarding the recognition and enforcement of support orders issued by a foreign country or political subdivision.

Nondisclosure of information

(R.C. 3115.312)

UIFSA-2008 modifies provisions regarding the confidentiality of personal information of parties to a child support order. The act aligns the language with the Uniform Child Custody Jurisdiction and Enforcement Act in situations in which the health, safety, or liberty of a party or child would be jeopardized (such as when there is a risk of domestic violence or child abduction).⁸²

⁸² Enacted in Ohio as R.C. Chapter 3127.



Other changes

Evidentiary changes

(R.C. 3115.316)

First, UIFSA-2008 provides that a tribunal cannot compel the physical presence of any party in a UIFSA-2008 proceeding. Second, a party cannot be compelled to give testimony under oath to be admissible. Instead, if the testimony is provided under the penalty of perjury that is sufficient. Third, parentage can be established by a voluntary acknowledgement of paternity, certified as a true copy. Finally, a tribunal must permit parties or witnesses to testify remotely via telephone or other means.

Temporary support orders

(R.C. 3115.401)

UIFSA-2008 modifies the list of circumstances under which a tribunal can issue a temporary support order so that the circumstances are consistent with the bases for a temporary support order under the Uniform Parentage Act.⁸³

Choice of law provisions

(R.C. 3115.604)

UIFSA-2008 clarifies which state's law controls regarding the calculation of interest on arrears. If there are multiple orders and a DCO has not occurred, the arrears, including interest, under each order must be calculated using the law of the state that issued the order. After a DCO is made and arrears are consolidated, however, interest is calculated based on the state that issued the controlling order. Future issues regarding the interest rates on the balance of consolidated arrears are also determined by laws of the state that issued the controlling order.

Uniformity of application and construction of laws

(R.C. 3115.901)

The act states that its provisions must be construed and applied with the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

⁸³ The Uniform Parentage Act has not been enacted in Ohio.



Effective date of changes

(R.C. 3115.902; Section 812.10)

The UIFSA-2008 applies to proceedings begun on or after January 1, 2016, including the establishment of parentage or a support order or to register, recognize, enforce, or modify a prior order, determination, or agreement.

Severability clause

(R.C. 3115.903)

The act states that if any provision of R.C. Chapter 3115. or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to that end invalid provisions are severable.

Revised Code numbering for UIFSA

(R.C. 3115.101)

To preserve uniformity in Ohio's enactment of UIFSA-2008, the act uses the numbering system of the National Conference of Commissioners on Uniform State Laws. The digits to the right of a section's decimal point are sequential and not supplemental to any preceding Revised Code sections.

Cross-reference updates

(R.C. 145.56, 145.571, 742.462, 742.47, 2919.21, 3305.08, 3305.21, 3307.371, 3307.41, 3309.66, 3309.671, 5505.22, and 5505.261)

The act updates numerous cross-references throughout the Revised Code to correspond with the complete repeal and replacement of UIFSA, as enacted in Ohio.

Adult protective services

Statewide adult protective services information system

(R.C. 1347.08, 5101.612, and 5101.99)

The act 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 act 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 act 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 act 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 memorandum of understanding must be signed by the director of the CDJFS; the director of any state agency with which the CDJFS has 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 act requires all CDJFSs to be available to receive reports of elder abuse, neglect, or exploitation 24 hours a day and seven days a week. It specifies that the information in the reports is confidential and repeals a provision that required the information to be made available on request to agencies authorized by a CDJFS to receive the information.

Referring reports of elder abuse, neglect, or exploitation

(R.C. 5101.611)

The act 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 a resident of a nursing home and has allegedly been abused, neglected, or exploited by a nursing home employee, 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 local public children services agency. The referrals are to be made in accordance with rules ODJFS adopts.

Additionally, the act 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)

Continuing 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 alleged to be in need of protective services must be given 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 continuing 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 act 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 act adds provisions allowing for ex parte emergency protective-services orders. These are orders issued without prior notice to the adult. Under the act, 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 act 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)

The act requires (instead of permits as under prior law) ODJFS to provide a program of ongoing, comprehensive, formal training regarding the implementation of the law governing adult protective services. The act also requires 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 continuing law to adopt rules regarding CDJFSs' plans for proposed expenditures and reporting of expenditures for the program. The act 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)

Continuing 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 act 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.

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 act makes several changes to child day-care definitions. Under prior law, "child care" meant 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 act repeals the part of that definition that excludes care provided by relatives from child



care. The act also clarifies that care provided by an in-home aide is child care even though the care is provided in the child's own home.

Prior law defined Head Start as a comprehensive child development program that receives funds under federal law and is licensed as a child day-care center. The act maintains that definition but clarifies that Head Start serves children from birth to three years old and preschool-age children.

The act also expands the definition of "owner" of a center, type A home, and type B home. Under prior law, an owner was a person (which includes an individual, corporation, business trust, estate, trust, partnership, and association)⁸⁴ or a government entity. The act expands that definition to also include 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 act expands other provisions that relate to owners to apply to 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).⁸⁵

Finally, the act expands the definition of part-time child care. Under prior law, only centers or type A homes that provide child care for no more than four hours per day for any child met the definition. The act 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.

Step Up to Quality

(R.C. 5104.29 (primary), 5104.30, and 5104.31; Sections 263.20 and 305.163)

Prior law required ODJFS to use certain funds available under the federal Child Care Block Grant Act to establish a tiered quality rating and improvement system for child day-care providers. In response, ODJFS established the Step Up to Quality Program. The act codifies that program in the Revised Code, and provides that, in cooperation with the Department of Education, ODJFS is to develop a tiered quality rating and improvement system for all early learning and development programs in this state (clarifying that Step Up to Quality applies to preschool programs licensed by the Department of Education in addition to providers licensed by ODJFS).

⁸⁴ R.C. 1.59, not in the act.

⁸⁵ R.C. 5104.013 and 5104.03.



The act requires that the Step Up to Quality Program include all of the following components:

- (1) Quality program standards for early learning and development programs;
- (2) Accountability measures that include tiered ratings representing each program's level of quality;
- (3) Program and provider outreach and support to help programs meet higher standards and promote participation in the Step Up to Quality Program;
- (4) Financial incentives for early learning and development programs that provide publicly funded child care and are linked to achieving and maintaining quality standards;
- (5) Parent and consumer education to help parents learn about program quality and ratings so they can make informed choices on behalf of their children.

Step Up to Quality has the following goals:

- Increasing the number of low-income children, special needs children, and children with limited English proficiency participating in quality early learning and development programs;
- Providing families with an easy-to-use tool for evaluating the quality of early learning and development programs;
- Recognizing and supporting early learning and development programs that achieve higher levels of quality;
- Providing incentives and supports to help early learning and development programs implement continuous quality improvement systems.

Continuing law provides that, under the Program, participants may be eligible for grants, technical assistance, training, and other assistance. Participants that maintain a quality rating may be eligible for unrestricted monetary awards. The act provides that Step Up to Quality's tiered ratings are to be based on a participating program's performance in meeting standards in learning and development, administration and leadership practices, staff quality and professional development, and family and community partnerships. The Director of Job and Family Services, in collaboration with the Superintendent of Public Instruction, is required to adopt rules in accordance with the Administrative Procedure Act (Chapter 119.) to implement the Step Up to Quality Program.



Helping programs move to higher tiers

ODJFS and ODE are required to identify ways to accelerate early learning and development programs moving to higher tiers in the Step Up to Quality Program and identify strategies for appropriate ratings of type B homes. The departments may consult with the Early Childhood Advisory Council to facilitate their efforts and must include owners and administrators of early learning and development programs in the process. ODJFS and ODE must report their recommendations to the General Assembly by October 31, 2016.

Minimum instructional time

(R.C. 5104.015, 5104.017, and 5104.018)

The act 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 Step Up to Quality.

Criminal records checks and attestations

(R.C. 109.57, 109.572, 5104.012, 5104.013, 5104.04, 5104.09, 5104.37, and 5104.99)

The act consolidates all of the 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.⁸⁶ It also makes several substantive changes to these provisions.

First, the act extends 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, the act 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 act adds the following offenses to those 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

⁸⁶ R.C. 5104.013.

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.

Child day-care center staff training

(R.C. 5104.037 (repealed), 5104.015, 5104.016, and 5104.036)

Prior law required a child day-care center staff member to complete 15 hours of in-service training annually, with certain exceptions. The act 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 act authorizes the Director to contract with a government or private nonprofit entity to conduct inspections of type A family day-care homes. Continuing 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. Prior law authorized the Director to 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

(R.C. 5104.03)

Under the act, certain actions of the Director are not subject to the Administrative Procedure Act (R.C. Chapter 119.). Continuing law provides that, 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 until five years have elapsed from the date the license is revoked.

In addition, if the Director denies an application for licensure, continuing 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 act provides that the Director's refusal to issue a license because the application was filed within five years of either revocation or denial is not subject to the Administrative Procedure Act.



Summary suspension of child care licenses

(R.C. 5104.042 (new))

The act 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 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 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 with fraud.

Under the act, 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 in which the licensee's business is located.

The act 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 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.



Child-care staff credential procedures

(R.C. 5104.036)

The act 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

Law unchanged by the act requires the Director to adopt rules governing financial and administrative requirements for publicly funded child care, including the maximum income a family can have to qualify. Previously, that maximum income was capped at 200% of the federal poverty line for both initial and continued eligibility. The act increases the maximum income that the Director may establish to 300%.

Fees paid by caretaker parents

Law unchanged by the act also requires the Director to adopt a schedule of fees that may be charged to caretaker parents for publicly funded child care. Prior to the act, the Director was restricted from requiring a fee in excess of 10% of a family's income. The act repeals that limitation on the Director's ability to determine the fee schedule.

Full-time care from more than one provider

(R.C. 5104.34)

The act provides that a caretaker parent may not receive full-time publicly funded child care from more than one child care provider per child during a week, instead of during any period as provided in prior law, unless the county department of job and family services grants the parent an exemption from this prohibition. Under the act, a parent may obtain an exemption for one of the following reasons:

- (1) The child needs additional care during nontraditional hours;
- (2) The child needs to change providers in the middle of a week and the hours of care do not overlap;



(3) The child's provider is closed on scheduled school days off or on calamity days;

(4) The child is enrolled in a part-time program participating in the tiered quality rating and improvement system established by ODJFS and needs care from an additional part-time provider.

Percentages of children enrolled in quality programs

The act requires ODJFS to ensure that the following percentages of early learning and development programs that are not type B homes and that provide publicly funded child care are rated in the third highest tier or above in the Step Up to Quality Program:

- By June 30, 2017, 25%;
- By June 30, 2019, 40%;
- By June 30, 2021, 60%;
- By June 30, 2023, 80%;
- By June 30, 2025, 100%.

In-home aide reimbursement for publicly funded child care

(R.C. 5104.30)

The act requires the Director to establish an hourly reimbursement ceiling for in-home aides who provide publicly funded child care. Under prior law, the reimbursement ceiling was required to be 75% of the reimbursement ceiling that applies to licensed type B family day-care homes. Instead, the act requires the Director to establish an hourly reimbursement ceiling.

Work requirements for SNAP and OWF participants

(R.C. 5101.54 and 5107.05)

Supplemental Nutritional Assistance Program

The Supplemental Nutritional Assistance Program (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.⁸⁷

⁸⁷ 7 U.S.C. 2015(d)(2) and (o) (2014) www.fns.usda.gov/snap/able-bodied-adults-without-dependents-abawds.



Continuing law requires the ODJFS Director to administer 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 act, 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.

Ohio Works First

Ohio Works First (OWF) is the cash assistance portion of Ohio's Temporary Assistance for Needy Families (TANF) program and provides cash benefits to eligible families. To be eligible for OWF, a family (referred to as an "assistance group") must satisfy requirements concerning income, as well as work and other matters included in a self-sufficiency contract that sets forth the assistance group's plan to achieve self-sufficiency and personal responsibility.⁸⁸ Continuing law requires both of the following: (1) that the ODJFS Director adopt rules to implement OWF and (2) that the rules 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 act, the rules must also establish requirements for work activities, developmental activities, and alternative work activities for OWF participants.

Ohio Healthier Buckeye Advisory Council

(R.C. 5101.91 and 5101.92)

The Ohio Healthier Buckeye Advisory Council (OHBAC), 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. The act repeals several permissible activities for OHBAC, including a provision that authorized OHBAC to submit recommendations by December 1, 2015, concerning means to achieve coordination, person-centered case management, and standardization in public assistance programs. Instead, the act 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;

⁸⁸ R.C. 5107.10 and 5107.14.



(3) Collect, analyze, and report performance measure information.

The act specifies that ODJFS will provide administrative support to OHBAC, and that members serve without compensation but are reimbursed for related expenses. The act 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)

Under continuing law, it is permissive for boards of county commissioners to establish county healthier buckeye councils. The act changes the councils to local councils and specifies several requirements for those that are formed. The act requires a resolution establishing a 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.

The act specifies a nonexhaustive list of individuals and entities who may be invited to become a member of a local council, 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 act 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 are to be paid from a joint general fund created by the council unless the agreement provides otherwise.

Additionally, the act changes grants of authority that were previously permissive for county healthier buckeye councils to mandates for local healthier buckeye councils (if such councils are formed), and adds several requirements. The act 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 ongoing law. The Plan must be submitted to the board of county commissioners that created the council and to OHBAC.



Local councils also must do all of the following:

- (1) Convene at least once per year;
- (2) Organize in accordance with law;
- (3) Collect and analyze data regarding recipients of services and participants in programs provided by members;
- (4) Beginning September 29, 2016, submit an annual performance report to OHBAC.

Additionally, local councils may apply for, receive, and oversee the administration of grants.

The act requires certain information to be reported to the Joint Medicaid Oversight Committee (JMOC) and 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 Pilot Program

(Section 305.30; Section 551.10 of H.B. 483 of the 130th General Assembly (repealed))

The act repeals the Healthier Buckeye Grant Program and establishes the Healthier Buckeye Grant Pilot Program. The new program's purpose is to promote financial self-sufficiency and reduced reliance on public assistance through a community environment that maximizes opportunities for individuals and families to achieve optimal health in all aspects, including care coordination among providers of physical and behavioral health services and community providers of social, employment, education, and housing services.



Awards from the Healthier Buckeye Fund

The program is to award grants to local healthier buckeye councils, and to other individuals and organizations that meet the program's goals and objectives. The grants are to be awarded in fiscal years 2016 and 2017.

Funds for the grants come from the Healthier Buckeye Fund, which the act creates in the state treasury for fiscal years 2016 and 2017. The Fund consists of moneys appropriated to it and any grants or donations received. Interest earned on money in the Fund must be credited to the Fund.

Grant eligibility, application, and amounts

OHBAC must recommend to the ODJFS Director eligibility criteria, application processes, and maximum grant amounts. Eligibility criteria 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 and coordinated community-level participation for participants as they resolve barriers;

(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 evaluate program outcomes, including success at assisting individuals and families in achieving and maintaining financial self-sufficiency, and to report relevant participant data;

(8) Creation through local assessment and planning processes;

(9) Collaboration between entities that participate in assessment and planning processes.

Request for grant proposals

By September 29, 2015, ODJFS, in collaboration with OHBAC, must issue a request for grant proposals that meet the program's goals and objectives or that propose



means to measure and achieve those goals and objectives. Each proposal must specify how the grant recipient plans to test and evaluate effective models of intensive case management to achieve the program's purpose. The case management may include mentoring, coordinated community level partnerships, and comprehensive assessments to identify barriers and gaps to achieving self-sufficiency.

Selection of grant recipients

The ODJFS Director, in collaboration with OHBAC, must review all grant proposals and select recipients to receive grants in the remainder of fiscal year 2016 and in fiscal year 2017. Grant recipients may contract with public and private entities, community-based organizations, and individuals to provide the services outlined in the grant proposals.

Disability Financial Assistance eligibility determinations

(R.C. 5115.04)

The act 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. Law unchanged by the act requires ODJFS to supervise and administer the Program, subject to several exceptions. The act 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 act 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.⁸⁹

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 act expands the scope of service members who are eligible to receive a grant under the Military Injury Relief Fund Grant Program. Under continuing law, any service member injured while serving under Operation Iraqi Freedom, Operation New Dawn, or Operation Enduring Freedom is eligible. The act 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.

⁸⁹ R.C. 117.01, not in the act.



The act 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 act specifies that the rules already 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. And, 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 act removes 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.

Audit Settlements and Contingency Fund

(R.C. 5101.073; Section 305.150)

Under prior law, the ODJFS General Services Administration and Operating Fund was 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 act 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 act also permits the Fund to hold earned federal revenue the final disposition of which is unknown.

Administrative Funds

(R.C. 4141.432, 5101.072, and 6301.17; Section 512.33)

The act creates the Unemployment Compensation Administrative Support Other Sources Fund in the state treasury to be used by the ODJFS Director to release employment and wage information as required by continuing law⁹⁰ and to support

⁹⁰ R.C. 4141.43, not in the act.



programs and administrative expenses related to the implementation of unemployment insurance initiatives within ODJFS. The Fund may consist of intrastate agency transfers, nonfederal grants, and other similar revenue sources.

The act also creates the Human Services Projects Fund and the Workforce Development Projects Fund in the state treasury to be used by ODJFS to support program and administrative expenses related to the implementation of human services and workforce development initiatives within ODJFS, respectively. These Funds may consist of interagency transfers, nonfederal grants, and other similar revenue sources.

Administration of Work Innovation and Opportunity Act

(Section 305.190(B))

The act requires the ODJFS Director to administer the federal Work Innovation and Opportunity Act (WIOA) during fiscal years 2016 and 2017. WIOA was enacted in 2014 for the following purposes:

(1) To increase access to and opportunities for the employment, education, training, and support services that individuals, particularly those with barriers to employment, need to succeed in the labor market;

(2) To support the alignment of workforce investment, education, and economic development systems in support of a comprehensive, accessible, and high-quality workforce development system in the U.S.;

(3) To improve the quality and labor market relevance of workforce investment, education, and economic development efforts to provide America's workers with the skills and credentials necessary to secure and advance in employment with family-sustaining wages and to provide America's employers with the skilled workers the employers need to succeed in a global economy;

(4) To promote improvement in the structure and delivery of services through the U.S. workforce development system to better address the employment and skill needs of workers, jobseekers, and employers;

(5) To increase workers' and employers' prosperity, the economic growth of communities, regions, and states, and the United States' global competitiveness;

(6) To provide workforce investment activities, through statewide and local workforce development systems, that increase the employment, retention, and earnings of participants, and increase attainment of recognized postsecondary credentials by participants, and as a result, improve the quality of the workforce, reduce welfare



dependency, increase economic self-sufficiency, meet the skill requirements of employers, and enhance the productivity and competitiveness of the U.S.⁹¹

Comprehensive Case Management and Employment Program (PARTIALLY VETOED)

(Sections 305.190(C) to (J) and 305.193)

CCMEP created

The act requires ODJFS, in consultation with the Governor's Office of Workforce Transformation, to create, coordinate, and supervise the Comprehensive Case Management and Employment Program (CCMEP) during fiscal years 2016 and 2017. To the extent funds under the TANF block grant and WIOA are available, CCMEP must make certain employment and training services available to its participants in accordance with comprehensive assessments of the participants' employment and training needs.

Participants

Beginning July 1, 2016, and subject to rules that the act permits the ODJFS Director to adopt, individuals who are at least 16 but not older than 24 are required or permitted to participate in CCMEP as follows:

(1) Individuals who are considered to be work eligible for the purpose of Ohio Works First (OWF) are required to participate in CCMEP as a condition of participating in OWF. A work eligible individual is subject to work and other requirements under continuing law governing OWF.

(2) An OWF participant who is not considered to be work eligible may volunteer to participate in CCMEP.

(3) An individual receiving benefits and services under the Prevention, Retention, and Contingency Program may volunteer to participate in CCMEP.

(4) A low-income adult, in-school youth, or out-of-school youth who is considered to have a barrier to employment under WIOA is required to participate in WIOA as a condition of enrollment in workforce development activities funded by the TANF block grant or WIOA.

A low-income individual is an individual (1) who, or whose family member, is enrolled, or during the past six months was enrolled, in SNAP (food stamps), a TANF

⁹¹ 29 U.S.C. 3101.



program, SSI, or a state or local income-based public assistance program, (2) in a family with total family income not exceeding the higher of the federal poverty line or 70% of the lower living standard income level established by the U.S. Secretary of Labor, (3) who is homeless, (4) who receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act, (5) who is a foster child on behalf of whom state or local government payments are made, or (6) with a disability whose own income does not exceed the higher of the federal poverty line or 70% of the lower living standard income level but whose family income exceeds that limit.⁹²

An individual is an in-school youth if the individual is (1) attending school, (2) not younger than 16 and, unless the individual has a disability, not older than 21, and (3) one or more of the following: (a) basic skills deficient, (b) an English language learner, (c) an offender, (d) homeless, (e) a runaway, (f) in foster care, (g) aged out of the foster care system, (h) eligible for assistance under the John H. Chafee Foster Care Independence Program, (i) in an out-of-home placement, (j) pregnant or parenting, (k) disabled, or (l) in need of additional assistance to complete an educational program or to secure or hold employment.⁹³

An individual is an out-of-school youth if the individual is (1) not attending any school, (2) not younger than 16 or older than 24, and (3) one or more of the following: (a) a school dropout, (b) within the age of compulsory school attendance but has not attended school for at least the most recent complete school year calendar quarter, (c) a recipient of a secondary school diploma or its recognized equivalent but basic skills deficient or an English language learner, (d) subject to the juvenile or adult justice system, (e) homeless, (f) a runaway, (g) in foster care, (h) aged out of the foster care system, (i) eligible for assistance under the John H. Chafee Foster Care Independence Program, (j) in an out-of-home placement, (k) pregnant or parenting, (l) disabled, or (m) in need of additional assistance to enter or complete an educational program or to secure or hold employment.⁹⁴

Assessment and services

The act requires an individual participating in CCMEP to undergo a comprehensive assessment of the individual's employment and training needs in accordance with procedures that ODJFS is required to establish. As part of the

⁹² 29 U.S.C. 3102(36).

⁹³ 29 U.S.C. 3164(a)(1)(C). The minimum age to be an in-school youth is set by Section 305.190(A)(3) of the act.

⁹⁴ 29 U.S.C. 3164(a)(1)(B).



assessment, an individualized employment plan must be created for the individual. The plan is to be reviewed, revised, and terminated in accordance with the assessment procedures. The plan must specify which of the following services, if any, the individual needs:

- (1) Support for the individual to obtain a high school diploma or the equivalent of a high school diploma;
- (2) Job placement;
- (3) Job retention support;
- (4) Other services that aid the individual in achieving the plan's goals.

The act provides that the services an individual receives in accordance with the individualized employment plan are inalienable by way of assignment, charge, or otherwise and exempt from execution, attachment, garnishment, and other similar processes.

Lead local agency

Each board of county commissioners is required by the act to designate either the CDJFS or workforce development agency (WDA) as the lead agency for purposes of CCMEP. The boards must inform ODJFS of their designations. The lead agency is required to do all of the following:

- (1) Submit to ODJFS a plan that establishes standard processes for determining and maintaining individuals' eligibility to participate in CCMEP;
- (2) Administer CCMEP;
- (3) In partnership with the other agency not designated as the lead agency and any subcontractors,⁹⁵ (a) actively coordinate activities regarding CCMEP with the other agency and subcontractors and (b) help both agencies and any subcontractors to use their expertise in administering CCMEP.

The lead agency is responsible for all funds that ODJFS, the Auditor of State, the U.S. Department of Health and Human Services, the U.S. Department of Labor, or any other government entity determines have been expended or claimed for CCMEP, by or on behalf of the county, in a manner that federal or state law or policy does not permit.

⁹⁵ A subcontractor is an entity with which a CDJFS or WDA contracts to perform, on behalf of the CDJFS or WDA, one or more of the CDJFS's or WDA's duties regarding CCMEP.



Advisory board; evaluation system (VETOED)

The Governor vetoed provisions that would have created the CCMEP Advisory Board and required it to establish an evaluation system for CDJFSs' and WDAs' administration of CCMEP. ODJFS was required to evaluate CDJFSs' and WDAs' administration of CCMEP in accordance with the evaluation system.

Review of CDJFSs' and WDAs' functions

The act requires ODJFS, in consultation with CDJFSs and WDAs, to review the agencies' existing functions to discover opportunities to make their administration of the functions more efficient. The purpose of the review is to make it possible to increase the number of individuals who participate in CCMEP and the availability of services under CCMEP.

Application of state laws

The act provides that CCMEP is a family services duty (a duty state law requires or allows a CDJFS to assume) and therefore is subject to all statutes that apply to family services duties. This subjects CCMEP to statutes that address such issues as the following: (1) the recovery of money spent for family services duties, (2) grant agreements between ODJFS and county entities regarding family services duties, (3) contracts for the coordination, provision, enhancement, or innovation of family services duties, (4) operational agreements between ODJFS and boards of county commissioners regarding changes to family services duties, (5) ODJFS establishing and enforcing performance and other administrative standards for family services duties, (6) using funds appropriated for family services duties for incentive awards to counties, (7) ODJFS taking corrective action against a county entity regarding a family services duty, and (8) reporting requirements for family services duties.

The act provides that CCMEP is a TANF program and therefore subject to all statutes applicable to TANF programs, including statutes concerning (1) the county share of public assistance expenditures, (2) appeals by applicants and participants of decisions regarding TANF programs, and (3) general administrative matters regarding TANF programs.

The act also provides that CCMEP is a workforce development activity and therefore subject to all statutes applicable to workforce development activities, including statutes concerning (1) grant agreements between ODJFS and local entities regarding workforce development activities, (2) contracts for the coordination, provision, enhancement, or innovation of workforce development activities, (3) ODJFS taking corrective action against a local entity regarding a workforce development



activity, (4) reporting requirements for workforce development activities, and (5) the state's workforce development system.

Rules

The ODJFS Director must adopt rules as necessary to implement CCMEP. The rules may address any of the following issues:

- (1) Eligibility for CCMEP;
- (2) Employment and training services available under CCMEP;
- (3) Partnerships between CDJFSs, WDAs, and subcontractors;

(4) The plan that the lead agency must submit to ODJFS establishing standard processes for determining and maintaining individuals' eligibility to participate in CCMEP;

(5) Internal management;

(6) Any other issues that the Director determines should be addressed in the rules.

Rules other than internal management rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.). Internal management rules may be adopted through the process set forth in R.C. 111.15, which does not require notice and public hearings.

County TANF funding allocation review

(Section 305.195)

The act requires ODJFS, by June 30, 2016, to complete a study of funding allocations to each county for programs funded in whole or in part by the TANF block grant for the most recently completed federal fiscal year. As part of its study, ODJFS must determine the benefits and services provided in each county through the Prevention, Retention, and Contingency (PRC) Program and the benefits and services provided through other programs funded in whole or in part by the TANF block grant. The PRC Program provides short-term benefits and services (such as clothing and shelter, transportation, and employment and training) during a crisis or time of need. PRC benefits and services vary by county.



Child placement level of care tool pilot program

(Section 305.120)

Pilot program

The act 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 by December 27, 2015, and end no later than 18 months after it begins. The length of the pilot program must not include any time spent in preparation to implement the program or for any post-pilot-program evaluation activity.

Child Placement Level of Care Tool

Under the act, 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,⁹⁶ 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.

⁹⁶ R.C. 125.01 to 125.12, many of the sections in that range are in the act.



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.⁹⁷ ODJFS may adopt rules under the Administrative Procedure Act (R.C. Chapter 119.) as necessary to carry out the purposes of the pilot program, its evaluation, and the securing of federal and state funding.

Therapeutic wilderness camps

(R.C. 2151.011, 2151.421, 5103.02, and 5103.50 to 5103.55)

The act revises the regulation of private, nonprofit therapeutic wilderness camps. It defines "private, nonprofit therapeutic wilderness camp" (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 continuing 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 could be classified as a children's residential center under rules adopted by ODJFS. Extensive ODJFS regulations establish the certification process for children's residential centers and the specific criteria that those centers must meet.⁹⁸ The act exempts private, nonprofit therapeutic wilderness camps from this ODJFS certification by excluding them from the definitions of "association" and "institution" in the certification law.⁹⁹

Prohibition against operating without a license

(R.C. 5103.53)

In place of certification, the act prohibits a camp from operating without a license. 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

⁹⁷ R.C. 5101.141(E), not in the act.

⁹⁸ O.A.C. 5101:2-1-01(B)(47) and 5101:2-9-02 through 5101:2-9-36.

⁹⁹ R.C. 5103.02.



located for an order enjoining its operation. The act requires the court to grant the injunction upon a showing that the camp is operating without a license.

License issuance

(R.C. 5103.50(C) and 5103.51)

The ODJFS Director must issue a license to a camp that submits an application, on a form prescribed by the Director, that indicates to the Director's satisfaction that the camp meets the minimum standards adopted by the Director in rules (see "**Minimum standards for camp operations**," below).

A license is valid for two years (unless earlier revoked) and may be renewed. To renew a license, a camp must submit an application for license renewal on a form prescribed by the Director.

ODJFS rulemaking

(R.C. 5103.50(B) and 5103.54)

The ODJFS Director must adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) to implement standards for the operation of camps (see "**Minimum standards for camp operations**," below). The rules must be substantially similar, as determined by the Director, to other similarly situated providers of residential care to children.

The Director also must adopt rules that are substantially similar, as determined by the Director, to rules that apply to other residential care providers to children, and in accordance with the Administrative Procedure Act, to establish the following:

(1) Policies and procedures for enforcing minimum standards of operation for camps;

(2) Procedures the Director must follow if the Director determines that conditions at a camp pose imminent risk to the life, health, or safety of one or more children at a camp.

The act also permits the Director to issue, deny, or revoke a license according to procedures set forth in the rules.



Minimum standards for camp operations

(R.C. 5103.50(D) to (I))

Under the minimum standards rules the Director is required to adopt, a camp must develop and implement written policies that establish 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;
- (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;
- (7) Standards for the admission and discharge of children attending the camp, including standards for emergency discharge;
- (8) Standards for the supervision of children, including minimum staff to child ratios;
- (9) Standards for ensuring proper medical care, including administration of medications;
- (10) Standards for proper notification of critical incidents;
- (11) Standards regarding the health and safety of residents, including proper health department approvals, fire inspections, and food service licenses;
- (12) Standards for ensuring the reporting requirements under the law governing the mandatory reporting of child abuse and neglect are met.

In addition to developing written policies described above, a camp must do all of the following:



(1) Ensure that no child resides at the camp for more than 12 consecutive months, unless the camp has completed a full evaluation that determines the child is not ready for reunification with the child's family or guardian (such an evaluation must include any outside professional determined necessary by the Director and be conducted in accordance with rules adopted by the Director);

(2) Cooperate with any request from the Director for an inspection or access to the camp's records or written policies;

(3) Ensure that no child is left without supervision of camp staff at any time;

(4) Ensure that if a weather emergency or warning is issued by the National Weather Service in the camp's geographic area, the children will be moved to a safe structure guarded from the weather event;

(5) Ensure that all sharp tools used in the camp, including axes and knives, are locked unless in use by camp staff or otherwise under camp staff supervision.

Inspections

(R.C. 5103.52)

The act authorizes the Director to inspect a camp at any time. The Director may request access to the camp's records or its policies adopted under the act.

Criminal records check requirements

(R.C. 2151.011(B)(29))

The act adds employees of and other persons who care for children at a camp to the list of persons who are required to undergo criminal records checks.¹⁰⁰

Mandatory child abuse reporting

(R.C. 2151.421)

The act adds administrators and employees of a camp to the list of persons who are required to report suspected child abuse to a public children services agency or law enforcement official.

¹⁰⁰ R.C. 2151.86, not in the act.



Compulsory school attendance

(R.C. 5103.55)

The act specifies that a parent of a child attending a camp is not relieved of the parent's legal obligations regarding compulsory school attendance.¹⁰¹

Temporary agreement with Ohio Wilderness Boys Camp

(Section 751.61)

As an exception to the certification requirement for a camp described above, the act requires ODJFS to enter into an agreement with the Ohio Wilderness Boys Camp in Summerfield, Ohio, to allow the camp to operate. The agreement is to be in effect from the date of its execution and must terminate 90 days after the effective date of the rules adopted under the act related to the regulation of camps. The agreement must be prepared by ODJFS and signed by both parties upon mutual agreement to terms.

As part of the agreement, the camp must provide a copy of the agreement to a placing parent or legal guardian, and record receipt of the agreement by the parent or guardian in the child's file. If the camp fails to comply with any terms or condition of the agreement, ODJFS may immediately terminate the agreement.

Children's Trust Fund Board

The act modifies the law governing the Children's Trust Fund Board (CTF Board), including (1) the Board's oversight of regional child abuse and child neglect prevention activities, (2) the abolishment of child abuse and child neglect prevention advisory boards, and (3) the creation of child abuse and child neglect regional prevention councils across eight regions of the state.

Regional prevention councils

(R.C. 3109.171 and 3109.172)

The act divides the entire state into eight child abuse and child neglect prevention regions, each consisting of several counties. It creates a child abuse and child neglect regional prevention council for each region. The act eliminates the child abuse and child neglect prevention advisory boards that existed under prior law.

Each board of county commissioners within a region may appoint up to two county prevention specialists to represent the county on the council. The CTF Board

¹⁰¹ R.C. 3321.04, not in the act.



may appoint additional specialists to each region's council at the CTF Board's discretion. Each council must also include a representative of the council's regional prevention coordinator, who will serve as a nonvoting member and chairperson. Members appointed by boards of county commissioners are to serve two-year terms and members appointed by the CTF Board or to represent the regional prevention coordinator are to serve three-year terms. Members may be reappointed for two consecutive terms only. The member's appointing authority may remove the member from council service for misconduct, incompetence, or neglect of duty. Council members are not to receive compensation for service to the council. The council is required to meet at least quarterly.

Council members are required by the act to do the following:

- (1) Attend council meetings;
- (2) Assist the council's regional prevention coordinator in conducting a needs assessment to ascertain the child abuse and child neglect prevention programming and services that are needed in the region;
- (3) Collaborate on assembling the council's regional prevention plan;
- (4) Assist the council's regional prevention coordinator with implementing the prevention plan, coordinating county data collection, and ensuring timely and accurate reporting to the CTF Board;
- (5) Any other duties specified by ODJFS.

County prevention specialist definition

The act defines county prevention specialist to include the following:

- (1) Representatives of agencies responsible for the administration of children's services in the counties within a child abuse and child neglect prevention region;
- (2) Providers of alcohol or drug addiction services or representatives of boards of alcohol, drug addiction, and mental health services that serve counties within a region;
- (3) Providers of mental health services or representatives of boards of alcohol, drug addiction, and mental health services that serve counties within a region;
- (4) Representatives of county boards of developmental disabilities that serve counties within a region;



(5) Representatives of the educational community appointed by the superintendent of the school district with the largest enrollment in the counties within a region;

(6) Juvenile justice officials serving counties within a region;

(7) Pediatricians, health department nurses, and other representatives of the medical community in the counties within a region;

(8) Counselors and social workers serving counties within a region;

(9) Head start agencies serving counties within a region;

(10) Child care providers serving counties within a region;

(11) Other persons with demonstrated knowledge in programs for children serving counties within a region.

Council reporting duties

(R.C. 3109.17(B)(4)(a) and 3109.172(J))

Each council must submit a progress report and an annual report to the CTF Board, by the due dates specified by the CTF Board. Each report must document the council's child abuse and child neglect prevention programs and activities undertaken in accordance with the council's regional prevention plan. The reports must contain all information the Board specifies.

Regional prevention coordinator

(R.C. 3109.173)

The CTF Board must select for each council a regional prevention coordinator to direct the council. The CTF Board shall select each region's coordinator through a competitive selection process. Coordinators are required to do all of the following:

(1) Select a representative to serve as chairperson of the regional prevention council;

(2) Conduct a needs assessment to ascertain the child abuse and neglect prevention programming and services that are needed in the region;

(3) Work with county prevention specialists in the region to assemble the regional prevention plan based on CTF Board guidelines;



(4) Implement the regional prevention plan, including monitoring fulfillment of prevention deliverables and achievement of prevention outcomes, coordinating county data collection, and ensuring timely and accurate reporting to the Board;

(5) Any additional duties specified in rules adopted by ODJFS.

Regional prevention plans for funding

(R.C. 3109.17(B)(2), 3109.174, and 3109.175; R.C. 3109.171 (repealed))

The act requires each council to submit to the CTF Board a regional prevention plan for funding child abuse and child neglect prevention programs and activities. The plan must be based on criteria set forth by the CTF Board and submitted in the form and manner required under rules adopted by ODJFS. After receiving a prevention plan, the CTF Board may approve, deny, or require the submitting council to amend the plan and submit it back to the CTF Board.

Under prior law, the CTF Board was required to adopt a biennial state plan for comprehensive child abuse and child neglect prevention. The act changes this to a requirement for a "strategic" plan, omitting the "biennial" and "comprehensive" requirements.

Prior law required the CTF Board to develop a funding allocation plan for each child abuse and child neglect prevention advisory board for the following fiscal year and sets forth the procedures and other requirements by which funding is distributed to these boards. The act generally eliminates these provisions.

Denial or reduction of funding

(R.C. 3109.176; R.C. 3109.171 (repealed))

Under the act, the CTF Board may deny funding or allocate a reduced amount of funds on a pro-rated daily basis to a council for the fiscal year for which a regional prevention plan was required to be developed under any of the following circumstances:

(1) If a council fails to submit a regional prevention plan to the CTF Board a regional prevention plan by the date specified by the Board;

(2) If a council fails to submit to the CTF Board an amended plan if required to do so;

(3) If the CTF Board fails to approve a plan or an amended plan submitted by a council.



The CTF Board may allocate a reduced amount of funds to a council on a pro-rated daily basis for the following fiscal year if the council fails to submit to the CTF Board a progress report or annual report by the due dates specified by the Board for those reports. The act's provisions regarding denial or reduction of funding are largely similar to prior law governing denial and reduction of funding to child abuse and child neglect prevention advisory boards.

Board adoption of state plan for funding

(R.C. 3109.16)

The act eliminates the requirement that a majority of Board members are required to adopt the state plan for the allocation of funds from the Children's Trust Fund. Instead, the allocation may be decided by a majority of the quorum present.

Transition period

(Section 731.10; R.C. 3109.18 (repealed))

The act abolishes all child abuse and child neglect prevention advisory boards. It requires the board or boards of county commissioners that oversee operation of an advisory board to provide procedures for the transfer of any advisory board assets and liabilities. Any business commenced but not completed by September 29, 2015, by an advisory board must be completed by the appropriate board or boards of county commissioners. The board or boards of county commissioners may delegate to a child abuse and child neglect regional prevention council any of those duties.

Start-up costs for children's advocacy centers

(R.C. 3109.17(B)(4) and 3109.178; R.C. 3109.172 (repealed))

The act extends to councils the authority to request from the CTF Board up to \$5,000 for each county within the council's region to be used as one-time, start-up costs for a children's advocacy center to serve each county in the region or a center to serve two or more contiguous counties within the region. Under prior law, child abuse and child neglect prevention advisory boards (eliminated by the act) were permitted to make a similar request.

The CTF Board may approve or disapprove the request. The CTF Board must provide written notice if a request is disapproved, stating the reasons for the disapproval.



A children's advocacy center receiving this funding must follow all laws that generally apply to such centers.¹⁰² Additionally, any children's advocacy center that receives start-up costs must have as a component a primary prevention strategy. "Primary prevention strategies" are activities and services provided to the public designed to prevent or reduce the prevalence of child abuse and child neglect before signs of abuse or neglect can be observed.¹⁰³

The act prohibits a council that receives funds under this provision in any fiscal year from using the funds received in a different fiscal year or for a different center in any fiscal year without the approval of the CTF Board.

Finally, the act requires each children's advocacy center that receives the funds to file with its respective council, by the date specified by the CTF Board, an annual report that includes the information required by the CTF Board. The council must forward a copy to the CTF Board.

ODJFS rulemaking

(R.C. 3109.179)

The act sets forth rules that ODJFS is required to adopt and rules it is permitted to adopt to implement the act's provisions. All of the rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.). When adopting rules, ODJFS must consult with the CTF Board and the CTF Board's executive director.

ODJFS is required to adopt the following rules:

- (1) Operation requirements for councils;
- (2) The manner in which boards of county commissioners are to appoint council members;
- (3) The form and manner by which councils are to submit regional prevention plans.

ODJFS is permitted to adopt rules regarding the following:

- (1) Duties of council members;
- (2) Duties of regional prevention coordinators;

¹⁰² R.C. 2151.425 through 2151.428, not in the act.

¹⁰³ R.C. 3109.13, not in the act.



(3) Any other rules necessary to implement the act's provisions.

Children's advocacy center funding

(R.C. 3109.177)

The act permits each children's advocacy center annually to request funds from the CTF Board to conduct primary preventions strategies (described above).



JUDICIARY/SUPREME COURT

- Increases judicial salaries by 5% per year for calendar years 2016 through 2019, but begins the first increase on September 29, 2015.
- Changes the Division of Domestic Relations of the Stark County Court of Common Pleas to the Family Court Division.
- Requires a court, when considering whether to approve an applicant's Certificate of Qualification for Employment, to consider the applicant's military service and experience.
- Specifies that the Probate Law's requirement that every administrator or executor must render an account not later than 13 months after appointment does not apply if a partial account is waived.
- Subjects to certain conditions the distribution to injured parties and subrogees of recoveries in tort actions (PARTIALLY VETOED).
- Repeals the obsolete law creating the Ohio Subrogation Rights Commission.
- Corrects a mistaken cross-reference in the intervention in lieu of conviction law to a provision in the Crime Victims' Rights Law.

Judicial salaries

(R.C. 141.04)

The act increases the salaries of all justices and judges by 5% each calendar year, rounded up to the next highest \$50, from 2016 through 2019. However, the first increase takes effect on September 29, 2015, so that it applies for approximately the last quarter of 2015 as well as all of 2016. The increases affect municipal court clerks' salaries because their salaries are 85% of municipal judges salaries.¹⁰⁴

The following table shows the salaries of justices and judges under the act for calendar years 2015 (current) through 2019, not counting the increases for the last quarter of 2015. The figures for municipal and county court judges are aggregates of the state and local shares of those judges' salaries.

¹⁰⁴ R.C. 1901.31, not in the act.



| | Current | 2016 | 2017 | 2018 | 2019 |
|--|----------------|-------------|-------------|-------------|-------------|
| Chief Justice | \$150,850 | \$158,400 | \$166,350 | \$174,700 | \$183,450 |
| Justice | \$141,600 | \$148,700 | \$156,150 | \$164,000 | \$172,200 |
| Court of Appeals Judges | \$132,000 | \$138,600 | \$145,550 | \$152,850 | \$160,500 |
| Common Pleas Judges | \$121,350 | \$127,450 | \$133,850 | \$140,550 | \$147,600 |
| Full-time Municipal Court Judge | \$114,100 | \$119,850 | \$125,850 | \$132,150 | \$138,800 |
| Part-time Municipal Court Judge and County Court Judge | \$65,650 | \$68,950 | \$72,400 | \$76,050 | \$79,900 |

Family Court Division, Stark County Common Pleas

(R.C. 2301.03)

The act changes the Division of Domestic Relations of the Stark County Court of Common Pleas to the Family Court Division. The act also specifies that 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."

Certificates of qualification for employment – military service

(R.C. 2953.25)

The act requires the court, on receiving a petition for a Certificate of Qualification for Employment, to consider the applicant's military service record, if any, and whether the applicant has an emotional, mental, or physical condition that is traceable to the military service in the U.S. armed forces and was a contributing factor in the commission of the offenses by the applicant. A Certificate of Qualification for Employment lifts the automatic bar of a collateral sanction, and a decision-maker is required to consider on a case-by-case basis whether to grant or deny issuing or restoring an occupational license or an employment opportunity to the applicant.



Distribution of recoveries in tort actions (PARTIALLY VETOED)

(R.C. 2323.44)

The act subjects to certain conditions the distribution to injured parties and subrogees of recoveries in tort actions. A "subrogee" is an insurance company; a self-funded health, sickness, or disability plan; a health care provider-sponsored organization (a health care entity sponsored by affiliated hospitals or other health care providers); or any other person or entity claiming a right of subrogation (the substitution of one person for another, usually an insurer for an injured party, with regard to a legal claim).

Under the act, the rights of a subrogee against a third party (any individual, automobile insurance company, or public or private entity against which a person or estate has a tort action) or against an injured party in a tort action is subject to the following, except for the italicized language, which was vetoed by the Governor:

(1) If less than the full value of the tort action is recovered for *any reason, including* (VETOED) comparative negligence, joint liability, or collectability of the full value resulting from limited liability insurance or another cause, the subrogee's claim is diminished in the same proportion as the injured party's interest is diminished.

(2) *Regardless of the recovery in the tort action, any reasonable attorney's fees contracted by the injured party and the expenses of procuring a recovery in the tort action are shared by the injured party and the subrogee on a pro rata basis* (VETOED).

(3) *A tort action and any settlement of a tort action are controlled solely by the injured party* (VETOED). If a dispute regarding the distribution of the recovery in the tort action arises, either party may file an action for a declaratory judgment to resolve the dispute.

Ohio Subrogation Rights Commission

(R.C. 2323.44; Sections 610.37 and 610.38)

The act repeals the obsolete statute that created the Ohio Subrogation Rights Commission. The Commission was created in 2005 to recommend a legislative response to a Supreme Court decision that gave subrogation rights to a health insurer pursuant to an agreement, even though the injured party had not been made whole. The statute required the Commission to submit its report by the end of 2005.



Intervention in lieu of conviction – correction of cross-reference

(R.C. 2951.041)

The act corrects an erroneous cross-reference in the "intervention in lieu of conviction" law to a provision in the Crime Victims' Rights Law.



LEGISLATIVE SERVICE COMMISSION

- Repeals the requirement that the Legislative Service Commission (LSC) provide an Internet database of school district revenue and expenditure data.
- Requires LSC to act as fiscal agent for the Joint Committee on Agency Rule Review and the Joint Medicaid Oversight Committee.
- Moves the termination date for the Ohio Constitutional Modernization Commission to January 1, 2018, from July 1, 2021.

Internet database of school district data

(R.C. 103.132 (repealed))

The act repeals the law that required 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 had displayed this information via a query menu on the General Assembly's website.

Fiscal agent for certain legislative agencies

(Sections 307.10 and 308.10)

The act requires LSC to act as fiscal agent for the Joint Committee on Agency Rule Review and the Joint Medicaid Oversight Committee.

Termination of Constitutional Modernization Commission

(R.C. 102.01; R.C. 103.61, 103.62, 103.63, 103.64, 103.65, 103.66, and 103.67 (repealed); Sections 125.10, 125.12, and 125.13)

The act terminates the Ohio Constitutional Modernization Commission on January 1, 2018. Previously, the Commission had not been scheduled for termination until July 1, 2021.

The Commission is tasked with studying the Constitution of Ohio, promoting an exchange of experiences and suggestions respecting desired changes in the Constitution, considering the problems pertaining to amending the Constitution, and making recommendations from time-to-time to the General Assembly for the amendment of the Constitution.



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.
- Would have required the Commission to promulgate rules regarding making EZPlay keno and EZPlay lucky numbers bingo terminal-generated instant-win style lottery games available to licensed lottery sales agents (VETOED).
- 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 act 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 providing 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 former law, this member was to represent an organization that deals with problem gambling and assists recovering gambling addicts.



EZPlay keno and EZPlay lucky numbers bingo (VETOED)

(R.C. 3770.03)

The Governor vetoed a provision that would have required the Commission to promulgate rules under the Administrative Procedure Act (R.C. Chapter 119.) making EZPlay keno and EZPlay lucky numbers bingo self-service terminal-generated instant-win style lottery games available to licensed lottery sales agents in compliance with at least the following criteria:

(1) EZPlay keno would have had the ability to be played at multiple ticket prices as would have been established by the Commission, and would have been available as an instant play style lottery game on the interactive format self-service terminal and other lottery terminals and devices.

(2) EZPlay lucky numbers bingo would have had the ability to be played at multiple ticket prices as would have been established by the Commission, and would have been available as both instant play and draw style lottery games on the interactive format self-service terminal and other lottery terminals and devices.

(3) The games would have been available using either a clerk-facing lottery terminal or a self-service lottery terminal (but not a video lottery terminal) as available from the Commission's gaming systems vendor.

(4) The games would have been available for play in graphical, paperless, and interactive formats, which means the ability of a player to initiate, play, and view the game, including the reveal of a result, on the self-service terminal from which the game is purchased.

(5) The player would have had the option to receive a paper pay voucher to be redeemed by a licensed lottery sales agent or credited through a self-service lottery terminal.

(6) These interactive format self-service terminals would have been made available only to a licensed lottery sales agent that is also a holder of a D-1, D-2, D-2x, D-3, D-3x, D-3a, or D-5 retail liquor permit issued under the Liquor Control Law.

(7) The Commission would have had to acquire and make available at least 3,000 interactive format self-service terminals before March 1, 2016, 1,500 of which would have been acquired, deployed, and in operation before January 1, 2016.



Lottery sales agent licensing

(R.C. 3770.05)

The act makes several revisions in the law pertaining to the licensing of lottery sales agents. First, the act 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 act removes the term "person" and replaces it with the term "individual" in this definition.¹⁰⁵

Second, the act 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 act 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 prior law, the Director was 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, if 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 act makes two further changes. Continuing law makes directors, officers, and controlling shareholders liable for some of the enumerated business deficiencies. The act makes managers also liable for these deficiencies. Continuing law also makes corporations liable for some of the enumerated business deficiencies. The act makes "other business entities" also liable for these deficiencies.

¹⁰⁵ 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 act.)



Charitable Gaming Oversight Fund

(R.C. 3770.061 (repealed))

The act abolishes the Charitable Gaming Oversight Fund, which was used by the Commission to provide oversight, licensing, and monitoring of charitable gaming activities in Ohio. The Fund consisted of money received from the Attorney General's Office pursuant to an agreement under which the Commission was to carry out the duties of the Attorney General under the state Gambling Law.¹⁰⁶

Auditor of State employees prohibited from receiving prize

(R.C. 3770.07)

The act clarifies the law regarding employees of the Auditor of State who are prohibited from being awarded a lottery prize. Employees of the Auditor of State who actively audit, coordinate, or certify Commission drawings are prohibited from being awarded a lottery prize. The act 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, but may observe, the drawings.

¹⁰⁶ R.C. Chapter 2915.



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's Executive Director to facilitate collaboration between certain state agencies for health transformation purposes, authorize the exchange of personally identifiable information 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.
- Establishes processes whereby a party may rebut the presumption and specifies that one process is retroactive to the extent it may be used by a party who repaid money, on or after September 29, 2007, to the Department of Medicaid (ODM) or a county department of job and family services (CDJFS).
- Specifies that a third party's payment to 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 Ohio Department of Job and Family Services (ODJFS) directors to establish, change, and abolish positions for their agencies and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote employees who are not subject to 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.



Contracts for management of data requests

- Requires, instead of permits as under prior law, the ODM Director to enter into contracts with persons to receive and process requests for certain Medicaid-related data that will be used for commercial or academic purposes.
- Requires a person with such a contract to charge a person seeking the data a fee equal to 102% of the cost ODM incurs in making the data available.

Integrated Care Delivery System (PARTIALLY VETOED)

- Requires ODM to ensure that each Integrated Care Delivery System (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.
- Would have permitted a medical transportation provider to submit a claim to Medicaid for a service provided to an ICDS participant without Medicare first denying the claim if Medicaid is responsible for paying the claim (VETOED).

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.



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 (PARTIALLY VETOED)

- Would have prohibited Medicaid from covering optional eligibility groups that state statutes do not address whether Medicaid may cover (VETOED).
- Would have specified 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 (VETOED).
- Eliminates a requirement that the Medicaid program cover the group consisting of nonpregnant individuals who may receive family planning services and supplies.

209(b) option

- Prohibits ODM from terminating, before July 1, 2016, the federal 209(b) option under which the Medicaid program's eligibility requirements for aged, blind, and disabled individuals are more restrictive than the eligibility requirements for the Supplemental Security Income program.
- Requires ODM, if it terminates the 209(b) option, to establish a Medicaid waiver program under which an individual who has cystic fibrosis and is enrolled in the Program for Medically Handicapped Children or a program for adults with cystic fibrosis may qualify for Medicaid under a spenddown process.
- Requires the Program for Medically Handicapped Children and the program for adults with cystic fibrosis to continue to assist recipients in qualifying for Medicaid under the spenddown process.



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 – exception

- Permits an institutionalized individual to enroll in Medicaid despite a transfer of assets for less than fair market value under an additional circumstance.

Medicaid eligibility – revocable self-settled trusts (VETOED)

- Would have enacted in Ohio law a federal provision prohibiting the home of a Medicaid applicant or recipient held in a revocable self-settled trust from being (1) considered for purposes of determining Medicaid eligibility and (2) included in the computation of spousal share determined under federal law (VETOED).
- Would have excluded the transfer of a Medicaid applicant's or recipient's home from a revocable self-settled trust to the applicant or recipient or that individual's spouse from being considered an improper disposition of assets with respect to Medicaid eligibility (VETOED).

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).

Pre-enrollment provider screenings and reviews

- States the General Assembly's recommendation that ODM, during fiscal years 2016 and 2017, perform pre-enrollment screenings and reviews of Medicaid providers designated as moderate or high categorical risks to the Medicaid program.



Medicaid rates for medical transportation services (VETOED)

- Would have required that the Medicaid payment rate for medical transportation services include a component paying for providers' fuel costs and that the fuel component be at least 5% higher than the national average for fuel prices (VETOED).
- Would have required that the Medicaid rates for ambulette services provided during fiscal years 2016 and 2017 be at least 10% higher than the rates in effect on June 30, 2015 (VETOED).

Nursing facilities' Medicaid rates (PARTIALLY VETOED)

- Requires ODM, with the first rebasing of Medicaid rates for nursing facilities, to place nursing facilities in Allen County or Trumbull County in the peer groups used to determine Medicaid rates for facilities in Mahoning County or Stark County.
- 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) 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 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 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.
- Would have required ODM, when determining nursing facilities' case-mix scores on and after July 1, 2016, to use the grouper methodology designated by the federal government as the resource utilization group (RUG)-IV, 48 group model (VETOED).
- Provides for the per Medicaid day rate for nursing facility services provided to low resource utilization residents on and after July 1, 2016, to be (1) \$115 per Medicaid day if ODM is satisfied that the facility is cooperating with the Long-Term Care



Ombudsman Program to help the residents receive the most appropriate services or (2) \$91.70 if ODM is not so satisfied.

- Requires, rather than permits as under prior law, ODM to establish an alternative purchasing model for nursing facility services provided to Medicaid recipients with specialized health care needs by designated discrete units of nursing facilities.

Nursing facility demonstration project

- Requires ODM to seek a federal Medicaid waiver to operate a two-year demonstration project under which Medicaid recipients are admitted to participating nursing facilities in lieu of freestanding long-term care hospitals.
- Requires ODM to select four nursing facilities meeting certain requirements and located in Cuyahoga, Franklin, Hamilton, and Lucas counties (or other counties if necessary to find four qualifying facilities) to participate in the demonstration.
- Requires each participating nursing facility to develop admission criteria and to give the criteria to hospitals located within 50 miles that routinely refer Medicaid recipients to freestanding long-term care hospitals.
- Requires hospitals that receive the criteria to consider the criteria when determining where to refer Medicaid recipients who need the type of services freestanding long-term care hospitals provide.
- Permits Medicaid recipients to refuse referrals to participating nursing facilities.
- Requires that the Medicaid payment rate for nursing facility services provided under the demonstration project not exceed the Medicaid payment rate for comparable freestanding long-term care hospital services.

Medicaid rate for home health aide services

- Requires that the Medicaid payment rates for home health aide services provided during the period beginning January 1, 2016, and ending June 30, 2017, other than such services provided by independent providers, be at least 5% higher than the rate in effect on October 1, 2015.

Medicaid care management system

Elimination of mandatory participation

- Repeals a requirement that ODM designate for participation in the Medicaid care management system Medicaid recipients identified as part of the covered families



and children group and, with certain exceptions, aged, blind, and disabled recipients.

Behavioral health services

- Repeals a prohibition against including certain alcohol, drug addiction, and mental health services in the care management system.
- Requires ODM to begin to include alcohol, drug addiction, and mental health services in care management system not later than January 1, 2018.
- Provides that alcohol, drug addiction, and mental health services cannot be included in the care management system before January 1, 2018, without the approval of the Joint Medicaid Oversight Committee (JMOC).
- Requires JMOC to monitor ODM's actions in preparing to implement and implementing inclusion of alcohol, drug addiction, and mental health services in the care management system.

Integrity strategies

- Requires ODM to implement strategies to improve the integrity of the care management system.

Value-based provider payments

- Requires Medicaid MCOs to implement strategies that base payments to providers on the value received from their services and their success in reducing waste in the provision of services.
- Requires Medicaid MCOs to ensure, not later than July 1, 2020, that at least 50% of the aggregate net payments it makes to providers is based on the value of the providers' services.

Community health worker services (VETOED)

- Would have required Medicaid managed care organizations to provide (or arrange for the provision of) community health worker and similar services to pregnant enrollees or enrollees capable of becoming pregnant who lived in ODH-identified communities with high infant mortality and met other criteria (VETOED).

Enhanced care management

- Requires a Medicaid MCO to provide enhanced care management services to pregnant women and women capable of becoming pregnant in ODH-identified communities with high infant mortality.



Help Me Grow home visits

- Requires a Medicaid MCO to provide (or arrange for the provision of) home visits (including depression screenings) and cognitive behavioral therapy to an enrollee who is a Help Me Grow participant and is either pregnant or the birth mother of a child under age three.
- Requires the cognitive behavioral therapy to be provided in the enrollee's home at her request.
- Requires ODM to modify (for the period beginning January 1, 2016, and ending June 30, 2017) the default enrollment process for the Medicaid managed care program in a manner that gives preference to Medicaid MCOs that have reduced infant mortality rates.

Study about self-selection of Medicaid MCOs

- Requires ODM to conduct a study about the feasibility and potential savings of delaying an individual's Medicaid coverage until the individual self-selects a Medicaid managed care organization if the individual is required to participate in the care management system.

Healthy Ohio Program

- Requires the ODM 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 the care management system, are required to enroll in a comprehensive health plan offered by a managed care organization under contract with 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) require copayments for services under certain circumstances, (3) not begin to pay for services until the noncore portion of the participant's Buckeye account is zero, and (4) 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 a HOP participant's Buckeye account.



- Requires, with certain exceptions, that a HOP participant annually contribute to the participant's Buckeye account the lesser of \$99 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 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.
- 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 be made electronically, (2) achieves health care goals, and (3) satisfies health care benchmarks.
- Terminates a HOP participant's participation in HOP under certain circumstances.
- 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 the fee-for-service component of Medicaid or the care management system if the participant exhausts the annual or lifetime payout limits.



- Requires a CDJFS to offer to refer to a workforce development agency each HOP participant who is 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.

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.
- Requires ODM to establish a payment schedule for hospital franchise permit fees for each year and to include the payment schedule in the preliminary determination notice that ODM is required to mail hospitals.

Nursing home and hospital long-term care unit franchise permit fees

- 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 (VETOED)

- Would have required ODM, for contracts for home care services paid for with public funds, to require that providers have a system for monitoring the delivery of services (VETOED).

Annual report on Medicaid effectiveness

- Requires additional information to be included in an ODM annual report on the effectiveness of the Medicaid program in meeting the health care needs of low-income pregnant women, infants, and children.

Graduate Medical Education Study Committee

- Creates the Graduate Medical Education Study Committee.
- Requires the Committee to study the issue of Medicaid payments to hospitals for the costs of graduate medical education, including the feasibility of targeting the payments in a manner that rewards medical school graduates who practice in Ohio for at least five years after graduation.
- Requires the Committee to complete a report by December 31, 2015.

Medicaid waiver for married couple to retain eligibility (VETOED)

- Would have required ODM to establish a Medicaid waiver program under which Medicaid recipients who are married to each other would have retained, under certain circumstances, Medicaid eligibility despite employment earnings that exceed the applicable threshold (VETOED).

Medicaid Recipients' ID and Benefits Cards Workgroup

- Creates the 11-member Workgroup to Study the Feasibility of Medicaid Recipients' ID and Benefits Cards.
- Requires the Workgroup to evaluate the feasibility of using state-issued licenses and identification cards to establish an individual's eligibility for all state public assistance programs (e.g., Medicaid) and benefits under them.
- Requires the Workgroup, by July 1, 2018, to submit to the General Assembly a report of its findings and recommendations, at which time it ceases to exist.

Health and Human Services Fund

- Creates the Health and Human Services Fund in the state treasury to pay costs associated with state-provided programs or services to enhance public health and overall health care quality of citizens of this state.

State agency collaboration for health transformation initiatives

(R.C. 191.04 and 191.06)

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 act 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, prior law specified that ODM or the appropriate CDJFS had to 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)).¹⁰⁷ 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.¹⁰⁸

The act 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 act permits a party to rebut the presumption by using one of two processes, depending on whether the party has already paid an amount to ODM or the CDJFS.

Process for rebutting the presumption – payment not yet made

If a party has not yet made a payment to ODM or the CDJFS, the party may submit to ODM or the CDJFS a request for a hearing in accordance with a procedure the act requires ODM to establish in rules for this purpose. The act specifies that the amount sought by ODM or the CDJFS must be held in escrow or in an Interest on Lawyers' Trust Account (IOLTA) until the hearing examiner renders a decision or the

¹⁰⁷ *Wos v. E.M.A.*, 133 S.Ct. 1391 (2013).

¹⁰⁸ 42 U.S.C. 1396p(a)(1).



case is otherwise concluded. A party successfully rebuts the presumption by a showing of clear and convincing evidence that a different allocation is warranted.

Process for rebutting the presumption – payment already made

If a party has made a payment on or after September 29, 2007¹⁰⁹ to ODM or the CDJFS pursuant to that agency's right of recovery, the act permits the party to request a hearing in accordance with a procedure that ODM must establish in rules for this purpose. The act requires the request to be made by the later of March 28, 2016, or 90 days after the payment is made. A party successfully rebuts the presumption by a showing of clear and convincing evidence that a different allocation is warranted.

Hearings

A hearing that is requested pursuant to either of the two processes is subject to all of the following:

(1) The hearing examiner may consider, but is not bound by the allocation of, medical expenses specified in a settlement agreement between the medical assistance recipient and the relevant third party.

(2) ODM or the CDJFS may raise affirmative defenses during the hearing, including the existence of a prior settlement with the medical assistance recipient, the doctrine of accord and satisfaction, or the common law principle of *res judicata*.¹¹⁰

(3) If the parties agree, live testimony is not to be presented at the hearing.

(4) The hearing may be governed by rules that ODM is authorized to adopt; if adopted, the Administrative Procedure Act (R.C. Chapter 119.) applies to the hearing only to the extent specified in those rules.

(5) The hearing examiner's decision is binding on ODM or the CDJFS and the medical assistance recipient unless the decision is reversed or modified by the Medicaid Director on appeal.

Administrative appeals

If a medical assistance recipient disagrees with a hearing examiner's decision, the recipient may file an administrative appeal with the Medicaid Director in accordance

¹⁰⁹ September 29, 2007, is the date that prior law governing the amount of a tort judgment or settlement subject to ODM's or a CDJFS's right of recovery became effective.

¹¹⁰ *Res judicata* is the principle that a decision by a competent court in a case fully and fairly litigated is final and conclusive as to the claims and issues of the parties and cannot be re-litigated.



with the procedure the act requires ODM to establish in rules for this purpose. A hearing is not required during the administrative appeal, but the Medicaid Director or the Director's designee must review the hearing examiner's decision and any prior relevant administrative action. After the review, the Medicaid Director or the Director's designee must affirm, modify, remand, or reverse the hearing decision. The decision of the Medicaid Director or the Director's designee is final and binding on ODM or the CDJFS and the medical assistance recipient unless it is reversed or modified on appeal by a court of common pleas.

The administrative appeal may be governed by rules that ODM is authorized to adopt; if adopted, the Administrative Procedure Act (R.C. Chapter 119.) applies to the appeal only to the extent specified in those rules.

Common pleas court appeals

A party may appeal a decision made by the Medicaid Director or the Director's designee through the administrative appeal process. A party may file the appeal in accordance with the Administrative Procedure Act (R.C. 119.12).

Sole remedy

The act specifies that the hearing and appeals processes are remedial in nature and must be liberally construed by the courts of this state in accordance with continuing law (R.C. 1.11). In addition, the act specifies that the hearing and appeals processes are the sole remedy available to a party who claims that ODM or a CDJFS has received or is to receive more money than that to which it is entitled pursuant to its right of recovery.

Recovery of overpayments

(R.C. 5160.401)

According to the federal Centers for Medicare & Medicaid Services, 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 other available third party resources must meet their legal obligation to pay claims before Medicaid pays for a Medicaid recipient's care.¹¹¹

¹¹¹ U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, *Medicaid Third Party Liability and Coordination of Benefits*, available at [medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/tpl-cob-page.html](https://www.medicare.gov/medicaid-chip-program-information/by-topics/eligibility/tpl-cob-page.html).



Continuing 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.¹¹² The act 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 act 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 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.

The act 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.

¹¹² R.C. 5160.40(A)(4).



Continuing issues regarding creation of ODM

(Sections 327.20 and 327.30)

Medical 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 2013 biennial budget act, H.B. 59 of the 130th General Assembly, created ODM and transferred the medical assistance programs to ODM.

Temporary authority regarding employees

The act extends until June 30, 2017, the authority of the ODM and ODJFS directors with respect to employee positions within their departments.

H.B. 59 gave the ODM Director authority, from July 1, 2013, to 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 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.¹¹³ The actions of the ODM Director or ODJFS Director must comply with the 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 Director of Administrative Services, 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 Director of Administrative Services take under this provision of H.B. 59 are not subject to appeal to the State Personnel Board of Review.

¹¹³ 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 Director of Administrative Services but who is not subject to collective bargaining law. (R.C. 124.152.)



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 act, 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.

Contracts for management of data requests

(R.C. 5162.12)

The act revises the law under which the ODM Director contracts with persons to receive and process requests for Medicaid recipient or claims payment data, data from nursing facility audit reports, or extracts or analyses of such data made by persons who intend to use the data for commercial or academic purposes. Prior law permitted the Director to enter into such contracts. The act requires the Director to enter into such contracts.

Under prior law, such a contract had to specify the schedule of fees the contracting person was to charge for the data. The act requires instead that the contract require the contracting person to charge for an item prepared pursuant to a request for the data a fee equal to 102% of the cost ODM incurs in making the data used to prepare the item available to the contracting person.

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).¹¹⁴ It may be better known, however, as MyCare Ohio.

¹¹⁴ R.C. 5164.91, not in the act.



Holocaust survivors

(R.C. 5166.161 (primary) and 5166.16)

The act 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 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 act 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 MCOs;

(2) Determine an amount to be withheld from the Medicaid premium payments paid to Medicaid MCOs for participants.

For purposes of the amount to be withheld from premium payments, the act requires ODM to establish a percentage amount and apply the same percentage to all Medicaid MCOs providing care to ICDS participants. Each Medicaid MCO must agree to the withholding as a condition of receiving or maintaining its Medicaid provider agreement. The act authorizes the ODM Director to use these amounts to provide performance payments to Medicaid MCOs providing care to ICDS participants in accordance with rules that the Director may adopt. The act provides that a Medicaid MCO 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.

Claims for medical transportation services (VETOED)

(R.C. 5164.912)

The Governor vetoed a provision that would have permitted a medical transportation provider to submit a Medicaid claim for a medical transportation service provided to an ICDS participant without the Medicare program first denying the claim if the Medicaid program was responsible for paying the claim.



Administrative issues – 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 act provides that all applicable statutes, and all applicable rules, standards, guidelines, or orders issued by ODM or ODA before the program is terminated, remain in full force and effect on and after that date, but solely for concluding the program's operations, including fulfilling ODM's and ODA's legal obligations for claims arising from 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

(Section 327.110)

The act 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 must continue to use the money in the fund for system reform activities related to the demonstration project.

Home and community-based services – behavioral health

(Section 327.190)

During fiscal years 2016 and 2017, the act 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 act authorizes the ODM Director to adopt rules as necessary to implement this provision.



Medicaid School Program

(R.C. 5162.365 (primary), 5162.01, 5162.36, 5162.361, and 5162.363)

The act 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 the Department of Education as being responsible for the overpayment.

ODM is prohibited by the act from doing any of the following regarding an overpayment that the 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.

Each qualified Medicaid school provider must 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 (PARTIALLY VETOED)

(R.C. 5163.03, 5163.04, and 5163.06)

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).

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.

The Governor vetoed a provision that would have permitted Medicaid to cover optional eligibility groups that state statutes do not require Medicaid to cover only if (1) state statutes expressly permit Medicaid to cover the group or (2) Medicaid covers the group on September 29, 2015. If not for the veto, the act would have prohibited



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 Governor also vetoed a provision that would have required 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 was to be a percentage of the federal poverty line that does not exceed the percentage that is the group's income eligibility threshold on September 29, 2015.

The act eliminates a requirement that the Medicaid program cover the optional eligibility group consisting of nonpregnant individuals who may receive family planning services and supplies.

209(b) option (PARTIALLY VETOED)

(R.C. 5166.32 (primary), 3701.023, and 5166.01; Section 327.310)

One of the eligibility groups for the Medicaid program consists of aged, blind, or disabled individuals who are eligible for the Supplemental Security Income (SSI) program. However, federal law permits states to establish Medicaid eligibility requirements for aged, blind, or disabled individuals that are more restrictive than the eligibility requirements for the SSI program. This option is known as the 209(b) option. Ohio's Medicaid program implements the 209(b) option.

Restriction on termination

The act prohibits ODM from terminating the implementation of the 209(b) option before July 1, 2016.

Continued spenddown process for individuals with cystic fibrosis

A state that implements the 209(b) option is required by federal law to permit aged, blind, and disabled individuals who have incomes exceeding the Medicaid eligibility limit to qualify for Medicaid through a spenddown process under which medical expenses are subtracted from their incomes.

The act requires ODM, if it terminates implementation of the 209(b) option, to establish a Medicaid waiver program under which an individual who has cystic fibrosis and is enrolled in the Ohio Department of Health's (ODH's) Program for Medically Handicapped Children or an ODH program for adults with cystic fibrosis may qualify for Medicaid under the same type of spenddown process that is part of the 209(b) option. The ODH programs are required by the act to continue to assist enrollees with



cystic fibrosis in qualifying for Medicaid under the spenddown process in the same manner the programs assist such enrollees on September 29, 2015. This requirement applies regardless of whether ODM terminates the 209(b) option. The Governor vetoed a provision that would have provided that this requirement also applies regardless of whether ODM establishes the Medicaid waiver program for individuals with cystic fibrosis.

Transitional Medicaid

(R.C. 5163.08 (repealed))

Federal law includes a provision for transitional Medicaid. It 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.¹¹⁵ 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 act repeals a requirement that the ODM Director implement the option regarding the single 12-month eligibility period for transitional Medicaid.

Medicaid ineligibility for transfer of assets – exception

(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 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

¹¹⁵ 42 U.S.C. 1396r-6.



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 act 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 eligibility – revocable self-settled trusts (VETOED)

(R.C. 5163.21)

When a Medicaid applicant or recipient is a trust beneficiary, the CDJFS must determine what type of trust it is and, for purposes of determining Medicaid eligibility, whether the trust or a portion of it (1) is a resource available to the applicant or recipient, (2) contains income available to the applicant or recipient, (3) constitutes both an available resource and contains available income, or (4) is neither an available resource nor contains available income.

A self-settled trust is a trust not established by will. Under ongoing Ohio law, a CDJFS must treat a revocable self-settled trust as follows:

- (a) The corpus of the trust¹¹⁶ must be considered an available resource;
- (b) Payments from the trust to or for the benefit of the applicant or recipient must be considered unearned income of the applicant or recipient; and

¹¹⁶ The "corpus" is all property and other interests held by the trust, including accumulated earnings and any other addition to the trust after its establishment (except that it excludes any earnings or addition in the month in which the earnings or addition is credited or otherwise transferred to the trust). 42 U.S.C. 1382b(e)(6)(B).



(c) Any other payments from the trust must be considered an improper disposition of assets and makes the applicant or recipient ineligible for Medicaid for a certain period of time.¹¹⁷

The Governor vetoed a provision that would have specified that an applicant's or recipient's home (including the land that appertains the home) is not subject to the provisions described in (a) – (c), above, is not a resource available to the applicant or recipient, and must be excluded from the computation of spousal share determined under federal Medicaid provisions. (Under those federal provisions, a certain amount of a couple's combined resources is counted when determining the institutionalized spouse's Medicaid eligibility; however, depending on how much of his or her own income the community spouse actually has, a certain amount of income belonging to the institutionalized spouse can be set aside for the community spouse's use so that the community spouse is not impoverished.¹¹⁸) Federal law already specifies that the home is not to be counted as a resource.¹¹⁹

The Governor also vetoed a provision that would have prohibited the transfer of a Medicaid applicant's or recipient's home from a revocable self-settled trust to the applicant or recipient or that individual's spouse from being considered an improper disposition of assets or a disposal of assets for less than fair market value. A Medicaid applicant or recipient may be subject to a period of Medicaid ineligibility if ODM makes one of those two determinations.

Personal needs allowance

(R.C. 5163.33)

The act 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.

¹¹⁷ R.C. 5163.30.

¹¹⁸ U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, *Spousal Impoverishment*, available at [medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/spousal-impoverishment-page.html](https://www.medicaid.gov/medicaid-chip-program-information/by-topics/eligibility/spousal-impoverishment-page.html).

¹¹⁹ 42 U.S.C. 1382b(a)(1).



Independent provider study

(Section 751.10)

The act 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 act 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.¹²⁰ 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;¹²¹ however, a federal trial court recently found the regulation to be invalid and vacated it. That decision is currently on appeal.¹²² If the regulation is determined to be valid, employers of home care workers, which could include states or

¹²⁰ 29 C.F.R. 552.6.

¹²¹ 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).

¹²² *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 181712 (January 14, 2015).



state agencies overseeing Medicaid programs, will be responsible for ensuring the federal requirements are met.¹²³

Medicaid expansion group report

(Section 751.20)

The act 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.

Pre-enrollment provider screenings and reviews

(Section 327.280)

The act states the General Assembly's recommendation that ODM, during fiscal years 2016 and 2017, perform pre-enrollment screenings and reviews of Medicaid providers designated as moderate or high risks to the Medicaid program under the categorical risk levels established pursuant to federal Medicaid regulations.

Medicaid rates for medical transportation services (VETOED)

(R.C. 5164.78; Section 327.300)

The Governor vetoed a provision that would have required that the Medicaid payment rate for medical transportation services include a component that pays for providers' fuel costs. ODM would have been required to revise the rate for the fuel component each month. The rate for the fuel component for a month would have to have been at least 5% higher than the national average for fuel prices for the preceding month as reported by the U.S. Energy Information Administration.

The Governor also vetoed a provision that would have required that the Medicaid payment rates for ambulette services provided during fiscal years 2016 and 2017 be at least 10% higher than the rates for the services in effect on June 30, 2015.

¹²³ 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.



Nursing facilities' Medicaid rates (PARTIALLY VETOED)

(R.C. 5165.15 (primary), 173.47, 5165.151, 5165.152, 5165.157, 5165.16, 5165.17, 5165.19, 5165.192, 5165.23, and 5165.25 (new); R.C. 5165.25 and 5165.26 (repealed); Sections 327.270 and 812.10)

Nursing facilities' peer groups

Nursing facilities are placed into various peer groups for determining their Medicaid rates for ancillary and support costs, capital costs, and direct care costs. Continuing law requires ODM to revise the peer groups by placing facilities located in Mahoning County or Stark County in different peer groups beginning with the first rebasing of nursing facilities' Medicaid rates. This will affect the Medicaid payment rates for all nursing facilities in the peer groups affected by the changes. A rebasing is a redetermination of nursing facilities' Medicaid rates for certain costs using information from Medicaid cost reports for a calendar year that is more recent than the calendar year used for the previous determination of the costs.

The act requires ODM to further revise the peer groups by also placing nursing facilities located in Allen County or Trumbull County in the peer groups in which the nursing facilities located in Mahoning County or Stark County are to be placed with the first rebasing.

For the purpose of determining nursing facilities' Medicaid rates for ancillary and support costs and capital costs, a nursing facility located in Allen County or Trumbull County is placed before the first rebasing in either peer group five or six, depending on how many beds it has. This also applies to a nursing facility located in Mahoning County or Stark County. If the nursing facility has fewer than 100 beds, it is placed in peer group five. If it has 100 or more beds, it is placed in peer group six. Nursing facilities located in any of the following counties are also placed in peer group five or six, depending on their number of beds: Adams, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

Beginning with the first rebasing, nursing facilities located in Allen County or Trumbull County are to be placed in peer group three or four. These are the peer groups that continuing law requires ODM to place nursing facilities located in Mahoning County or Stark County when the first rebasing occurs. Peer group three is for nursing facilities with fewer than 100 beds. Peer group four is for nursing facilities with 100 or more beds. Before the first rebasing, peer groups three and four consist of



nursing facilities located in any of the following counties: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

For the purpose of determining nursing facilities' Medicaid rates for direct care costs, a nursing facility located in Allen County or Trumbull County is placed before the first rebasing in peer group three. This is the same peer group that a nursing facility located in Mahoning County or Stark County is in before the first rebasing. Peer group three also consists of nursing facilities located in any of the following counties: Adams, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

Beginning with the first rebasing, nursing facilities located in Allen County or Trumbull County are to be placed in peer group two for the purpose of direct care costs. This is the same peer group that nursing facilities located in Mahoning County or Stark County are to be placed with the first rebasing. Before the first rebasing, peer group two consists of nursing facilities located in any of the following counties: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

Quality payments (PARTIALLY VETOED)

Under law in effect until July 1, 2016, a nursing facility's regular total Medicaid payment rate 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 until July 1, 2016, to pay a qualifying nursing facility a quality bonus in addition to its regular total rate under certain circumstances. Effective July 1, 2016, the act replaces the quality incentive payment with a quality payment and eliminates the quality bonus. The act retains the rates for cost centers. The Governor apparently vetoed changes that would have been made to the law governing critical access incentive payments.¹²⁴

¹²⁴ R.C. 5165.23 governs nursing facilities' critical access incentive payments. The Governor's vetoes remove R.C. 5163.23 from the body of the act but not from the act's title, amending clause, existing



Until July 1, 2016, the maximum quality incentive payment is \$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 act provides for the amount of the 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 beginning on July 1, 2016:

- (1) Determine the sum of the nursing facilities' rates for each cost center and, if applicable, its critical access incentive payment;
- (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 act, 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 act establishes the following quality indicators for the purpose of the quality payment:

repeals, and special effective dates. The Governor's veto message does not expressly indicate an intent to repeal the act's changes to the critical access incentive payments.



(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 act 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.

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. The Governor apparently vetoed a provision that would have eliminated the fourth requirement to qualify for a critical access incentive payment. The Governor also apparently vetoed a provision that would have revised how the amount of the critical access incentive payment was to be determined. Under ongoing 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. If not for the apparent veto, a nursing facility's critical access incentive payment would have equaled 5% of the sum of its rates for each of the cost centers.

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 act 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.

Case-mix scores (VETOED)

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 ongoing 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 Governor vetoed a provision that would have required, beginning July 1, 2016, 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.

Low resource utilization residents

The regular Medicaid rate 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.¹²⁵

Until July 1, 2016, the total per Medicaid day payment rate for nursing facility services provided to low resource utilization residents is \$130. The act provides, beginning July 1, 2016, 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.

Alternative purchasing model for nursing facility services

The Medicaid Director is authorized to establish an alternative purchasing model for nursing facility services provided to Medicaid recipients with specialized health care needs by designated discrete units of nursing facilities. The Medicaid rates paid under the alternative purchasing model are in lieu of the regular Medicaid rates for nursing facility services.

Prior law permitted the Director to establish the alternative purchasing model. The act requires it to be established.

Nursing facility demonstration project

The act requires ODM to submit to the U.S. Secretary of Health and Human Services a request for a federal Medicaid waiver to operate a two-year demonstration project under which Medicaid recipients receive nursing facility services in participating nursing facilities in lieu of hospital inpatient services in freestanding long-term care hospitals.¹²⁶ The request must be submitted July 30, 2015. It must specify a January 1, 2016, starting date for the project.

ODM is to select four nursing facilities to participate in the project. To be selected, a nursing facility must (1) be held out to the public as providing short-term rehabilitation services, (2) have a hydrotherapy pool, (3) have a Medicaid-certified

¹²⁵ R.C. 5165.01, not in the act.

¹²⁶ A hospital is a freestanding long-term care hospital if (1) it meets the definition of that term in federal regulations, (2) it has a Medicaid provider agreement to provide inpatient hospital services, and (3) pursuant to ODM rules, it is exempt from the patient refined diagnosis related groups (APR-DRG) and prospective payment methodology ODM uses to determine Medicaid payment rates for inpatient services provided by other types of hospitals not also excluded from the methodology.

capacity that includes at least ten single-occupancy sleeping rooms that will be used for Medicaid recipients admitted to the nursing facility under the project, and (4) have been initially constructed, licensed for operation, and certified for participation in Medicaid on or after January 1, 2010. In selecting four nursing facilities, ODM must select one located in Cuyahoga County, one located in Franklin County, one located in Hamilton County, and one located in Lucas County. However, ODM may select a nursing facility located in another county if necessary to find four facilities that meet the selection requirements.

Each nursing facility selected for participation in the project is required to develop admission criteria that Medicaid recipients must meet to be admitted to the nursing facility under the project. A nursing facility is to give the criteria to each hospital that is located within 50 miles and routinely refers Medicaid recipients to freestanding long-term care hospitals. A hospital that receives the criteria must consider it when determining where to refer a Medicaid recipient who needs the types of services freestanding long-term care hospitals provide.

The act permits a Medicaid recipient to refuse a referral to a nursing facility participating in the project and instead seek admission to a freestanding long-term care hospital. If a Medicaid recipient seeks admission to a nursing facility participating in the project, the nursing facility's staff must ensure that the recipient meets the nursing facility's admission criteria before admitting the recipient.

A nursing facility is required to notify ODM each time it admits a Medicaid recipient under the project. A recipient's admission is not subject to prior authorization from ODM or ODM's designee.

The act requires that the Medicaid payment rate for nursing facility services that a Medicaid recipient receives from a nursing facility participating in the project not exceed the Medicaid payment rate for comparable hospital inpatient services provided by freestanding long-term care hospitals in effect at the time the services are provided.

Each nursing facility participating in the project is required to report to ODM certain information not later than 30 days after the end of each quarter of the project. Specifically, a nursing facility must report all of the following information about each Medicaid recipient residing in the nursing facility under the project during the quarter:

- (1) The cost of the nursing facility services provided to the recipient that quarter;
- (2) The number of days the recipient resided in the nursing facility that quarter;
- (3) The recipient's health outcomes;



(4) The recipient's satisfaction with the nursing facility as reported to the nursing facility's staff;

(5) All other information ODM requires the nursing facilities to include in the reports.

ODM is required by the act to complete a report about the project not later than three months after the project ends. The report must include an analysis of the information nursing facilities submit to ODM under the project. It also must include recommendations about resuming the project's operation and selecting nursing facilities from additional counties to participate. The report is to be submitted to the Governor, General Assembly, and the Joint Medicaid Oversight Committee (JMOC).

Medicaid rate for home health aide services

(Section 327.250)

The act requires that the Medicaid payment rate for home health aide services provided during the period beginning January 1, 2016, and ending June 30, 2017, other than such services provided by independent providers, be at least 5% higher than the rate in effect on October 1, 2015, for the services. An independent provider is a provider who personally provides home health aide services and is not employed by, under contract with, or affiliated with another entity that provides those services.

Medicaid care management system (PARTIALLY VETOED)

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.

Elimination of requirements regarding groups that must participate

(R.C. 5167.03)

The act repeals a requirement that ODM designate for participation in the care management system individuals who receive Medicaid on the basis of being included in the eligibility category identified as covered families and children and, with certain exceptions, individuals who receive Medicaid on the basis of being aged, blind, or disabled. The act also repeals a requirement to ensure the individuals mentioned above are enrolled in Medicaid managed care organizations that are health insuring corporations.



Adding behavioral health services

(R.C. 5167.04 (primary), 103.42, and 5167.03)

The act repeals a prohibition against ODM including in the care management system alcohol, drug addiction, and mental health services for which a board of alcohol, drug addiction, and mental health services or a state agency other than ODM pays the nonfederal share.

ODM must begin to include alcohol, drug addiction, and mental health services in the care management system by January 1, 2018.

During the period beginning July 1, 2015, and ending June 30, 2018, JMOC must monitor on a quarterly basis ODM's actions in preparing to implement and implementing inclusion of the services in the system. Any ODM proposal to include all or part of the services in the system before January 1, 2018, is subject to JMOC's review. In conducting its review, JMOC is to consider all of the following for each service to be included:

- (1) The proposed timeline for including the service;
- (2) Any issues related to Medicaid recipients' access to the service;
- (3) The adequacy of the network of providers of the service;
- (4) Payment levels for the service.

JMOC members must vote on whether to approve or disapprove a proposal. If a majority of members approve the proposal, JMOC is to notify ODM, which may implement the proposal.

On and after January 1, 2018, any ODM proposal to include all or part of the services in the system is subject to JMOC's monitoring but not its approval. Beginning July 1, 2018, JMOC on a periodic basis must monitor ODM's inclusion of the services in the system.

Integrity strategies

(R.C. 5167.32)

The act requires ODM to implement, by July 1, 2016, strategies to improve the integrity of the care management system, including strategies to do both of the following:

- (1) Increase ODM's oversight of Medicaid MCOs;



(2) Provide incentives for identifying fraud, waste, and abuse in the care management system.

Value-based provider payments

(R.C. 5167.33)

The act requires Medicaid MCOs to implement, by July 1, 2018, strategies that base payments to providers on the value received from the providers' services, including their success in reducing waste in the provision of services. Not later than July 1, 2020, each Medicaid MCO must ensure that at least 50% of the aggregate net payments it makes to providers is based on the value received from the providers' services.

ODM is permitted by the act to measure a Medicaid MCO's compliance with these requirements based on the actions of the MCO, the providers in the MCO's provider panel, the MCO's subcontractors, or any combination of the MCO, providers, and subcontractors.

The ODM Director is required to adopt rules as necessary to implement this provision of the act, including rules that specify all of the following:

- (1) The value received from a provider's services;
- (2) A provider's success in reducing waste in the provision of services;
- (3) The percentage of a Medicaid MCO's aggregate net payments to providers that is based on the value received from the providers' services.

Community health worker services (VETOED)

(R.C. 3701.142 and 5167.15)

The Governor vetoed provisions that would have required Medicaid managed care organizations (MCOs) to provide certain Medicaid recipients, or arrange for those recipients to receive, services provided by community health workers certified by the Board of Nursing. A Medicaid recipient would have been eligible to receive the services if she (1) was pregnant or capable of becoming pregnant, (2) resided in a community with high infant mortality specified in rules the ODH Director is required to adopt under the act, (3) was recommended to receive the services by a physician or another licensed health professional specified in rules the ODH Director would have been required to adopt (see below), and (4) was enrolled in the Medicaid MCO.

The Governor also vetoed associated provisions that would have required (1) the ODH Director to adopt rules specifying healthy behaviors to be promoted and



facilitated by certified community health workers and (2) the ODH Director, in consultation with the Medicaid Director, to adopt rules specifying the licensed health professionals (in addition to physicians) who could recommend that a Medicaid recipient receive community health worker services.

A detailed description of the vetoed provisions is available on pages 405-407 of LSC's analysis of the Senate version of H.B. 64. The analysis is available online at www.lsc.ohio.gov/budget/agencyanalyses131/passedsenate/h0064-ps-131.pdf.

Enhanced care management

(R.C. 3701.142 and 5167.17)

The act requires the ODH Director, in consultation with the ODM Director, to adopt rules specifying the urban and rural communities, identified by zip code or portions of zip codes that are contiguous, that have the highest infant mortality rates in this state. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

The act requires ODM, when it contracts with a Medicaid MCO, to require the MCO to provide enhanced care management services for pregnant women and women capable of becoming pregnant who reside in an identified community. The contract must specify that the services are to be provided in a manner intended to decrease the incidence of prematurity, low birth weight, and infant mortality, as well as improve the overall health status of women capable of becoming pregnant for the purpose of ensuring optimal future birth outcomes.

Help Me Grow home visits

(R.C. 5167.16)

The act requires Medicaid MCOs to provide to certain Medicaid recipients (or arrange for those recipients to receive) home visits, including depression screenings, and cognitive behavioral therapy. The Medicaid recipients who are to receive those services are recipients who are (1) enrolled in the Help Me Grow program and a Medicaid MCO and (2) pregnant or the birth mother of a child under three years of age. Help Me Grow is a program established by the Department of Health to encourage early prenatal and well-baby care, provide parenting education to promote the comprehensive health and development of children, and provide early intervention services for individuals with disabilities.¹²⁷

¹²⁷ R.C. 3701.61, not in the act.



A Medicaid MCO is to provide or arrange for the provision of home visits for which federal financial participation is available under the federal targeted case management benefit. ("Federal financial participation" is that portion of the cost of a Medicaid service that is paid for from federal funds.) Cognitive behavioral therapy is to be provided or arranged for if it is determined to be medically necessary through a depression screening conducted as part of a home visit. The cognitive behavioral therapy must be provided by a community mental health services provider.

If requested, a Medicaid recipient who is eligible for the cognitive behavioral therapy is entitled to have that therapy provided at her home. The act requires the Medicaid MCO to inform the recipient of the right to make such a request and how to make it.

Enrollment preferences – MCOs that reduce infant mortality rates

(Section 327.340)

The act requires ODM to modify, for the period from January 1, 2016, to June 30, 2017, the default enrollment process under which ODM enrolls in a Medicaid MCO a recipient who is designated for participation in managed care but fails to select an MCO during the enrollment period. Under the modifications, ODM must give preference to Medicaid MCOs that have demonstrated to ODM's satisfaction success in reducing the infant mortality rates among children born to women enrolled in the MCOs. In determining success in reducing infant mortality rates, ODM may consider direct and indirect measures of infant mortality and factors that differ from the performance standards for the Managed Care Performance Payment Program.

A determination of whether to give preference to a Medicaid MCO under this provision is to have no effect on an MCO's eligibility for a performance payment under the Managed Care Performance Payment Program or on the amount of the performance payment.

Study – self-selection of Medicaid MCOs

(Section 327.330)

The act requires ODM to complete, by December 27, 2015, a study of the feasibility and potential savings to the state of delaying an individual's Medicaid coverage until the individual self-selects a Medicaid managed care organization in which to enroll (if the individual is required to participate in the care management system). As part of the study, ODM must both:

(1) Examine the feasibility of obtaining any necessary federal waivers, including a waiver of the default enrollment process that federal law requires states to use when a Medicaid recipient fails to timely select a managed care organization; and

(2) Contract with an actuary to determine the effect that the delay on coverage would have on the amount of premiums to be paid Medicaid managed care organizations under the care management system.

ODM is required to prepare a report about the study and submit it to the Governor, General Assembly, and JMOC.

Healthy Ohio Program

(R.C. 5166.40 to 5166.409 and 5167.03)

HOP established

The act requires the ODM Director to establish a Medicaid waiver program to be known as the Healthy Ohio Program (HOP). An adult, 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). With certain exceptions, a HOP participant is not to receive Medicaid services under the fee-for-service system or participate in Medicaid managed care. (See "**Exhausting payout limits**" below.)

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) 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.)

(3) 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.



(4) It must have a \$300,000 annual payout limit and a \$1 million lifetime payout limit.

Buckeye accounts

The act 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 and (2) contributions made by and on behalf of the participant. (See "**Deposits of Medicaid funds**" and "**Participants' contributions**" below.) However, a Buckeye account is not to have more than \$10,000 in it at one time.

Deposit of Medicaid funds

Each year, \$1,000 of Medicaid funds is to be deposited into a HOP participant's Buckeye account. The Medicaid funds are not to be deposited until after the initial contribution to the Buckeye account is made by the participant or on the participant's behalf unless the participant is not required to make contributions. (See "**Participants' contributions**" below.) Additional Medicaid funds are to be deposited based on points the participant earns under HOP for providing for the participant's contributions to be made by electronic funds transfers and satisfying certain health care goals and benchmarks. (See "**Amounts awarded to HOP debit swipe cards**" below.)

Participants' contributions

With certain exceptions, a HOP participant must contribute each year to the participant's Buckeye account the lesser of the following:

- (1) 2% of the participant's monthly countable family income;
- (2) \$99.¹²⁸

A participant's contributions may be made in monthly installments. A monthly installment is to be considered an initial contribution.

The following are permitted to make contributions to a participant's Buckeye account on the participant's behalf:

- (1) The participant's employer, but only up to 50% of the contributions the participant is required to make;
- (2) A not-for-profit organization, but only up to 75% of the contributions the participant is required to make;

¹²⁸ A HOP participant is not to begin to receive benefits under HOP until the initial contribution to the Buckeye account is made, unless the participant is not required to make a contribution.



(3) 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 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 makes at least 25% of the contributions the participant is required to make.

Core and noncore portions of Buckeye accounts

The act 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 act 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.¹²⁹ 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 act 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);

¹²⁹ 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.¹³⁰

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 act 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:

¹³⁰ 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 act 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 act 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 HOP participant's participation is to cease if any of the following applies:

(1) Unless the participant is pregnant, a monthly installment payment to the participant's Buckeye account is 60 days late.

(2) The participant 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 \$300,000 annual or \$1 million lifetime payout limit.

(7) The participant requests that the participant's participation be terminated.

A participant who ceases to participate because of a late monthly installment payment or failure to timely submit documentation needed for an eligibility redetermination cannot resume participation in HOP until the former participant pays the full amount of the monthly installment payment or submits the documentation needed for the former participant's Medicaid eligibility redetermination. The former participant is not to be transferred to the fee-for-service component of Medicaid or the care management system as a result of ceasing to participate in HOP for either of these reasons.

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.)

Exhausting payout limits

If a HOP participant exhausts the \$300,000 annual or \$1 million lifetime payout limits, the participant is to be transferred to the fee-for-service component of Medicaid or the care management system. A participant who exhausts the annual payout limit for



a year is to resume participation at the beginning of the immediately following year if the participant continues to meet the conditions for participation.

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 act requires each CDJFS to offer to refer to a workforce development agency each HOP participant who resides in the county served by the CDJFS 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.

HCAP

(R.C. 5168.01, 5168.06, 5168.07, 5168.10, 5168.11, and 5168.12 (repealed); Sections 610.10 and 610.11)

The act continues the Hospital Care Assurance Program (HCAP) for two additional years. HCAP was scheduled to end October 16, 2015, but under the act, 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 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 act 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 prior law, ODM was required to deposit into that fund an amount equal to the amount by which the biennial appropriation from the fund exceeded the amount of unexpended, unencumbered money in the fund. The money for the deposits was to come from the first installment of the HCAP assessments and intergovernmental transfers made during a year.

The act requires that any money remaining in the Legislative Budget Services Fund on September 29, 2015, 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 act abolishes the fund when all the money in it has been spent.

Hospital franchise permit fees

(R.C. 5168.23 and 5168.26; Sections 610.10 and 610.11)

The act 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.

Under prior law and unless ODM adopted rules establishing a different payment schedule, each hospital was required to pay its assessment for a year in accordance with the following schedule:

- (1) 28% was due on the last business day of October;
- (2) 31% was due on the last business day of February;
- (3) 41% was due on the last business day of May.

The act eliminates this payment schedule and instead requires ODM to establish a payment schedule for each year. ODM is required to consult with the Ohio Hospital



Association before establishing the payment schedule for a year and to include the payment schedule in each preliminary determination notice of the assessment that continuing law requires ODM to mail to hospitals.

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 act 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 facility services 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. The act 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 continuing law, ODM is required to notify each nursing home and hospital long-term care unit of the amount of its franchise permit fee for a year not later than the first day of each October. ODM must notify each nursing home and hospital long-term care unit 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 notify the nursing home or hospital of the date, time, and place of the hearing.

Prior law required ODM to mail these notifications to nursing homes and hospital long-term care units. The act requires that these notices be provided electronically or by the U.S. Postal Service.



Home care services contracts (VETOED)

(R.C. 121.36)

The Governor vetoed a provision that would have added ODM to a provision of law that requires, for contracts for home care services paid for with public funds, that the provider of those services have a system for monitoring the delivery of the services by the provider's employees. Law unchanged by the act 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 that provision was originally enacted.¹³¹

Annual report on Medicaid effectiveness

(R.C. 5162.13)

The act requires additional information to be included in an annual report that ODM must complete under continuing law on Medicaid's effectiveness in meeting the needs of low-income pregnant women, infants, and children. The additional information to be included is:

--The actual number of enrolled pregnant women categorized by estimated gestational age at time of enrollment; and

--The rates at which enrolled pregnant women receive addiction or mental health services, progesterone therapy, and any other service ODM specifies.

Graduate Medical Education Study Committee

(Section 327.320)

The act creates the Graduate Medical Education Study Committee for the purpose of studying the issue of Medicaid payments to hospitals for the costs of graduate medical education. The Committee must include in its study the feasibility of targeting the payments in a manner that rewards graduates of medical schools of colleges and universities located in Ohio who practice medicine and surgery or osteopathic medicine and surgery in this state for at least five years after graduation.

The Committee is to consist of all of the following:

(1) The Executive Director of the Office of Health Transformation;

¹³¹ See H.B. 59 of the 130th General Assembly.



(2) The ODM Director;

(3) The Chancellor of Higher Education;

(4) Four deans of medical schools of Ohio colleges and universities, appointed by the President of the Senate;

(5) Four presidents of Ohio colleges and universities that have medical schools, appointed by the Speaker of the House;

(6) The chief executive officers of the Ohio State Medical Association, the Ohio Osteopathic Association, the Ohio Hospital Association, and the Ohio Children's Hospital Association.

The appointments must be made by July 15, 2015. A member of the Committee may designate an individual to serve in the member's place for one or more meetings. Members are to serve without compensation or reimbursement, except to the extent that serving on the Committee is part of their usual job duties.

The Executive Director of the Office of Health Transformation is to serve as the Committee's chairperson. ODM must provide the Committee all support services it needs.

The Committee must complete a report about its study by December 31, 2015. Copies of the report must be submitted to the Governor, General Assembly, and JMOC. The Committee ceases to exist on submission of the report.

Medicaid waiver for married couple to retain eligibility (VETOED)

(R.C. 5166.33 (primary) and 5166.01)

The Governor vetoed a provision that would have required ODM to establish a Medicaid waiver program under which Medicaid recipients who are married to each other would have retained eligibility for Medicaid despite one of the recipients having earnings from employment that cause the recipients to have countable family income exceeding the income eligibility threshold for the eligibility group, or groups, under which the recipients qualify for Medicaid. To retain Medicaid eligibility, both of the following would have to have applied:

(1) One of the recipients would have had to qualify to participate in the Medicaid Buy-In for Workers with Disabilities Program (Buy-In Program) if not for a disability that, according to a physician's written evaluation, is too severe for the recipient to have earnings from employment or to be an employed individual with a medically improved disability.



(2) The other recipient's earnings from employment could not have caused the recipients to have countable family income, determined in the same manner as income is determined for the Buy-In Program, exceeding 250% of the federal poverty line.

The Buy-In Program is the component of Ohio's Medicaid program under which Medicaid covers (1) individuals who are at least 16 but not more than 65 years of age and would be considered to be receiving Supplemental Security Income benefits if not for earnings that exceed a certain amount and (2) employed individuals with a medically improved disability.¹³²

Medicaid Recipients' ID and Benefits Cards Workgroup

(Section 751.30)

The act creates the Workgroup to Study the Feasibility of Medicaid Recipients' ID and Benefits Cards, consisting of the following 11 members:

- (1) The Director of Public Safety or the Director's designee;
- (2) The Medicaid Director or the Director's designee;
- (3) The Director of Aging or the Director's designee;
- (4) The Director of Development Services or the Director's designee;
- (5) The Director of Developmental Disabilities or the Director's designee;
- (6) The Superintendent of Public Instruction or the Superintendent's designee;
- (7) The Director of Health or the Director's designee;
- (8) The Director of Insurance or the Director's designee;
- (9) The Director of Job and Family Services or the Director's designee;
- (10) The Director of Mental Health and Addiction Services or the Director's designee; and
- (11) The Executive Director of Opportunities for Ohioans with Disabilities or the Executive Director's designee.

¹³² 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI).



The Director of Public Safety or the Director's designee must serve as chairperson of the Workgroup, and the Department of Public Safety is required to provide staff and all other support functions for the Workgroup.

In order to reduce enrollee and provider fraud and abuse, the Workgroup is required to evaluate the feasibility of using state-issued licenses and identification cards to establish an individual's eligibility for all state public assistance programs and benefits under them, such as Medicaid, the Home Energy Assistance Program, the Supplemental Nutrition Assistance Program, the Temporary Assistance for Needy Families program, and child care. Upon conclusion of the evaluation, the Workgroup must develop findings and formulate recommendations.

Not later than July 1, 2018, the Workgroup is required to submit to the General Assembly a report that contains its findings and recommendations. The Workgroup must submit the report in accordance with the provisions of continuing law that govern the submission of reports to the General Assembly. Upon submission of the report, the Workgroup ceases to exist.

Health and Human Services Fund

(Section 751.40)

The act creates the Health and Human Services Fund in the state treasury, consisting of money appropriated and transferred to it. The Fund is to be used to pay any costs associated with programs or services provided by the state to enhance the public health and overall health care quality of citizens of this state. The act requires the Director of Budget and Management to transfer any unexpended, unobligated cash that remains in the Fund as of June 30, 2017, to the Budget Stabilization Fund.



JOINT MEDICAID OVERSIGHT COMMITTEE

- Requires the Legislative Service Commission to act as fiscal agent for the Joint Medicaid Oversight Committee.

Fiscal agent

(Section 308.10)

The act specifies that the Legislative Service Commission must act as fiscal agent for the Joint Medicaid Oversight Committee.



STATE MEDICAL BOARD

Renewal procedures

- Eliminates the requirement that the State Medical Board, in its regulation of physicians (including podiatrists and anesthesiologist assistants), issue certificates of registration and instead authorizes the Board to renew certificates to practice.
- Specifies, within the list of disciplinary actions to be imposed by the Board, that the Board may refuse to renew a certificate or license.
- Requires the Board to provide, rather than send or mail, renewal notices to certificate and license holders.

Change of address notice

- Clarifies that each physician (including a podiatrist) must notify the Board of a change in any of the following within 30 days: (1) the physician's residence, business, or email address or (2) the list of the names and addresses of advanced practice registered nurses with whom the physician collaborates.

Board directory

- Requires the Board to develop and publish on its website a directory of all persons holding certificates or licenses issued by the Board and generally specifies that the directory is the sole source for verifying that a person holds a current, valid certificate or license.

Fees for reinstating or restoring certificates

- Increases the fees a physician (including a podiatrist) must pay to have a certificate reinstated or restored after it has been suspended for failure to renew, as follows: \$100 (from \$50) for reinstatement and \$200 (from \$100) for restoration.

Conditions 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.

Continuing education requirements

- 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.



- Clarifies continuing education requirements for physicians but does not make substantive changes to the requirements.
- Adds continuing education requirements related to certificates to practice limited branches of medicine to the list of continuing education requirements that may be deferred for individuals called to active military duty.

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.
- Specifies 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 referral for overdose of illegal drug

- Authorizes a physician who believes that a patient is experiencing an overdose of an illegal drug to refer the patient to a mental health professional and requires the mental health professional to report to the physician on the patient's treatment status.

Prescribing based on remote examination (VETOED)

- Would have codified, 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 (VETOED).

Therapeutic recreation camps

- Provides immunity to certain medical professionals who volunteer services at therapeutic camps.



- Provides an exception to the requirement that a person practicing medicine have an Ohio medical license to out-of-state physicians volunteering at certain therapeutic recreation camps.

Disciplinary statute clarification

- Makes a clarification related to the Board's disciplinary statute.

Certificate renewals

(R.C. 4731.281 and 4760.03 (primary); 4731.07, 4731.141, 4731.22, 4731.26, 4731.282, 4731.295, 4760.02, 4760.031, 4760.032, 4760.15, 4760.16, 4760.18, and 4762.06)

The act eliminates the requirement that the State Medical Board, in its regulation of physicians (including podiatrists and anesthesiologist assistants), issue certificates of registration and instead authorizes the Board to renew certificates to practice. Prior law required that, every two years, a physician seeking to renew a certificate to practice apply to the Board for a separate certificate of registration. In the case of an anesthesiologist assistant, prior law authorized the Board to issue an initial certificate of registration and allowed the Board to renew that certificate every two years upon application by the holder.

Regarding a physician, the act allows the Board to renew, upon application, the physician's existing certificate to practice, rather than issue a separate certificate of registration. With respect to an anesthesiologist assistant, the act replaces the certificate of registration with a certificate to practice and allows for renewal of that certificate upon application.

Renewal notices

(R.C. 4730.14, 4730.141, 4731.15, 4731.281, 4760.06, 4762.06, 4774.06, and 4778.06)

The act requires that the Board *provide* renewal notices to certificate and license holders, rather than *send* or *mail* the notices as previously required.

Refusal to renew as disciplinary action

(R.C. 4730.25, 4731.22, 4760.13, 4762.13, 4774.13, and 4778.14)

Continuing law authorizes the Board to discipline a certificate or license holder for specified reasons. Within the list of disciplinary actions to be imposed by the Board, the act specifies that the Board may refuse to renew a certificate or license.



Change of address notice

(R.C. 4731.281)

Under the act, each physician (including a podiatrist) must give notice to the Board of any of the following changes not later than 30 days after the change occurs:

(1) A change in the physician's residence, business, or email address;

(2) A change in the list of the names and addresses of advanced practice registered nurses with whom the physician collaborates.

Board directory

(R.C. 4731.071)

The act requires the Board to develop and publish on its website a directory of all persons holding certificates or licenses issued by the Board. It generally specifies that the directory is the sole source for verifying that a person holds a current, valid certificate or license.

Fees for reinstating or restoring certificates

(R.C. 4730.14 and 4731.281)

Under continuing law, failure by 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. In the case of a physician (including a podiatrist), the act 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.

Conditions for restoring or issuing certificates

(R.C. 4731.222)

Skills assessments

Continuing law authorizes the Board to 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 act 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. For consistency within these provisions, the act includes references to podiatrists and practitioners of limited branches of medicine where the references had been omitted.

In addition to the changes made for consistency, the act specifies that the Board is authorized to impose one or more of the terms and conditions. Prior law authorized the Board to impose any of the specified terms and conditions, but did 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, continuing 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 act 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 act 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.

The act adds continuing education requirements related to certificates to practice limited branches of medicine to the list of continuing education requirements that may be deferred for individuals called to active military duty.

Expedited certificate to practice by endorsement

(R.C. 4731.299)

Continuing 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 act specifies that the secretary and supervising member of the Board must review all applications for expedited certificates. It 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 act, if the secretary and supervising member determine that an applicant has not met all 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 act generally authorizes the Board to impose a civil penalty on any of the following professionals who violate the law administered by the Board: physicians, podiatrists, physician assistants, massage therapists, cosmetic therapists, naprapaths, mechanotherapists, anesthesiologist assistants, oriental medicine practitioners, acupuncturists, radiologist assistants, and genetic counselors. Prior law did 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 ongoing law permits the Board to take.

The act 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.

Under the act, amounts received from payment of civil penalties must be deposited by the Board to the credit of the ongoing 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 referral for overdose of illegal drug

(R.C. 4731.22 and 4731.62)

The act authorizes a physician who is acting in a professional capacity and who knows or has reasonable cause to suspect that a patient is experiencing an overdose of a dangerous drug, controlled substance, controlled substance analog, or metabolite of a controlled substance to refer the patient to a mental health professional (a person qualified to work with mentally ill persons under standards established by the Director of Mental Health and Addiction Services). A physician who makes such a referral must notify the mental health professional promptly. Within 30 days after receiving the notice, the mental health professional must inform the physician of the treatment status of the patient. A report is not a breach of confidentiality or a waiver of the patient's testimonial privilege and does not subject a physician to civil liability for harm allegedly resulting from the report.

Prescribing based on remote examination (VETOED)

(R.C. 4731.74)

The Governor vetoed a provision that would have codified, with certain changes, an administrative rule¹³³ governing when a physician may prescribe or dispense a prescription drug to a person on whom the physician has never conducted a medical evaluation. The provision specified requirements for a physician to prescribe or dispense drugs that are not controlled substances, including using technology capable of transmitting images of the patient's physical condition in real time. The provision also specified several specific situations in which a physician could prescribe or dispense prescription drugs, including controlled substances, to a patient on whom the physician had never conducted a medical evaluation. A detailed description of the vetoed provision is available on pages 423 – 425 of LSC's analysis of the Senate version of H.B. 64. The analysis is available online at www.lsc.ohio.gov/budget/agencyanalyses131/passedsenate/h0064-ps-131.pdf.

¹³³ O.A.C. 4731-11-09.



Therapeutic recreation camps

Immunity of health care professionals

(R.C. 2305.231)

The act provides immunity to health care professionals volunteering services to therapeutic camps. Under the act, 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 act 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.

Practicing without an Ohio medical certificate at free therapeutic camps

(R.C. 4731.41)

The act provides an exception to the requirement that any person practicing medicine have a certificate from the State Medical Board. The act 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 act 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 act 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.
- Modifies the criteria of ownership and operation of recovery housing.

ADAMHS board advocacy

- Expressly authorizes boards of alcohol, drug addiction, and mental health services (ADAMHS boards) to advocate on behalf of Medicaid recipients enrolled in Medicaid managed care organizations and Medicaid-eligible individuals, any of whom have been identified as needing addiction or mental health services.

Prohibition on discriminatory practices

- Prohibits an 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 continuing 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.

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 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

- Requires a probate court to send a certified copy of the commitment order to the mentally ill person's county of residence in order for the committing court to be reimbursed for its expenses instead of sending the court's transcript of proceedings under former law.

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 medication-assisted drug court 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 program based on the individual needs of each participant.
- Requires a research institute to prepare a report on the 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 in provisions governing the duties of ADAMHS boards, ODMHAS, and community addiction and mental health services providers.

Recovery housing

(R.C. 340.01 and 340.034; Section 812.40)

Under continuing 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 act defines "recovery housing" to include housing for individuals recovering from alcoholism as well as drug addiction. Under the act, a "residential facility" is a publicly or privately operated home or facility that falls into one of three categories (see "**Residential facility definition**," below).

The act replaces the prohibition against recovery housing being owned and operated by a residential facility with an exemption for recovery housing from Ohio Department of Mental Health and Addiction Services (ODMHAS) residential facility licensure requirements.

The act modifies the authority of a board of alcohol, drug addiction, and mental health services (an ADAMHS board) to own recovery housing if the board determines that there is a need to assume ownership and operation of the recovery housing in an emergency as a last resort. The act instead permits board ownership if the board determines there is a need for the board to assume the ownership and operation, and board ownership and operation is in the best interest of the community.



In addition, the act permits an ADAMHS board to own and operate recovery if the board utilizes local funds in the development, purchase, or operation of the recovery housing.

The act removes the express authority that recovery housing may be owned and operated by a community addiction services provider or other local nongovernmental organization.

These provisions take effect September 15, 2016.

ADAMHS board advocacy

(R.C. 340.035)

The act expressly authorizes ADAMHS boards to advocate on behalf of Medicaid recipients enrolled in Medicaid managed care organizations and Medicaid-eligible individuals, any of whom have been identified as needing addiction or mental health services. ADAMHS boards were not prohibited from engaging in this type of advocacy; the act codifies what the boards could already do.

Prohibition on discriminatory practices

(R.C. 340.12)

The act prohibits an 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 prohibited under continuing law on the basis of race, color, creed, sex, national origin, or disability.

Joint state plan to improve access

(R.C. 5119.161)

The act eliminates two requirements relating to a joint state plan administered by 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 act eliminates the requirement 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 act 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 act sets a time limit with respect to the confidentiality of mental health records in certain circumstances. First, the act specifies that all records and reports pertaining to an individual's mental health condition maintained in connection with services certified by ODMHAS, or hospitals or facilities licensed or operated by ODMHAS, that identifies the individual are no longer confidential once the individual has been deceased for 50 years or longer. Second, the act 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.

Service provider noncompliance

(R.C. 5119.33 and 5119.36; conforming changes in R.C. 5119.99)

Suspension

The act 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 act also permits ODMHAS to refuse to renew, in addition to revoke under continuing 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; conforming changes in R.C. 340.03, 340.05, 5119.341, 5119.41, and 5123.19)

"Residential facility" definition

The act 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 groups included under former law, 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 act removes from continuing law's exclusions from the definition of "residential facility" the exclusion of certified alcohol or drug addiction services. The act 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 former law, "residential facility" meant a publicly or privately operated home or facility that provided 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 were in need of mental health services who were referred by or were 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 were 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 were 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 were 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 act 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.

An ODMHAS suspension remains in effect during the pendency of licensure proceedings.

Rules

(R.C. 5119.34 and 5119.36)

The act changes ODMHAS's rule-making authority:

The act 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 former law, criminal records checks were only required for prospective or current operators, employees, and volunteers.

The act 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 act 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 act makes three changes to the eligibility requirements for the Social Security Residential State Supplement Program. First, the act 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 act 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 act 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 act 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. Former law required the agency to refer an individual for an assessment if the individual was eligible for Social Security payments, Supplemental Security Income payments, or Social Security Disability insurance benefits because of a mental disability.

The act removes the requirement that ODMHAS maintain a waiting list for the Residential State Supplement Program.

The act also changes the authority under which the ODMHAS Director adopts rules for the Program from R.C. 111.15 rules to Administrative Procedure Act (APA) rules.

Finally, the act 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 former law, only the county department could engage in those activities. In addition, the hearing is to be held under the general ODJFS appeals procedure, rather than under the APA as under former law.



Probate court reimbursement for fees for commitment of mentally ill

(R.C. 5122.36)

The act 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 act, 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. Former law required the ordering court to send a certified transcript of all proceedings in the ordering court. The act 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 act renames the "Office of Support Services Fund" used by ODMHAS to be the "Ohio Pharmacy Services Fund."

Medication-assisted treatment (MAT) drug court program

(Section 331.90)

Under the act, 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 a medication-assisted treatment (MAT) drug court 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 state agency 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.

"Medication-assisted treatment (MAT) drug court 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 pilot program in those courts of Allen, Clinton, Crawford, Cuyahoga, Franklin, Gallia, Hamilton, Hardin, Hocking, Jackson, Marion, Mercer, Montgomery, Summit, and Warren counties that are



conducting MAT drug court programs. However, if any of these counties do not have a court conducting a MAT drug court program, ODMHAS must conduct the program in a court that is conducting a MAT drug court program in another county.

Selection of participants

A MAT drug court program must select criminal offenders to participate in the program who meet the legal and clinical eligibility criteria for the MAT drug court program and who are active participants in the program. The total number of offenders participating in the program at any time is limited to 1,500, subject to available funding, except that ODMHAS may authorize additional persons to participate in circumstances that it considers to be appropriate. After being enrolled in a MAT drug court program, a participant must comply with all of the program's requirements.

Treatment provided

Only a community addiction services provider is eligible to provide treatment in a certified drug court program. The community 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) 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: a dentist; a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner who holds a certificate to prescribe drugs and therapeutic devices; an optometrist; a physician authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery; a physician assistant; or a veterinarian.¹³⁴

In the case of medication-assisted treatment provided under the program, all of the following conditions apply:

- 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.
- One or more drugs may be used, but each drug that is used must constitute long-acting antagonist therapy or partial agonist therapy.
- 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.

Planning

In order to ensure that funds appropriated to support the MAT drug court 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 MAT drug court program. The plans 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 MAT drug court 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;

¹³⁴ R.C. 4729.01(I), not in the act.



(3) The development of a consistent benefit package that provides ready access to and reimbursement for essential healthcare services including 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.

Report on pilot addiction treatment program

The act requires a research institution 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 by December 31, 2015. 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, ODMHAS, Department of Rehabilitation and Correction, and any other state agency that ODMHAS collaborates with in conducting the program.

Report on MAT drug court program

ODMHAS is required, by September 29, 2015, to select a research institution with experience in evaluating multiple court systems across jurisdictions in both rural and urban regions. The research institution is required to 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 institution also is required to have an internal institutional review board.

The institution is required to prepare a report of the findings obtained from the MAT drug court program that includes data derived from the drug testing and performance measures used in the program. The research institution is required to complete its report not later than June 30, 2017. Upon completion, the institution is required to submit the report to the Governor, Chief Justice of the 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 program.

Bureau of Recovery Services

(Section 331.100)

On June 30, 2015, the act abolishes the Bureau of Recovery Services (BRS) in the Department of Rehabilitation and Correction and transfers all of its functions, assets, and liabilities to ODMHAS. Any BRS business that is not completed by the Department of Rehabilitation and Correction 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 act requires all BRS employees be transferred to ODMHAS and retain their positions and benefits, subject to the layoff provisions pertaining to state employees under continuing law.

Finally, the act 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, 340.04, 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, 5119.10, 5119.11, 5119.186, 5119.21, 5119.23, 5119.25, 5119.31, 5119.36, 5119.361, 5119.365, 5119.61, and 5119.94)

The act makes technical corrections in 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 number of the corrections are related to the consolidation of the Ohio Department of Mental Health and Ohio Department of Alcohol and Addiction Services in H.B. 59 of the 130th General Assembly, the main appropriations act for fiscal years 2014 and 2015. The act also replaces incorrect references to "involuntary commitment" with references to "court-ordered treatment."¹³⁵

¹³⁵ See S.B. 43 of the 130th General Assembly.



DEPARTMENT OF NATURAL RESOURCES

Transfer of Silvicultural Assistance Program

- Transfers, effective January 1, 2016, the Silvicultural Assistance Program from the Division of Soil and Water Resources to the Division of Forestry, and retains all components of the Program.
- Authorizes a person that owns or operates a silvicultural operation to develop and operate under a timber harvest plan rather than an operation and management plan.

Division of Water Resources

- Renames, effective January 1, 2016, the Division of Soil and Water Resources as the Division of Water Resources.
- Retains the administration by the renamed Division of all statutory programs and activities assigned to it other than the Agricultural Soil and Water Conservation, Storm Water Management, and Silvicultural Assistance programs transferred by the act.

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 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.
- 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 of Natural Resources 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 formerly performed by the Division of Geological Survey.

Industrial minerals mining

- Generally precludes a mine foreperson's certificate issued under the Industrial Minerals Mining Law from expiring.
- Specifies that a certified mine foreperson may be employed for the purposes of being in charge of the conditions and practices at a mine in addition to conducting examinations of the surface mining operation as in continuing law.
- Allows a competent person identified by a certified mine foreperson to conduct examinations of the surface mining operation under federal law, and specifies what constitutes a competent person for that purpose.
- Revises the statutory requirements governing safety audits at surface mining operations.
- Specifies that expenditures from the continuing Surface Mining Fund made by the Chief of the Division of Mineral Resources Management for purposes other than certain authorized reclamation purposes are subject to the Chief's maintaining a balance in the Fund that is sufficient to achieve those reclamation purposes.

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 approves mitigation activities off the permit area without a permit, provided that the Chief first makes 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 continuing 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.
- 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.

Dredging of inland lakes

- Requires the Director to perform specified tasks regarding inland lakes, including:
 - Determining the amount of dredging that is needed in each inland lake in Ohio to improve access, water quality, safety, and other applicable standards; and
 - Increasing the amount of time and resources expended on dredging to meet the identified needs.
- Authorizes the Director to enter into contracts or agreements with other entities for the above purposes if doing so will assist in maximizing any of the dredging operations.

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 continuing 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 annual expenditures from the Fund that may be used to pay for related equipment and personnel costs.

Oil and Gas Law (PARTIALLY VETOED)

Application of Law

- Applies the Oil and Gas Law to any form of business organization or entity recognized by Ohio laws 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 to include land that is not taxed.

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 under which such an application was not required to 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, 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, to the above entities.

- Stipulates 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 act's submission requirements rather than by filing a log and production statement with the Chief.

Notification of emergencies (VETOED)

- Would have required 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 was impracticable under the circumstances (VETOED).

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 was also the owner of the mineral interest.
- 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.

Application of unit operation to ODOT land

- Requires the Chief to issue an order for unit operation of a pool or part of a pool that encompasses a unit area for which all or a portion of the mineral resources are owned or controlled by the Department of Transportation.



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.

Transfer of Silvicultural Assistance Program

(R.C. 939.02, 940.01, 1503.50, 1503.51, 1503.52, 1503.53, 1503.54, 1503.55, and 1503.99; Sections 715.30 and 715.40)

The act transfers, effective January 1, 2016, the administration of the Silvicultural Assistance Program from the Division of Soil and Water Resources (renamed by the act) to the Division of Forestry and retains all of the components of the Program. It then makes the following changes in the Program:

(1) Authorizes a person that owns or operates a silvicultural operation to develop and operate under a timber harvest plan rather than an operation and management plan; and

(2) Allows the Chief of the Division of Forestry or the Chief's designee to administer and enforce the Program rather than solely the Chief of the Division of Soil and Water Resources.

The act also generally prohibits specified state and local government officials, including the Chief of the Division of Forestry, from disclosing information used in the development or approval of or contained in a timber harvest plan.



Division of Water Resources

(R.C. 1501.022, 1506.01, 1514.08, 1514.13, 1521.03 to 1521.07, 1521.10 to 1521.16, 1521.18, 1521.19, 1522.03, 1522.05, 1522.11, 1522.12, 1522.13, 1522.131, 1522.15 to 1522.18, 1522.20, 1522.21, 1523.01 to 1523.20, 3701.344, 6109.21, and 6111.044; Section 715.20)

Effective January 1, 2016, the act renames the Division of Soil and Water Resources as the Division of Water Resources and retains the administration by the renamed Division of all statutory programs and activities assigned to it other than the Agricultural Soil and Water Conservation, Storm Water Management, and Silvicultural Assistance Programs transferred by the act.

Sale, transfer, or use of Department property and water

(R.C. 1501.01)

The act requires the Director of Natural Resources to obtain the Governor's approval only for specified types of property transactions 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. Former law instead required both the Governor's and Attorney General's approval of any such transaction in any amount unless that approval was 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 act 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 act requires the Department to publish notices regarding the activities, projects, or improvements described below 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.

Mining operation annual reports

(R.C. 1505.10 and 1561.04)

The act 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 formerly 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 act 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 act 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 act, the Director or the Director's designee, rather than the Chief, must prepare and publish quarterly reports containing the above information.

Industrial minerals mining

(R.C. 1514.06, 1514.40, 1514.42, and 1514.47)

The act generally precludes a mine foreperson's certificate issued under the Industrial Minerals Mining Law from expiring. Under former law, a mine foreperson's



certificate expired five years after the date of issuance and could be renewed if the applicant verified that all required training pursuant to federal law had been completed and any other requirements for renewal had been satisfied. Generally, under the act, the certificate does not expire unless the certificate holder has not been employed in a surface mining operation for five consecutive years. If the certificate holder has not been so employed, the certificate holder may retake the mine foreperson examination or may petition the Chief of the Division of Mineral Resources Management to accept past employment history in lieu of fulfilling the act's employment requirement. The Chief must grant or deny the petition by issuance of an order and must reissue the certificate if the Chief grants the petition. The act provides for the issuance of unexpired certificates to individuals holding five-year certificates on September 29, 2015.

The act also specifies that a certified mine foreperson may be employed for the purposes of being in charge of the conditions and practices at a mine in addition to conducting examinations of the surface mining operation as in continuing law. In addition, it allows a competent person identified by the certified mine foreperson to conduct examinations of the surface mining operation under federal law. Under the act, a competent person is a person who has been trained in accordance with applicable federal law and been determined by a certified mine foreperson to have demonstrated the ability, training, knowledge, or experience necessary to perform the duty to which the person is assigned (hereafter, necessary qualifications). A person is not a competent person if the Chief demonstrates, with good cause, that the person does not have the necessary qualifications. A surface mining operator must maintain records demonstrating that a competent person has the necessary qualifications.

The act authorizes, instead of requires, the Chief to conduct a safety audit at a surface mining operation if the operator has requested the Division to conduct mine safety training and specifies that such an audit can only be conducted once annually. It requires the safety audit to be scheduled at a time to which the Chief and the operator mutually agree and precludes it from continuing for more than one day.

Under the act, expenditures from the continuing Surface Mining Fund made by the Chief for purposes other than certain authorized reclamation purposes are subject to the Chief's maintaining a balance in the Fund that is sufficient to achieve those reclamation purposes. In doing so, the Chief must consider the timeliness of reclamation activity.

Streams and wetlands restoration by coal mining operators

(R.C. 1513.16)

The act 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 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 act 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 act specifies that performance security for reclamation activities on the permit area must be released pursuant to continuing 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 act 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. Under the act, 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 act 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 act 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.

Dredging of inland lakes

(R.C. 1521.20)

The act requires the Director to do all of the following:

(1) Determine the amount of dredging that is needed in each inland lake in Ohio to improve access, water quality, safety, and other applicable standards;

(2) Develop a plan to meet the identified needs. In doing so, the Director must make every effort to optimize the utilization of dredging resources to maximize the amount of sediment removal from any inland lake that serves a watershed in distress and that is subject to a lake facility authority created under the Lake Facilities Authorities Law; and

(3) Increase the amount of time and resources expended on the dredging of inland lakes in order to meet the identified needs and administer the plan.

The Director may enter into contracts or agreements with other entities for the purposes of the above provisions if doing so will assist in maximizing any of the dredging operations.

Wildlife Boater Angler Fund

(R.C. 1531.35)

The act 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 continuing uses for boating access construction and improvements and to pay for equipment and personnel costs involved with those activities. The act 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 annual expenditures from the Fund that may be used to pay for equipment and personnel costs.



Oil and Gas Law (PARTIALLY VETOED)

Application of Law

(R.C. 1509.01)

The act applies the Oil and Gas Law to any form of business organization or entity recognized by Ohio laws by including that description in the definition of "person" in that Law.

Additionally, the act 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 act 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.

Fee for permit to plug back existing well

(R.C. 1509.06)

The act 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 act accomplishes the change by removing the exemption under which such an application was not required to be accompanied by a fee.

Emergency planning reporting

(R.C. 1509.11, 1509.23, 1509.231, 3750.081, and 3750.13)

The act revises certain requirements governing the reporting of hazardous materials associated with oil and gas operations. Under law revised in part by the act, 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 act 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 act requires the information to be filed with the Chief on or before March 1 of each year. Former law instead required the information to be a part of an owner or operator's statement of production of oil, gas, and brine for a specified period of time.

The act retains, with certain modifications, provisions to be included in the rules governing the database and the information submitted for it. Specifically, the act'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, 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, to the above entities; and

(4) Ensure that the information includes the information required to be reported under the state 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 act eliminates former law that required, at a minimum, the information in the database to include the information that a person regulated under the Law was required to submit under EPCRA.

For purposes of the above provisions, the act 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 act then revises a requirement governing the filing of information under the Emergency Planning Law. Under the act, 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 act. Former law instead specified that any such owner or operator who had filed a log and production statement with the Chief in accordance with the Oil and Gas Law was generally deemed to have satisfied all of the submission and filing requirements established under the Emergency Planning Law.

Finally, the act makes conforming changes.

Notification of emergencies (VETOED)

(R.C. 1509.232)

The Governor vetoed a provision that would have required an owner, a person to whom an order was issued under the Oil and Gas Law or rules adopted under it, a person to whom a registration certificate to transport brine was issued, or a person that was engaged in the surface application 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 was impracticable under the circumstances. A contractor performing services on behalf of a person who was required to provide such notice would have been required to notify that person within 30 minutes after the contractor became aware of any of the specified emergency occurrences unless notification within that time was impracticable under the circumstances. The vetoed provision would have prohibited a person from failing to comply with the above provisions and would have stated that a person violating the prohibition was subject to civil penalties.

A detailed description of the vetoed provisions is available on pages 456 and 457 of LSC's analysis of the Senate version of H.B. 64. The analysis is available online at www.lsc.ohio.gov/budget/agencyanalyses131/passedsenate/h0064-ps-131.pdf.

Mandatory pooling

(R.C. 1509.27)

The act authorizes the owner who has the right to drill to request a mandatory pooling order under the Oil and Gas Law rather than the owner of the tract of land who was also the owner of the mineral interest. In addition, the act 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 units for drilling a proposed well rather than for drilling a well.

The act 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.

Application of unit operation to ODOT land

(R.C. 1509.28)

The act requires the Chief to issue an order for unit operation of a pool or part of a pool that encompasses a unit area for which all or a portion of the mineral resources are owned or controlled by the Department of Transportation notwithstanding the



authority granted to the Oil and Gas Leasing Commission under continuing law regarding land owned or controlled by state agencies.

Civil penalties for violations

(R.C. 1509.33)

The act increases civil penalties for certain violations of the Law as follows:

| Type of violation | The act | Former 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 act, anyone who violates the general permit requirements of the Law or the provisions of the Law requiring a permit for additional and secondary recovery operations, or any term or condition of a permit or order issued by the Chief, 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 act retains law that imposes such liability on anyone who violates the provisions of the Law governing brine storage and brine transportation.

The act also provides that a person may be subject to a civil penalty and a term of imprisonment for the same offense by revising law partially retained by the act 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. Formerly, a person could not be subject to both a civil penalty and a criminal penalty, including both a fine and a term of imprisonment, under the 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 act removes the requirement that the Board of Nursing collect a \$5 fee for written verification of licensure or certification.

Pharmacology course of study for nurses

(R.C. 4723.06, 4723.482, and 4723.50)

The act modifies the structure of the course of study 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 act removes the requirement that the course of study consist of planned classroom and clinical instruction. Under law unchanged by the act, the course of study must consist of at least 45 contact hours and be approved by the Board.



OHIO OPTICAL DISPENSERS BOARD

- Requires spectacle dispensing opticians to complete two hours of study in prepackaged soft contact lens dispensing before being authorized to dispense prepackaged soft contact lenses.
- Modifies the continuing education requirement regarding contact lens dispensing that applies to spectacle dispensing opticians.
- Exempts from continuing education requirements certain professionals who are applying for the initial renewal of a license issued by the Ohio Optical Dispensers Board.
- Requires the Board to approve continuing education programs that are conducted in person or through electronic or other self-study means.
- Specifies that "optical dispensing" does not include placing an order for the delivery of an optical aid.

Spectacle dispensing opticians – contact lens dispensing

(R.C. 4725.411)

Under law modified by the act, licensed spectacle dispensing opticians are authorized to dispense prepackaged soft contact lenses beginning January 1, 2016. The act requires spectacle dispensing opticians to complete two hours of study in prepackaged soft contact lens dispensing approved by the Ohio Optical Dispensers Board. The act provides that a spectacle dispensing optician is not authorized to dispense prepackaged soft contact lenses until the two hours of study is completed. Spectacle dispensing opticians who are licensed on September 29, 2015, (the act's 90-day effective date) must complete the two hours of study by December 31, 2015, and those who receive a license after September 29, 2015, must complete the requirement by December 31 of the year the license is received.

Continuing education

(R.C. 4725.51; Section 747.20)

The act modifies the continuing education requirement regarding contact lens dispensing that applies to spectacle dispensing opticians. It repeals a provision specifying that the continuing education 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. Instead, the act specifies that the continuing education is to cover contact lens dispensing in general. A spectacle dispensing optician who is licensed on September 29, 2015, can satisfy this continuing education requirement by completing the two hours of study in prepackaged soft contact lens dispensing that must be completed by December 31, 2015 (as described above).

The act exempts from continuing education requirements spectacle dispensing opticians, contact lens dispensing opticians, spectacle-contact lens dispensing opticians, and ocularists who are applying for an initial license renewal. This exemption does not apply to the two hours of study in prepackaged soft contact lens dispensing that a spectacle dispensing optician must complete by December 31 of the year the license is received. The act also requires the Board to permit continuing education programs to be conducted in person or through electronic or other self-study means.

Ordering optical aids

(R.C. 4725.40)

The act specifies that "optical dispensing" does not include placing an order for the delivery of any optical aid, thereby excluding that action from any licensing requirements.



STATE BOARD OF PHARMACY

- 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.
- Requires certain prescribers to hold a license as a terminal distributor of dangerous drugs for actions involving drugs that are (1) compounded or used for compounding or (2) controlled substances containing buprenorphine used for treating drug dependence or addiction.
- Requires the Board to provide 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.
- Increases to three years (from two) the amount of time that information collected in OARRS is to be retained.

Dangerous drug distributor licensure

(R.C. 4729.51, 4729.53, 4729.541, and 4729.56)

Refusal to grant registration certificate

The act 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. Under the act, the Board may refuse to grant a registration certificate on the same grounds that continuing law permits the Board to refuse to renew a certificate.

License required for certain prescribers

The act requires a prescriber who does not practice in the form of one of a number of business entities specified in continuing law 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.

OARRS information

(R.C. 4729.80, 4729.82, 4729.84, and 4729.86)

OARRS, the Ohio Automated Rx Reporting System, is the drug database established and maintained by the State Board of Pharmacy. Rules adopted by the Board require that when a reported drug (a controlled substance) 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.

The act increases to three years (from two) the amount of time that information collected in OARRS must be retained in the database. In a corresponding change, the act increases to three years (from two) the amount of time that information identifying a patient may be retained in OARRS before that information must be destroyed. Under continuing law, information that identifies a patient may be retained in OARRS for a longer period of time if a law enforcement agency or other specified government entity requests that the information continue to be retained.

Continuing law requires or authorizes the Board to provide information from OARRS to specified individuals. These individuals are prohibited from disseminating that information, except in limited circumstances. The act 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 on disseminating OARRS information.

Information for violent death reporting

The act requires the Board, on receipt of a request from the Director of Health, 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.¹³⁶

Information for Medicaid managed care

The act requires the Board, on receipt of a request from a pharmacy director of a Medicaid managed care organization that has entered into a contract with the Ohio

¹³⁶ Ohio Department of Health, *Ohio Violent Death Reporting System (OH-VDRS)*, available at www.healthy.ohio.gov/vipp/ohvdrs.aspx.



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 act, 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. Continuing law requires the Board to provide OARRS information to a medical director of the Medicaid managed care organization.



STATE BOARD OF PSYCHOLOGY

- Expands the list of acceptable educational qualifications for a psychologist license to include a doctoral degree from an accredited or recognized degree program that does not meet the program accreditation requirements under continuing law.
- Requires professional experience for applicants for a psychology license with a foreign psychology degree or its foreign equivalence, or those with degrees from institutions that do not meet the program accreditation requirements under continuing law.
- Removes specified enrollment and graduation deadline requirements from alternatively accredited degree programs from the list of qualifications for a psychology license.

Qualifications for licensure as a psychologist

(R.C. 4732.10)

The act expands the list of acceptable educational qualifications for a psychologist license to include a doctoral degree in psychology or school psychology from an accredited institution if the degree program does not meet the program accreditation requirements under continuing law. Under continuing law a psychology license applicant may meet the educational qualifications by having received a doctoral degree from a program accredited by the American Psychological Association, the Accreditation Office of the Canadian Psychological Association, a program listed by the Association of State and Provincial Psychology Boards/National Register Designation Committee, or the National Association of School Psychologists. The act permits this qualification to be met by earning a degree in a program not accredited by those offices listed above that are accredited or recognized by a national or regional accrediting agency.

The act imposes at least two years of supervised professional experience requirements on an applicant with such a degree, or a degree from a foreign institution (outside the U.S. or Canada) deemed equivalent to a domestic doctorate in psychology, one year of which must be post-doctoral.

The act removes from the list of acceptable educational qualifications for a psychologist license that the applicant be enrolled in an accredited institution not later than 60 days after April 7, 2009, and receive a doctoral degree in psychology or school psychology no later than April 7, 2017.



DEPARTMENT OF PUBLIC SAFETY

Expedited paramedic certification for veterans

- 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.

Community paramedicine

- Authorizes a basic, intermediate, or paramedic emergency medical technician to perform medical services that the technician is authorized by law to perform in nonemergency situations if the services are performed under the direction of the technician's medical director or cooperating physician advisory board.
- Provides that in nonemergency situations, no medical director or cooperating physician advisory board may delegate or otherwise authorize a technician to perform any medical service that the technician is not authorized by law to perform.

Abbreviated driver training course

- Delays implementation of the abbreviated driver training course for adults that was created by the Transportation Appropriations Act (H.B. 53, 131st G.A.), until one year after the effective date of the rules that govern the course.

Front license plates on historical motor vehicles

- Eliminates the requirement that historical motor vehicles display a front license plate, thus requiring those vehicles to display only a rear plate.

"Lincoln Highway" license plate

- Creates the "Lincoln Highway" license plate and specifies that the proceeds from the required \$20 contribution must be used by the Ohio Lincoln Highway Historic Byway to promote and support the historical preservation and advertisement of the Lincoln Highway in Ohio.

"Women Veterans" license plate

- Creates the "Women Veterans" license plate, which may be issued to any woman who is a retired or honorably discharged veteran of any branch of the U.S. armed forces.



- Prohibits any person from falsifying an application for "Women Veterans" license plates or displaying the license plates if the person is ineligible to receive the plates.

Nonstandard license plates

- Modifies the law governing the establishment, termination, and reestablishment of nonstandard license plates.
- Requires the sponsor of a nonstandard license plate to verify that sponsor's contact information with the Registrar of Motor Vehicles by December 1 of each year.
- If the sponsor fails to verify the sponsor's contact information, requires the Registrar to deposit contributions received for a nonstandard license plate in the General Revenue Fund rather than in the License Plate Contribution Fund for distribution to the sponsor.

Temporary license placards

- Specifies that a temporary license placard issued for an off-highway motorcycle or all-purpose vehicle is valid for 45 days rather than 30 days as under prior law.

MARCS Steering Committee

- 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.

Deputy Registrar Funding Study Committee

- Establishes the Deputy Registrar Funding Study Committee to study the long-term financial solvency of deputy registrars in Ohio and whether the existing statutory charges that may be levied by deputy registrars are sufficient.
- Requires the Committee to issue a report of its findings and recommendations by March 29, 2016.

Definition of "apportionable vehicle"

- Removes a provision of law that excluded buses used for the transportation of chartered parties from the definition of apportionable vehicle; thereby requiring such vehicles, if such vehicles otherwise fall within the definition of an apportionable vehicle, to register under an International Registration Plan (IRP).



Ohio Investigative Unit Fund

- Establishes the Ohio Investigative Unit Fund consisting of nonfederal money that is received by the Investigative Unit in the Department of Public Safety and that is not otherwise required to be deposited into another fund.
- Requires money in the Fund to be used to pay the expenses of administering the law relative to the powers and duties of the Investigative Unit.

Expedited paramedic certification for veterans

(R.C. 4765.161)

The act 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. The veteran is then required to successfully complete the additional training or instruction necessary to be issued a certificate.

Community paramedicine

(R.C. 4765.361)

The act authorizes a basic, intermediate, or paramedic emergency medical technician to perform medical services that the technician is authorized by law to perform in nonemergency situations if the services are performed under the direction of the technician's medical director or cooperating physician advisory board. However, in nonemergency situations, no medical director or cooperating physician advisory board may delegate or otherwise authorize a technician to perform any medical service that the technician is not authorized by law to perform.



Abbreviated driver training course

(R.C. 4507.21)

The act delays implementation of the abbreviated driver training course for adults that was created by H.B. 53 (131st G.A.), the Transportation Appropriations Act, until one year after the effective date of the rules that govern the course. Under that act, an applicant for an initial driver's license who is 18 years of age or older and who fails the required road or maneuverability test is required to present satisfactory evidence of having successfully completed the abbreviated driver training course prior to attempting the test a second or subsequent time. The Director of Public Safety is required to adopt rules for purposes of implementing the course.

Front license plates on historical motor vehicles

(R.C. 4503.181)

The act 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.

"Lincoln Highway" license plate

(R.C. 4501.21 and 4503.86)

The act creates the "Lincoln Highway" license plate and specifies that the proceeds from the required \$20 contribution must be used by the Ohio Lincoln Highway Historic Byway to promote and support the historical preservation and advertisement of the Lincoln Highway in Ohio. Applicants for the license plate must:

- (1) Comply with all applicable laws related to motor vehicle registration;
- (2) Pay all applicable taxes and fees; and

(3) Pay a Bureau of Motor Vehicles administrative fee of \$10 to compensate the Bureau for the costs of issuing the plate.

"Women Veterans" license plate

(R.C. 4503.581)

The act creates the "Women Veterans" license plate, which may be issued to any woman who is a retired or honorably discharged veteran of any branch of the U.S. armed forces. The license plate may be issued by the Registrar upon:



(1) Receipt of an application and presentation of satisfactory evidence documenting that the applicant is a retired or honorably discharged veteran of a branch of the armed forces;

(2) Payment of all applicable taxes and fees; and

(3) Compliance with all other applicable laws relating to motor vehicle registration.

The act also specifies that the provisions of continuing law pertaining to the termination of a nonstandard license plate do not apply to "Women Veterans" license plates.

Falsifying application for "Women Veterans" plate

The act prohibits any person who is not a woman and is not a retired or honorably discharged veteran of any branch of the armed forces from willfully and falsely representing that the person is such a veteran for the purpose of obtaining the license plates. It also prohibits any person from permitting a motor vehicle owned or leased by the person to bear such license plates unless the person is eligible to be issued such license plates. Any person who violates either prohibition is guilty of falsification. Generally, falsification is a first degree misdemeanor.¹³⁷

Nonstandard license plates

(R.C. 4503.77, 4506.771, and 4503.78)

The act modifies the law governing the establishment, termination, and reestablishment of nonstandard license plates. Nonstandard license plates are special license plates such as the Breast Cancer Fund of Ohio license plate. The sale of special license plates often raises money for various organizations through payment of a mandatory contribution by persons who obtain or renew the license plates. The changes made by the act are indicated in the table below as follows:

| | Under prior law | Under the act |
|---|------------------------|----------------------|
| Number of persons who must indicate in writing that they intend to obtain a new nonstandard license plate in order for the Registrar to issue the plate | 500 | 150 |

¹³⁷ R.C. 2921.13(F), not in the act.



| | Under prior law | Under the act |
|---|-----------------|---------------|
| Total number of annual new and renewal motor vehicle registrations for a nonstandard license plate necessary to preclude nonstandard license plate termination procedures | 500 | 25 |
| Total number of persons who must indicate in writing that they intend to obtain a previously terminated nonstandard license plate in order for the Registrar to reestablish the plate | 500 | 25 |

In addition, the act requires the sponsor of a nonstandard license plate to verify the sponsor's contact information by December 1 of each year on a form prescribed by the Registrar. If the sponsor fails to do so by December 31, the Registrar, beginning January 1 of the following year, must transmit the contribution for each registration involving that nonstandard license plate to the Treasurer of State for deposit in the General Revenue Fund instead of for deposit in the License Plate Contribution Fund for later distribution to the sponsor. The Registrar also must send a notice immediately to the sponsor that no additional funds will be deposited into the License Plate Contribution Fund until the Registrar receives that sponsor's form. Upon receiving the form, the Registrar must resume transmitting the contributions received for that license plate to the Treasurer of State for deposit into the License Plate Contribution Fund for later distribution to the sponsor.

If the sponsor ceases to exist, the Registrar must transmit the contributions for the associated license plate for deposit in the General Revenue Fund. If that sponsor is later reestablished, the sponsor must submit to the Registrar written confirmation of the sponsor's reestablishment along with the contact information form. Upon receipt of the confirmation and form, the Registrar must resume transmitting all contributions received for the associated license plate for deposit in the License Plate Contribution Fund for later distribution to the sponsor.

Temporary license placards

(R.C. 4519.10)

The act specifies that a temporary license placard issued for an off-highway motorcycle or all-purpose vehicle is valid for 45 days from the date of issuance. A temporary license placard is issued in order to allow the applicant to legally operate an off-highway motorcycle or all-purpose vehicle after its purchase while proper title and registration are being obtained. Under prior law, a temporary license placard was valid for 30 days from the date of issuance.



MARCS Steering Committee

(Sections 610.20 and 610.21)

The act permits the Multi-Agency Radio Communications System (MARCS) Steering Committee to establish a subcommittee to represent local government MARCS users. If the Steering Committee establishes the subcommittee, the chairperson of the subcommittee also may serve as a member of the Steering Committee.

Deputy Registrar Funding Study Committee

(Section 745.10)

The act establishes the Deputy Registrar Funding Study Committee to study the long-term financial solvency of deputy registrars in Ohio and whether the existing statutory charges that may be levied by deputy registrars are sufficient. The Committee must consist of six members, three appointed by the President of the Senate and three appointed by the Speaker of the House. Members are not compensated for serving on the Committee, but may continue to receive the compensation and benefits accruing from their regular offices or employments.

The members must be appointed and the Committee must meet by October 29, 2015, at the call of the President of the Senate. It must meet thereafter at the call of its chairperson as necessary to carry out its duties.

The Committee must issue a report of its findings and recommendations, by March 29, 2016, to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House. After submitting the report, the Committee ceases to exist.

Definition of "apportionable vehicle"

(R.C. 4501.01)

The act removes a provision of law that excluded buses used for the transportation of chartered parties from the definition of apportionable vehicle. Thus, the act requires such buses, if such buses otherwise fall within the definition of an apportionable vehicle, to register under an International Registration Plan (IRP).

Ohio Investigative Unit Fund

(R.C. 5502.132)

The act establishes the Ohio Investigative Unit Fund, which consists of nonfederal money that is received by the Investigative Unit in the Department of Public



Safety and that is not otherwise required to be deposited into another fund. Under the act, the Director of Public Safety is required to use the money in the Fund to pay the expenses of administering the law relative to the powers and duties of the Investigative Unit. All investment earnings are retained by the Fund.



PUBLIC UTILITIES COMMISSION

Telecommunications

Withdrawal or abandonment of basic local exchange service

- Lifts the prohibition against an incumbent local exchange carrier withdrawing or abandoning basic local exchange service (BLES) in an exchange area if the carrier withdraws 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 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, a representative of cable operators, and other invited members to focus on the Internet-protocol-network transition process and related consumer issues.

Carrier agreements, rights, and obligations not affected

- Ensures that an incumbent local exchange carrier that withdraws or abandons BLES under the act 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 act does not affect any contractual obligation, including agreements under the federal Telecommunications Act of 1996, as amended, any right or obligation under federal law or rules, or certain state laws or rules related to wholesale rights or obligations.

Video service authorization

- States that, for purposes of applying for a video service authorization, the video service area of a person using telecommunications facilities to provide video service is the geographic area in which the person offered BLES on September 24, 2007, rather than the geographic area in which the person *offers* BLES.

Percentage of Income Payment Plan

- Requires the Director of Development Services to aggregate Percentage of Income Payment Plan (PIPP) program customers and hold an auction for their electric service.
- Requires the auction to result in the best value for universal service plan rider payers, rather than the lowest and best value for PIPP customers.
- Requires the auction to be held until the selection of a winning bid (or bids).
- Requires the winning bid (or bids) to reduce the cost of the PIPP program relative to the otherwise applicable standard service offer established under Ohio law.
- Eliminates the requirement that the Director adopt bidder eligibility rules.



- Eliminates the requirement that any difference between Universal Service Fund revenues and savings resulting from a competitive auction for the PIPP supply be reinvested in the Targeted Energy Efficiency and Weatherization Program.
- Requires the PUCO, upon written request by the Director of Development Services, to design, manage, and supervise the competitive procurement process for PIPP and requires the Director to reimburse the PUCO for costs it incurs.
- Requires the Public Benefits Advisory Board to submit a report to certain members of the General Assembly, the Governor, the Director of Development Services, the Chairperson of the PUCO, the Ohio Consumers' Counsel, and the board members by December 15, 2015, regarding funding for PIPP and other similar programs.

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.

Subpoena power – motor carriers

- Broadens PUCO subpoena power, previously 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.

Wind-farm setback

- Creates an exception to the setback requirement for wind farms for an amendment to a certificate for a wind farm's construction if the amendment is applied for on or after September 29, 2015, but not later than March 27, 2016, if the sole purpose of the amendment is to make turbine upgrades, and if other requirements are met.

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, as former law required, certified by) the Director of Development Services for the SiteOhio certification program.



Towing Law changes

- Modifies the monetary award that must be made 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.
- Authorizes the PUCO to adopt rules exempting certain types of advertising from the requirement that a towing service include its certificate of public convenience and necessity number on all advertising.

Telecommunications

(R.C. 1332.25, 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 act lifts the 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 BLES;
- (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 occur and the notice requirement is met, the act will 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.

Under continuing law, there are 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 act, since the requirements apply only



to the provision of BLES.¹³⁸ The act 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 and it "is not the same as" BLES. 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 users, access to emergency service, and toll limitation services to qualifying low-income consumers.¹³⁹

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, (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.

"Interstate-access component"

The act 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 act 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

¹³⁸ R.C. 4927.08, not in the act.

¹³⁹ 47 C.F.R. 54.101(a).



services. As described above, voice service to which customers are transitioned following BLES withdrawal is excluded from the definition of BLES.

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 act permits the customer to petition the PUCO.

The act 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 act'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 an 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 act permits the PUCO to order the ILEC to *continue* to provide a reasonable and comparatively priced voice service to the affected customer at the customer's residence 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. 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 act requires the PUCO, not later than December 28, 2015, to establish a collaborative process to address the Internet-protocol-network transition, with all of the following:

- ILECs;
- Any competitive local exchange carriers that provide BLES and are affected by the transition;
- The Office of the Ohio Consumers' Counsel;
- A representative of 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. 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 act 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 act states that any customers identified through the collaborative process must be treated as though they filed timely petitions under the act'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. The act also requires all state officers, boards, and commissions, and political subdivisions in Ohio to furnish data and information the PUCO requests to assist it in carrying out the collaborative process.

Transition to an Internet-protocol network

The act 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 act 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 act requires the PUCO, not later than March 27, 2016, to adopt rules to implement the act's provisions related to the withdrawal or abandonment of BLES, and to bring its rules into conformity with the relevant provisions of the act. 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 rule-making requirements before the FCC adopts an order permitting the withdrawal of the interstate-access component of BLES, the act states that any rule of the PUCO that is inconsistent with that order shall not be enforced.



Rights and obligations not affected by the act

Contractual obligations and federal and wholesale rights and obligations

The act states that it does not affect any contractual obligation, including agreements under the federal Telecommunications Act of 1996, as amended, any right or obligation under federal law or rules, or any state laws or rules under the Public Utilities Title of the Revised Code (Title 49) that are related to wholesale rights or obligations.

Carrier access, pole attachments, and conduit occupancy

The act ensures that an ILEC that withdraws or abandons BLES under the act would still be subject to the PUCO's oversight of the rates, terms, and conditions for carrier access, pole attachments, and conduit occupancy. Prior law on this subject generally required 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 tarified as prescribed by the PUCO. The act 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.

The act makes parallel changes in two other provisions of law governing pole attachments and conduit occupancy:

- The act 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 act 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 act 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.

Video service authorizations

The act states that, for purposes of applying for a video service authorization, the video service area of a person using telecommunications facilities to provide video



service is the geographic area in which the person offered BLES on September 24, 2007, rather than the geographic area in which the person *offers* BLES.

Percentage of Income Payment Plan

(R.C. 4928.54, 4928.541, 4928.542, 4928.543, 4928.544, 4928.55, 4928.581, 4928.582, and 4928.583)

PIPP aggregation and auction

The act makes the following changes to the method of procuring electric service under the Percentage of Income Payment Plan (PIPP) program established in Ohio law. The PIPP program, funded by the Universal Service Fund Rider charged to retail electric distribution customers, allows certain low income customers to pay a percentage of their household income rather than the actual bill for residential electric service.¹⁴⁰

| Subject | The act | Former law |
|---|---|---|
| Aggregation and Auction | Requires the Director of Development Services to aggregate PIPP program customers for purposes of a competitive procurement process (competitive auction) for the supply of reliable competitive retail electric service to such customers. | Permitted , instead of required, the aggregation and competitive auction. Provided that the auction was for the supply of reliable competitive retail electric generation service. |
| Auction length | Requires the auction to be held until a winning bid is or bids are selected. | No provision. |
| Value of winning bid or bids | Requires the winning bid or bids to result in the best value for persons paying the universal service rider (retail electric distribution customers). | Provided that the auction objective was to result in the winning bid providing retail electric generation service at the lowest cost and best value to PIPP customers. |
| Reduce PIPP costs | Requires the winning bid or bids to reduce the cost of the PIPP program relative to the otherwise applicable standard service offer established under ongoing Ohio law. | No provision. |
| Mandatory bidder eligibility rules | No provision (repeals the former law requirement). | Required bidders to be qualified under eligibility criteria the Director of Development Services prescribed by rule under the Administrative |

¹⁴⁰ O.A.C. 122:5-3-01; R.C. 4928.53, not in the act.



| Subject | The act | Former law |
|--|--|--|
| | | Procedure Act. Required the rules to be adopted after consultation with the Public Utilities Commission and electric light companies. |
| Reinvestment of Universal Service Fund revenues | No provision (repeals the former law requirement). | Required any difference between Universal Service Fund revenues and savings in PIPP program costs after a competitive auction for electric supply for PIPP customers to be reinvested in the Targeted Energy Efficiency and Weatherization Program, which targets high-cost, high-volume structures occupied by customers eligible for PIPP. |

PUCO competitive procurement process responsibilities

Upon written request of the Director of Development Services and to facilitate compliance with the process, the PUCO must design, manage, and supervise the competitive procurement process that the act requires for PIPP. The competitive procurement process may be designed based on an existing competitive procurement process to establish the default generation supply price for electric distribution utilities (EDUs) to the extent reasonably possible and to minimize costs. Under the act, the process may include a process design that is based on a competitive procurement process for the combined certified territories of EDUs subject to common ownership.

The Director must reimburse the PUCO for its costs incurred for the process, and the reimbursements are considered to be administrative costs of the low-income customer assistance programs (including PIPP) eligible for payment from the Universal Service Fund.¹⁴¹

Advisory board investigation and report

The act requires the ongoing 21-member Public Benefits Advisory Board¹⁴² to conduct an independent investigation and analysis of, and prepare a written report on, funding issues involving the Universal Service Fund and the low-income customer assistance programs. To accomplish this, the Board may obtain professional services as it determines appropriate, and the professionals must be promptly reimbursed for their actual and necessary expenses by the Director of Development Services.

¹⁴¹ R.C. 4928.51(A), not in the act.

¹⁴² R.C. 4928.58(A), not in the act.



Reimbursements are considered to be administrative costs of the low-income customer assistance programs (including PIPP) eligible for payment from the Universal Service Fund.¹⁴³ The act permits the Board chairperson to execute any professional-services retention agreements that the Board determines are appropriate, but specifies that this be done subject to the advice and consent of the Board.

Report

The Board's report must be prepared with the approval of the majority of its 13 voting members¹⁴⁴ and must contain the following:

- For each EDU, the annual revenue amount collected from customers, for each year since the year the Universal Service Fund was established, for the purpose of supporting the Fund and the low-income customer assistance programs;
- For each EDU, a forecast of the revenue that will be collected from customers for 2016, 2017, and 2018 for the purpose of supporting the Fund and the low-income customer assistance programs assuming no changes are made to the programs;
- A recommendation as to any changes that should be made to the design and implementation of the Universal Service Fund and the low-income customer assistance programs to ensure that energy services are provided to low-income and other Ohio consumers in an affordable manner consistent with the state electric service policy.¹⁴⁵

As required by the act, the forecast included in the report must identify all assumptions, input variables, and the values assigned to the variables. To show how sensitive the forecasts are to alternative inputs, the forecast may include alternative outcomes based on variations in the assumptions, variables, and values. The report may also include dissenting views and alternative recommendations.

The act specifies that the Director of Development Services, the PUCO, and each EDU must promptly respond to requests by the Board for information needed to prepare its report.

¹⁴³ R.C. 4928.51(A), not in the act.

¹⁴⁴ R.C. 4928.58(D), not in the act.

¹⁴⁵ R.C. 4928.02, not in the act.



By December 15, 2015, the Board must submit its report to the Governor, President of the Senate, Speaker of the House, each member of the House and Senate standing committees with primary jurisdiction regarding public utility legislation, the Director of Development Services, the chairperson of the PUCO, the Ohio Consumers' Counsel, and each member of the Board.

Intermodal equipment

(R.C. 4905.81, 4923.04, and 4923.041)

Providers

The act 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 continuing law. Though not explained in the act, 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 act 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 based on the same definitions in the act as those terms 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.¹⁴⁶

¹⁴⁶ 49 C.F.R. 390.5.



Subpoena power – motor carriers

The act broadens the PUCO's subpoena power relating to motor carriers. Under the act, 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. Prior law limited the power to compelling the production of all books, contracts, records, and documents that related to the transportation and offering for transportation of hazardous materials.

Wind-farm setback

(Section 749.20)

The act creates an exception to the setback requirement for the construction of wind farms. The exception is narrowly tailored to amendments to previously approved certificates for wind-farm construction only if all of the following conditions are satisfied:

- The person seeking the amendment applies to make the amendment on or after September 29, 2015, but not later than March 27, 2016.
- The sole purpose of the amendment is to make changes to one or more turbines that are approved under the existing certificate but have not yet been installed.
- The amendment does not increase the number of turbines to be installed under the existing certificate.
- The type of turbine to be installed is more efficient or otherwise more technologically advanced, as determined by the Power Siting Board, than the type planned to be installed under the existing certificate.
- The type of turbine to be installed is not more than 8% taller, as measured from its base to the tip of its highest blade, than the height of the type of turbine, measured in the same manner, that is approved to be installed under the existing certificate.
- The amendment applies to a wind farm that is obligated by contract to provide wind energy to one mercantile customer that consumes at least seven million kilowatt-hours per year.
- The turbine or turbines to be installed will be installed in the same spot where it is or they are approved to be installed under the existing certificate.



If all of the conditions are met, the act prescribes that the setback requirement that applies to the existing certificate also applies to the amendment to that certificate.

Both the act's exception and the setback under continuing law apply to any wind farm that is designed for, or capable of, operation at an aggregate capacity of at least five megawatts.¹⁴⁷

Natural gas company SiteOhio economic development projects

(R.C. 4929.164)

The act 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. Former law permitted an application for PUCO approval of such a project, if it was *certified by* the Director. Infrastructure development costs of approved economic development projects are paid for by an infrastructure development rider approved by the PUCO under ongoing law.¹⁴⁸

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.¹⁴⁹

Towing Law changes

Monetary awards in a civil action

(R.C. 4513.611)

The act modifies the law governing monetary awards under a civil action against a towing service or storage facility for a violation of specified provisions of the Towing Law. If a court determines in such a civil action that a towing service or storage facility has committed a violation, the court must make a monetary award to the vehicle owner as follows:

¹⁴⁷ R.C. 4906.13, 4906.20, and 4906.201, not in the act.

¹⁴⁸ R.C. 4929.161, not in the act.

¹⁴⁹ R.C. 122.9511, not in the act.



- \$1,000, if the towing service or storage facility has not committed any prior violations within one year of the violation;
- \$2,500, if there was one prior violation within one year;
- \$2,500, if there were two prior violations within one year.

Display of certificate number

(R.C. 4513.67)

The act modifies the prohibition against operating a towing vehicle or permitting the operation of a towing vehicle that does not display specified information by requiring the PUCO certificate of public convenience and necessity number and business telephone number to be displayed on both the left and right sides (rather than the front doors) of the towing vehicle.

The act also authorizes the PUCO to adopt rules exempting a towing service from the continuing requirement that the towing service include its certificate of public convenience and necessity number on all advertising if the size or nature of the advertisement makes it unreasonable to add a certificate number.



PUBLIC WORKS COMMISSION

- Establishes a District Administration Costs Program for natural resource assistance councils that represent public works districts and review and approve or disapprove applications for grants from the Clean Ohio Conservation Fund.

District Administration Costs Program

(Section 365.10)

The act 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. A participating council 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, which consists 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 act 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. Each district committee is required to appoint a natural resource assistance council. 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.¹⁵⁰

¹⁵⁰ R.C. 164.03, 164.04, 164.21, and 164.22, not in the act.



OHIO STATE RACING COMMISSION

- Eliminates the requirement that the Governor, State Racing Commission, and necessary parties discuss, negotiate, and reach an agreement for providing annual \$500,000 payments to certain municipal corporations or townships in which a racetrack is located.
- Requires each municipal corporation or township to receive \$1 million over the next two fiscal years, with half from the Casino Operator Settlement Fund and half from the permit holder of the racetrack.
- Removes the provision that prohibited the maximum number of live racing days for any permit holder from exceeding 210.
- Removes the provision that prohibited simulcast hosts from conducting pari-mutuel wagering on certain simulcast racing programs if certain live harness horse racing programs were being conducted at a nearby track.
- Eliminates the Ohio Quarter Horse Development Fund and requires that funds formerly paid into it instead 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.

Payments to entities with video lottery terminal facilities

(Sections 233.10, 610.32, and 610.33)

The act limits payments and specifies funding sources for payments to municipal corporations and townships in which racetracks with video lottery terminals are



located. Under the act, each eligible entity¹⁵¹ must receive a total of \$1 million in the following manner:

By December 31, 2015:

--The Ohio Casino Control Commission must pay \$250,000 to each eligible entity from the Casino Operator Settlement Fund.¹⁵²

--The permit holder of a track located in an eligible entity must pay \$250,000 to the eligible entity.

By December 31, 2016:

--The Commission must pay \$250,000 to each eligible entity from the Casino Operator Settlement Fund.¹⁵³

--The permit holder of a track located in an eligible entity must pay \$250,000 to the eligible entity.

The act also declares that it is the General Assembly's intent that all payments made under this provision are made in full, complete, and total satisfaction of any payment contemplated or required by any version of the provision.

The act eliminates the law that had required the Governor, State Racing Commission, and necessary parties to discuss, negotiate, and reach an agreement for providing \$500,000 payments to certain municipal corporations or townships in which a racetrack is located. Under the prior law, the first payment was to have been made by December 31, 2014, and annually thereafter.

¹⁵¹ "Eligible entity" means the municipal corporation or township in which more than 50% of the real property of a commercial racetrack was located on June 11, 2012, or a municipal corporation or township to which more than 50% of the real property of a commercial racetrack is to relocate. The law excludes a municipal corporation or township in a county with a population between 1.1 million and 1.2 million (Franklin County) from receiving the payments, and limits the payments to not more than six municipal corporations or townships: Anderson Township in Hamilton County; Austintown Township in Mahoning County; City of Dayton in Montgomery County; Turtlecreek Township in Warren County; Village of Northfield in Summit County; and Village of North Randall in Cuyahoga County (Section 10 of H.B. 386 of the 129th General Assembly, as subsequently amended).

¹⁵² The Casino Operator Settlement Fund is in the state treasury and receives any money paid to the state by casino operators in excess of any required licenses, fees, or taxes. The Fund can be used for activities related to workforce development, economic development, job creation, training, education, food banks, and expenses (R.C. 3772.34, not in the act).

¹⁵³ The act erroneously cross-references Section 235.20 instead of Section 233.10.



Live racing days

(R.C. 3769.089(B))

For horse racing tracks with video lottery terminals, the act eliminates maximum racing days. In this regard, the act removes the prohibition that the maximum number of live racing days for any permit holder must not have exceeded 210 racing days. The act also removes the provision that allowed an agreement, subject to the State Racing Commission's approval, to increase the number of live racing days to a number that is greater than the permitted maximum.

Simulcast racing

(R.C. 3769.089(D))

The act removes a provision of law that provided that if a simulcast host conducted a racing program that featured thoroughbred or quarter horses on the same day that another simulcast host conducted a live harness horse racing program at a track located in the same county as, or within 20 miles of, the first simulcast host's track, the first simulcast host must not have conducted pari-mutuel wagering on simulcast racing programs that began after 4 p.m. on that day and the second simulcast host must not have conducted wagering on simulcast racing programs that began before 3 p.m. on that day.

Quarter Horse Development Fund

(R.C. 3769.03, 3769.08, 3769.083, 3769.086 (repealed), 3769.087, and 3769.101; Section 803.210)

The act eliminates the Ohio Quarter Horse Development Fund, the purpose of which was to "advance and improve the breeding of racing quarter horses in Ohio." The funds paid into the Fund under prior law, five-eighths of one percent of moneys wagered, beginning January 1, 2016, instead must be paid into the Ohio Thoroughbred Race Fund to support quarter horse development and purses.

Beginning January 1, 2016, the act 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.¹⁵⁴

The Quarter Horse Development Commission, which administered the Quarter Horse Development Fund under prior law, is eliminated by the act. The State Racing

¹⁵⁴ The amendment to this section may not properly account for its fiscal effect.



Commission is required to adopt rules regarding the maintenance and use of money collected for quarter horse development and purses.



DEPARTMENT OF REHABILITATION AND CORRECTION

Judicial release on compassionate medical grounds

- 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.

Community-based substance use treatment

- Requires the Department of Rehabilitation and Correction (DRC) to establish and operate a community-based substance use disorder treatment program for "qualified prisoners," and gives DRC discretion in determining the prisoners to place in the program.
- Specifies that the program's purpose is to provide assessment and treatment to help reduce substance use relapses and recidivism for qualified prisoners while preparing them for community reentry and improving public safety.
- Authorizes DRC to permit a prisoner successfully participating in the program to reside at an approved residence, with electronic monitoring, if it determines that residing there will serve the program's purposes for the prisoner.
- Specifies that a prisoner's program placement, participation, or completion does not reduce the prisoner's prison term other than for time served or credits earned, but, along with the prisoner's substance abuse recovery needs, must be considered in making post-release control decisions for the prisoner.

Halfway house and community-based correctional facility programs

- Allows the Division of Parole and Community Services to spend 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 or an alternative residential facility is not considered imprisonment.

Ohio penal industry prices

- Removes the requirement that the Office of Budget and Management approve prices fixed by DRC for labor and services performed, agricultural products produced, and articles manufactured in correctional and penal institutions.



Classified employee fallback rights

- 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.

Monthly personnel report

- Eliminates a requirement that the managing officer of each DRC institution file a monthly report with the DRC Director outlining all appointments, resignations, and discharges.

Community-based correctional officer collective bargaining

- 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 bargain only if the public employer elects to do so.
- Makes these community-based correctional facilities employees ineligible to serve on the Ohio Elections Commission.

Substance Abuse Recovery Program Study

- Requires DRC, by June 30, 2016, to study the feasibility of converting an existing facility into a substance abuse recovery prison.

Fund closures

- Abolishes the Confinement Cost Reimbursement Fund and the Laboratory Services Fund.

Judicial release on compassionate medical grounds

(R.C. 2929.20)

The act 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.

Community-based substance use treatment

(R.C. 2967.193 and 5120.035)

Establishment, purpose, and "qualified prisoners"

The act requires DRC to establish and operate a program for community-based substance use disorder treatment (SUDT) program for qualified prisoners. The purpose of the program is to provide substance use disorder assessment and treatment through community treatment providers to help reduce substance use relapses and recidivism



for qualified prisoners while preparing them for community reentry and improving public safety. "Qualified prisoner" means a person who satisfies all of the following:

- (1) Is confined in a state correctional institution under a prison term imposed for a fourth or fifth degree felony that is not an offense of violence;
- (2) Has not previously been convicted of an offense of violence;
- (3) As determined by DRC, using a standardized assessment tool, has a substance use disorder;
- (4) Has not more than 12 months remaining to be served under that prison term;
- (5) Is not serving any prison term other than that term;
- (6) Is 18 or older;
- (7) Does not show signs of drug or alcohol withdrawal and does not require medical detoxification;
- (8) As determined by DRC, is physically and mentally capable of uninterrupted participation in the SUDT program.

Placement and community treatment providers

DRC must determine which qualified prisoners in its custody should be placed in the SUDT program, and it has full discretion in making that determination. If DRC determines that a qualified prisoner should be placed in the program, it may refer the prisoner to a community treatment provider it has approved (see below) and transfer the prisoner from prison to the provider's approved and licensed facility. Except as described below regarding authorized residence placement, no prisoner may be placed under the program in any facility other than an approved facility of a community treatment provider.

If DRC places a prisoner in the SUDT program, the prisoner must receive credit against the prisoner's prison term for all time served in the provider's facility and may earn days of credit under DRC's earned credit program (see below), but the prisoner's program placement, participation, or completion otherwise does not result in any reduction of the prisoner's prison term.

"Community treatment provider" means a program that provides substance use disorder assessment and treatment for persons, is located outside of a state correctional institution, provides the assessment and treatment for qualified prisoners referred and transferred to it under the program in a suitable licensed a halfway house, reentry



center, or community residential center), and initially houses all qualified prisoners referred and transferred to it under the program in its suitable licensed facility while undergoing assessment and treatment.

Unsatisfactory participation – return to prison

If DRC places a prisoner in the SUDT program, the prisoner does not satisfactorily participate in the program, and the prisoner has not served the prisoner's entire prison term, DRC may remove the prisoner from the program and return the prisoner to a prison.

Satisfactory participation – housing, record sealing

If DRC places a prisoner in the SUDT program and the prisoner is satisfactorily participating, DRC may permit the prisoner to reside at a residence it has approved if it determines, with input from the community treatment provider, that residing there will help the prisoner prepare for community reentry and reduce substance use relapses and recidivism. If permitted to reside at an approved residence, the prisoner must be monitored during that residence by an electronic monitoring device.

If DRC determines that a prisoner successfully completed the program and, if applicable, a term of post-release control, and the prisoner submits an application under the Conviction Record Sealing Law for sealing the record of the conviction, DRC's Director may issue to the court a letter in support of the application.

DRC evaluation of participating prisoner

When a prisoner has been placed in the SUDT program, before being released from DRC's custody upon completion of the prisoner's prison term, DRC must evaluate the prisoner, the prisoner's participation in the program, and the prisoner's needs regarding substance use disorder treatment upon release. Before the prisoner is released, the Parole Board or a court acting pursuant to an agreement must consider the evaluation, in addition to all other information and materials considered, in making post-release control decisions for the prisoner.

Treatment provider application for participation

DRC must accept applications from community treatment providers that wish to participate in the SUDT program, and must approve for participation in the program at least four and not more than eight of the providers that apply. To the extent feasible, DRC must approve one or more providers from each geographical quadrant of the state. Each community treatment provider that applies to participate in the program must be certified by the Department of Mental Health and Addiction Services to



provide substance use disorder treatment, but is not required to be certified by that Department to provide halfway house or residential treatment.

DRC rules

DRC must adopt rules for the SUDT program and operate the program in accordance with the act and those rules. The rules must establish, at a minimum, criteria: that establish which qualified prisoners are eligible for the program; that must be satisfied to transfer a qualified prisoner to an approved residence; for the removal of a prisoner from the program; for determining when an offender has successfully completed the program; and for community treatment providers to provide assessment and treatment including minimum standards for treatment.

Earned credits

An offender placed in the SUDT program may earn days of credit under DRC's preexisting earned credit program. The offender may earn one day or five days of credit for each completed month during which the offender productively participates in the program.

An offender placed in the SUDT program may earn: (1) one day of credit if the prison term the offender is serving includes a term imposed for a "sexually oriented offense" (as defined in the SORN Law) committed prior to September 30, 2011, or includes a term imposed for a felony other than carrying a concealed weapon an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance, (2) one day of credit if the offender's fourth or fifth degree felony was committed prior to September 30, 2011, and (3) five days of credit if the offender's fourth or fifth degree felony was committed on or after September 30, 2011. The aggregate days of credit the offender may earn may not exceed 8% of the total number of days in the person's stated prison term.

The following provisions of the preexisting earned credit program apply to prisoners placed in the SUDT program:

--Provisions that disqualify offenders serving sentences for specified offenses from earning credits; and

--Provisions that specify procedures for determining whether an offender is to be awarded credits, procedures for denial or withdrawal of a day of credit that otherwise could have been awarded, the number of days of credit an offender may earn based on the offender's offense, and the number of aggregate days that an offender may earn.



Halfway house and community-based correctional facility programs

(R.C. 1.05, 2967.14, and 5120.112)

The act 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 act also specifies that a term in a halfway house or an alternative residential facility is not considered imprisonment.

Ohio penal industry prices

(R.C. 5120.28)

The act 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 within DRC 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 act 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 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 act, 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. Additionally, for an employee appointed to the unclassified position on or after



January 1, 2016, these fallback rights may be exercised only within five years after the effective date of the employee's appointment to the unclassified position. And an employee forfeits these fallback rights 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.

Under former law, fallback rights were triggered when an employee was relieved of the employee's duties in the unclassified service. Former law did not specify employee behavior that may result in a forfeiture of fallback rights.

Treatment of a DRC employee who exercises fallback rights

If a DRC employee utilizes the act's fallback rights, the act requires that the employee's unclassified DRC service be counted toward that employee's service in the prior classified position. Under former law, only service in an unclassified position held pursuant to the appointment from the classified service was counted toward the employee's service in the prior classified position. The act 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. Former law instead entitled such an employee to the rights and emoluments accrued during that time.

Monthly personnel report

(R.C. 5120.38)

The act eliminates a 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 act 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 act, these employees can collectively bargain with their public employer only if the public employer elects to do so, similar to continuing 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.

Formerly, these employees had the right to collectively bargain with their public employer, and thus the public employer was required to do so if certain procedures contained in continuing law were satisfied.¹⁵⁵

Membership on the Ohio Elections Commission

Because the community-based correctional facilities employees described above are no longer considered to be public employees for purposes of collective bargaining, they also are 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.¹⁵⁶

Substance Abuse Recovery Program Study

(R.C. 5120.037)

The act requires DRC, not later than June 30, 2016, to study the feasibility of converting an existing state correctional facility, another existing facility controlled by DRC, an existing facility owned by the state or a political subdivision of the state, or an existing facility owned by a private entity into a substance abuse recovery prison. The purpose of the prison would be to help reduce relapses and recidivism while preparing offenders confined in the prison for reentry into the community. In conducting the study, DRC must do all of the following:

(1) Explore all alternatives for providing substance abuse recovery for offenders confined in the prison;

(2) Consider drug treatment and rehabilitation services to be provided in the prison to help to prepare offenders confined in the prison for reentry into the community;

(3) Consider the categories of offenders that should be confined in the prison, including whether DRC should be limited to placing an offender sentenced to or serving a prison term in the prison only if DRC knows or has reason to believe that drug usage by the offender was a factor leading to the offense for which the offender was sentenced to the prison term.

¹⁵⁵ R.C. 4117.03, not in the act.

¹⁵⁶ R.C. 3517.152, not in the act.



Upon completion of the study, DRC must submit copies of the study to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the Governor.

Fund closures

(R.C. 2929.18, 2969.14, and 5120.135)

Ongoing law requires offenders to reimburse DRC for certain costs it incurs in operating prisons or other facilities used to confine offenders. Under prior law, those reimbursements were deposited into the Confinement Cost Reimbursement Fund and used by DRC to fund the operation of those prisons and facilities. The act abolishes the Fund but retains the reimbursement requirement.

The act also abolishes the Laboratory Services Fund, which consisted of payments made by state agencies, local governments, and other entities for laboratory services provided to them by DRC, and removes the payment requirement.



RETIREMENT SYSTEMS

- Freezes at current rates (listed below) the percentage of an alternative retirement program (ARP) participant's compensation that must be paid by a public institution of higher education to the Public Employees Retirement System (PERS) (0.77%), State Teachers Retirement System (STRS) (4.5%), or School Employees Retirement System (SERS) (6%), to mitigate any financial impact of the ARP on the retirement system.
- If the State Teachers Retirement Board increases the mitigating rate for ARPs between July 1, 2015, and September 29, 2015, requires the Board to repay each public institution the difference between the Board's rate and 4.5% and reimburse each institution for expenses related to increasing the rate and caps the rate at 4% until the difference is repaid.
- Eliminates provisions requiring each state public retirement system board to annually submit to the Ohio Retirement Study Council two reports related to securities transactions and asset management: one on Ohio-qualified agents and minority business enterprises and one on Ohio-qualified investment managers.

Retirement system mitigating rates

(R.C. 3305.052 and 3305.062)

The act freezes, at current rates, the percentage of an alternative retirement program (ARP) participant's compensation that must be paid by a public institution of higher education to the Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), or School Employees Retirement System (SERS) to mitigate any financial impact of the ARP on the retirement system.

Continuing law permits a full-time employee of a public institution of higher education to elect to participate in an ARP rather than the public retirement system (PERS, STRS, or SERS) that covers the employee. Each ARP must be a defined contribution plan that provides retirement and death benefits through a number of investment options. A public institution of higher education must contribute a percentage of the compensation of an employee electing to participate in an ARP to the public retirement system that would otherwise cover the employee. The purpose of this contribution, referred to as the "mitigating rate," is to offset any negative financial impact of the ARP on the retirement system.



Continuing law specifies that the ARP mitigating rate is 6%, but may be adjusted by the Ohio Retirement Study Council (ORSC) to reflect determinations made in an actuarial study that is to be completed by ORSC every three years. Continuing law also prohibits the mitigating rate for ARPs from exceeding the mitigating rate for the retirement system's defined contribution plans.

The act freezes the PERS, STRS, and SERS mitigating rates for ARPs at current rates: the PERS mitigating rate for ARPs is 0.77% and the rate for SERS is 6.00%. The STRS mitigating rate is 4.5%. H.B. 483 of the 130th General Assembly prohibited, until July 1, 2015, the STRS mitigating rate for ARPs from exceeding that percentage.

STRS ARP mitigating rate

(Section 733.40)

If the State Teachers Retirement Board increases the mitigating rate for ARPs between July 1, 2015, and September 29, 2015, the act provides all of the following:

--The Board must repay each public institution the difference between the new rate established by the Board and 4.5%. The institution must then credit the employee's investment provider under the ARP that amount.

--The rate is limited to 4% until the Board repays each public institution the amount specified above.

--The Board must reimburse each public institution the reasonable costs of reprogramming the institution's computers and other administrative expenses related to increasing the rate.

Annual reports – Ohio agents and managers

(R.C. 145.114, 145.116, 742.114, 742.116, 3307.152, 3307.154, 3309.157, 3309.159, 5505.068, and 5505.0610)

The act eliminates provisions requiring each state public retirement system board (Public Employees Retirement Board, Ohio Police and Fire Pension Fund Board of Trustees, State Teachers Retirement Board, School Employees Retirement Board, and State Highway Patrol Retirement Board) to at least annually submit to the Ohio Retirement Study Council two reports related to securities transactions and asset management: one on Ohio-qualified agents and minority business enterprises and one on Ohio-qualified investment managers.

The information to be included in the reports was specified in statute and included the names of individuals designated as Ohio-qualified agents and Ohio-



qualified investment managers, the amount of trades executed by those agents and by minority business enterprises, and the amount of assets managed by Ohio-qualified investment managers.



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 act increases the renewal fee to register as a sanitarian or sanitarian-in-training to \$90 from \$80. The act also increases the late fee assessed for a late application to register as a sanitarian or sanitarian-in-training to \$75 from \$50.



SECRETARY OF STATE

- Eliminates the ability to conduct special elections in February.
- Requires a political subdivision that submits an item for placement on the ballot at a special election to prepay 65% of the estimated cost of the election.
- 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.
- Requires the name of a domestic or foreign limited liability partnership to be distinguishable from other registered business entities and trade names in the Secretary of State's records.

Times for holding special elections

(R.C. 3501.01, 5705.194, and 5739.026)

The act reduces the number of times per year that a political subdivision or taxing district may place an election on the ballot by eliminating special elections in February. Under the act, special elections may appear on the ballot only on the day of a primary or general election (in May or November of most years) or in August. In presidential election years, those elections may be conducted in March, rather than in May, to coincide with the presidential primary election.

Under prior law, political subdivisions and specified taxing districts could place issues, such as proposed tax levies or bond issues, on the ballot up to four times a year. However, in presidential election years, special elections could not be held in February or May.

Prepayment of special election costs

(R.C. 3501.17)

Overview

Under the act, a political subdivision must prepay 65% of the estimated amount of its share of the cost of a special election before the election, instead of paying its



entire share after the election. Continuing law requires the political subdivisions that place items on the ballot at a special election to pay the cost of holding the election. Those costs include, for example, the compensation of precinct election officials, the cost of operating polling places, and the cost of printing and delivering ballots and other election supplies.

Cost estimate

The act specifies that for each special election, a board of elections must prepare an estimate of the cost for preparing for and conducting an election on one question or issue, one nomination for office, or one election to office in each precinct in the county at that special election, and must divide that cost by the number of registered voters in the county. The board of elections must file the estimate with the board of county commissioners and the Secretary of State not less than 15 business days before the deadline to submit a question or issue for placement on the ballot at that election.

When a political subdivision seeks to submit an item for placement on the ballot at a special election, the act requires the board of elections to provide the political subdivision with the estimated cost of preparing for and conducting the election. The estimate must be calculated either by multiplying the number of registered voters in the political subdivision by the estimated cost per voter for the election or by multiplying the cost per precinct by the number of precincts in the political subdivision.

Prepayment

Under the act, a political subdivision that places an item on the ballot at a special election must pay 65% of the estimated cost of the election not less than ten business days after the deadline for submitting a question or issue for placement on the ballot at that election. The payment must be made to the county elections revenue fund. Continuing law allows a board of county commissioners to establish such a fund for the purpose of accumulating revenue withheld by or paid to the county for the payment of election expenses.

Post-election payment

The act requires the board of elections, not later than 60 days after the date of a special election, to provide to each political subdivision the true and accurate cost for the question or issue, nomination for office, or election to office that the subdivision submitted to the voters on the special election ballots.

If the board of elections determines that a political subdivision prepaid less than the actual cost of the election, the political subdivision must remit the balance of the cost of the election to the county elections revenue fund within 30 days after being notified of the final cost. If the board of elections determines that a political subdivision prepaid



more than the actual cost of the election, the board of elections must promptly notify the board of county commissioners of that difference. The board of county commissioners then must remit the amount of the overpayment from the county elections revenue fund to the political subdivision within 30 days after receiving that notification.

Absent Voter's Ballot Application Mailing Fund

(R.C. 111.31)

The act 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 act, 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.¹⁵⁷

Elimination of Information Systems Fund

(R.C. 111.181 (repealed) and 1309.528)

The act eliminates the Information Systems Fund used by the Secretary of State's office for information technology-related expenses. The act redirects revenues from fees charged to customers for special database requests formerly received into the Information Systems Fund to the Corporate and Uniform Commercial Code Filing Fund.

Limited liability partnership name

(R.C. 1776.82)

Continuing law permits a partnership to become a limited liability partnership by filing a statement of qualification with the Secretary of State that includes the name of the partnership, along with other specified information.¹⁵⁸ The act requires the name of a domestic or foreign limited liability partnership to be distinguishable from all of the following in the Secretary of State's records:

¹⁵⁷ R.C. 3501.05, not in the act.

¹⁵⁸ R.C. 1776.81, not in the act.



- The name of any foreign or domestic (1) limited liability partnership, (2) limited liability company, or (3) limited partnership registered with the Secretary of State;
- The name of any foreign or domestic corporation formed or registered pursuant to Ohio's Corporation Law;
- Any trade name the exclusive right to which is registered with the Secretary of State at the time in question.



DEPARTMENT OF TAXATION

Income tax

- Reduces the income tax rates applicable to nonbusiness income by 6.3%.
- Imposes a flat 3% tax on all business income in excess of the business income deduction, and, beginning in the 2016 taxable year, increases that deduction from 75% to 100% of the first \$250,000 of business income.
- 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.
- Creates an income tax refund contribution check-off for the benefit of nonprofit organizations whose primary purpose is to grant the wishes of children diagnosed with life-threatening illnesses.
- Would have required the Tax Commissioner to reduce income tax rates based upon any savings realized from the Governor's veto of substantial appropriations and expenditures included in the act (VETOED).

Sales and use taxes

- Defers the first date that the Director of Budget and Management is required to transfer new remote seller use tax collections to the income tax reduction fund (ITRF) to the last day of January or July following the effective date of federal Marketplace Fairness-like legislation.
- Modifies the computation of new use tax collections for the purposes of the ITRF transfers to include only collections from sellers that register with the Tax Commissioner after the effective date of federal Marketplace Fairness-like legislation.
- Creates a presumption that all sellers that register with the Commissioner after that date are remote sellers, unless the Commissioner or the seller present evidence that the seller has substantial nexus with Ohio.
- Prescribes new criteria for determining whether sellers are presumed to have "substantial nexus" with Ohio and therefore required to register with the Tax Commissioner and collect and remit use tax, including sellers that enter into an agreement with Ohio residents to refer potential customers to the seller.



- Allows a seller presumed to have substantial nexus with Ohio to rebut that presumption.
- Requires a person or that person's affiliates, before selling or leasing tangible personal property or services to a state agency, to register with the Commissioner and collect and remit use tax.
- 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.
- Would have allowed new and used motor vehicle dealers licensed in Ohio to remit sales and use tax collected on vehicle sales and leases on the dealer's monthly sales and use tax return rather than to the Clerk of Courts when applying for a certificate of title (VETOED).
- Exempts from sales and use tax the provision of sanitation services to a meat slaughtering or processing operation necessary for the operation to comply with federal meat safety regulations.
- Exempts from sales and use tax the provision of a rental vehicle while another vehicle is being repaired or serviced and the cost of the rental is reimbursed by certain parties, and abates any previously accrued penalties and interest charged for prior failures to pay taxes on those transactions.

Other state taxes

- Increases the rate of the cigarette excise tax from \$1.25 per pack to \$1.60 per pack.
- Lengthens the period of time during which wholesale dealers may buy cigarette tax stamps on credit but requires dealers to pay for such stamps no later than a week before the end of each fiscal year.
- Requires the Tax Commissioner to submit a quarterly report to the General Assembly that details the Department of Taxation's tobacco tax-related enforcement, investigations, and violations.
- 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.
- Explicitly exempts production credit associations (PCAs) and agricultural credit associations (ACAs) from the financial institutions tax.



- Specifies that, when a company generates electricity but donates all of that electricity to a political subdivision, the property used to generate or supply that electricity is not subject to property taxation and the donated electricity is not subject to the kilowatt-hour tax.
- Requires a special payment for a municipal corporation where a user of a substantial amount of wind-generated electricity is located, which must be passed through to the user in some form of financial assistance.
- Specifies that the market price for propane, rather than the market price for diesel, shall be used to determine the petroleum activity tax (PAT) in regard to propane used as a motor fuel.
- Authorizes a PAT deduction on the basis of PAT receipts derived from the sale of tax-paid blend stocks or additives for blended fuel.
- Would have reduced the PAT rate applicable to gross receipts received from the sale of dyed diesel fuel when the end user of the fuel is a railroad company, from .65% to .26% (VETOED).
- Extends the Ohio Grape Industries earmark of wine excise tax revenue (2%) for two more years.
- Would have limited information the Tax Commissioner may require a person to verify for the purpose of confirming the person's identity (VETOED).
- Would have required 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 (VETOED).
- Establishes a seven-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 and several tax policy issues.
- Would have authorized a temporary "amnesty" for taxpayers owing delinquent taxes whereby penalties and one-half the interest charges otherwise due are waived, along with criminal or civil action, if the taxpayer paid the outstanding liability and one-half the interest due (VETOED).

TPP reimbursements

- Resumes the phase-out of reimbursement payments to school districts and other taxing units for tangible personal property tax losses.



- Increases the portion of commercial activity tax (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 prior 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 (JRTCs) and data center sales tax exemptions.
- Authorizes the TCA, upon mutual agreement of the taxpayer and DSA, to revise job creation tax credit (JCTC) agreements originally approved in 2014 or 2015 to conform with the act's revisions to the JCTC.
- Requires the TCA to adjust how JCTC and JRTC credits are computed under agreements approved before 2014 to account for increases or decreases in state income tax rates since June 29, 2013.
- Extends by two years a provision temporarily 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.
- Bases the calculation of the Ohio New Markets Tax Credit on the full amount paid for a qualified equity investment, but requires most of that investment to be made in low-income businesses in Ohio.



- Authorizes the Ohio New Markets Tax Credit to be claimed against the retaliatory tax levied on foreign insurance companies.
- Retroactively and prospectively excludes, for purposes of calculating the CAT base, certain intra-supply chain receipts of a manufacturer or distributor of health and beauty products, if the vendor is located within a certain specified territory as another such vendor in the supply chain.
- Authorizes Department of Taxation employees and agents to exchange information with the Department of Insurance to ensure compliance with certain tax credits available to insurance companies.

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.
- Would have exempted electric company generation equipment and "other" electric company tangible personal property that is not transmission and distribution or energy conversion equipment from property taxation (VETOED).
- Would have required the Tax Commissioner to annually calculate an increased assessment rate on transmission and distribution property and energy conversion equipment and use the revenue from that increase to reimburse local governments for the revenue they would have lost due to the exemption of generation equipment and other property (VETOED).
- Would have permitted the electric companies to recover from customers, through a reconcilable rider, the payment of the increased tax on transmission and distribution property and energy conversion equipment that would have resulted from the act's changes (VETOED).
- Would have required 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 ongoing law (VETOED).
- Would have required the rules for real estate appraisal, established by the Tax Commissioner, to include any definitions necessary to clarify appraisal methods and would have specified that, if the Commissioner did not explicitly designate a rule, "The Appraisal of Real Estate, 14th Edition" and "The Dictionary of Real Estate



Appraisal, 5th Edition" published by the Appraisal Institute would be controlling (VETOED).

- 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.
- For the first tax bill due after a mortgage is paid off, requires any property tax late payment penalties to be waived if the mortgage lender fails to notify the county auditor that the mortgage has been satisfied and the tax bill is not mailed to the property owner.
- Requires the county treasurer to maintain a record of the person or agent to whom each tax bill is sent.
- Extends by five years the deadlines by which the owner of a qualified energy project must submit a property tax exemption application, begin construction, and place into service an energy facility using renewable energy resources to qualify for an ongoing real and tangible personal property tax exemption.
- Lengthens, from five years 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 to provide educational or health services on a not-for-profit basis, and not just for meetings and administration.
- Authorizes certain 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.
- Establishes a temporary procedure by which a municipal corporation may apply for tax exemption and the abatement of unpaid taxes, penalties, and interest charged and payable in 2000 and thereafter for a submerged land lease.

Municipal income tax

- Permits a publicly traded partnership to elect to be taxed as if the partnership were a C corporation for municipal income tax purposes.
- 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.
- Permits a person to file an affidavit notifying a municipal corporation that the person no longer expects to be subject to the municipal corporation's income tax.
- 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 tax an individual's foreign income under certain specified circumstances.
- Authorizes a municipal corporation that shares at least 70% of its territory with a school district to enter into an agreement to share income tax revenue with the school district, provided that a portion of the remaining 30% of the school district territory lies within another municipality with a population of 400,000 or more.
- Allows the municipal corporation to levy the revenue-sharing income tax on both residents and nonresidents.
- Clarifies a municipal income tax law, effective January 1, 2016, that requires all municipalities to allow a deduction for net operating losses (NOLs) but temporarily reduces the deduction allowed for any NOL incurred after 2016 and claimed for taxable years 2018 through 2022 to 50% of the amount otherwise allowed.
- 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.
- 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 a certain county 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 a certain county to increase its general lodging tax rate by 1% to pay the costs of constructing and maintaining a sports park and promoting tourism and to enter into a cooperative agreement with port authorities, nonprofit corporations, and operating companies governing the construction, financing, and operation of a sports park.
- Authorizes a certain county located on the Lake Erie shore to levy an additional lodging tax of up to 2% to fund the construction of port authority facilities located within one mile of Lake Erie.
- Authorizes two counties to each levy an additional lodging tax of up to 3% to fund permanent improvements.
- 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 gross receipts tax, admissions tax, or certain rental fees may be imposed to fund the promotion of tourism.
- Authorizes counties and transit authorities to pay to a subdivision creating a TDD an amount equal to increased county or transit authority sales tax collections by businesses in the TDD.

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

Taxation of business and nonbusiness income

The act establishes separate tax brackets for business and nonbusiness income of individuals. The act maintains the nine tiered tax brackets for individuals' nonbusiness income and for estates' and trusts' income, but reduces the tax rates for those brackets by 6.3% as compared to 2014 tax rates. With respect to business income of individuals, the act imposes a 3% flat tax on all income in excess of the business income deduction. For taxable years beginning in 2015, the act maintains the same business income



deduction that was available in 2014 (75% of the first \$250,000 of business income). Then, for taxable years beginning in or after 2016, the act increases the deduction to 100% of a taxpayer's first \$250,000 of business income. Under prior law, the deduction percentage was scheduled to be 50% for 2015 and thereafter.

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.

Reduction of nonbusiness income tax rates

(R.C. 5747.02)

The act reduces the income tax rates applicable to individuals' nonbusiness income and to estates and trusts 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 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 tax brackets with increasingly greater rates assigned to higher income brackets.

Business income tax deduction and flat tax

(R.C. 5747.01(A)(31) and 5747.02; Sections 757.120 and 803.70)

The business income tax deduction first became available in 2013. For taxable years beginning in 2013, the deduction equaled 50% of an individual taxpayer's business income, up to \$125,000 per year (or \$62,500 for spouses filing separate returns). H.B. 483 of the 130th General Assembly temporarily increased the deduction to 75% of business income for 2014. The tax rates applicable to the remaining income were identical to the rates applicable to nonbusiness income.

For taxable years beginning in 2015, the act continues the 75% deduction that applied in 2014, but subjects an individual's remaining business income to a 3% flat tax. For 2016 and thereafter, the act increases the deduction to 100% of the first \$250,000 of a



taxpayer's business income (or \$125,000 for spouses filing separate returns), with any excess business income subject to the 3% flat tax.

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. The deduction is not available to estates or trusts subject to the income tax.

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 act 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 prior law, the credits were 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. Retirees who claim the one-time lump-sum distribution credit may not claim the annual retirement income credit in that taxable year or in any subsequent taxable years.

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. As is the case with the retirement income tax credit, taxpayers that claim the one-time senior citizen credit may not claim the annual credit in that taxable year or in any subsequent taxable years.

Wishes for Sick Children Contribution Fund

(R.C. 3701.602 and 5747.113; Section 803.300)

The act authorizes taxpayers to contribute all or a part of their Ohio income tax refund to a nonprofit organization whose primary purpose is to grant the wishes of



children diagnosed with life-threatening illnesses. Contributions are credited to the Wishes for Sick Children Income Tax Contribution Fund, which is created by the act. Individuals may also contribute directly to the Fund.

All contributions to the new Fund must be used to grant the wishes of individuals who are under the age of 18, who are residents of the state, and who have been diagnosed with a life-threatening medical condition. A nonprofit organization is eligible to receive and distribute money from the Fund if (1) it is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, (2) for the past ten years, the primary purpose of the organization has been to grant the wishes of children with life-threatening illnesses, and (3) for each of the last three years, the organization spent at least \$1 million for that purpose.

Under continuing law, there are five other income tax refund contributions or "check-offs." They benefit the Natural Areas and Preserves Fund, the Nongame and Endangered Wildlife Fund, the Military Injury Relief Fund, the Ohio Historical Society, and the Breast and Cervical Cancer Project. As with these check-offs, the new check-off would authorize taxpayers to direct that all or part of their refund be credited to the new Fund. The designation is made on the annual income tax return. The designation may not be revoked once the designation is made and the return is filed.

The act requires the Director of Health to distribute contributed funds to eligible nonprofit corporations and to submit a biennial report to the General Assembly on the effectiveness of the check-off in January of every odd-numbered year. The report must include information about how the money was spent and the amount of money contributed (including the amount contributed through the refund check-off and the amount contributed directly). Each report must provide this information for each of the five preceding years.

The Department of Taxation is entitled to reimbursement for its costs of administering the check-offs. Under prior law, reimbursement was paid from the five check-off funds in equal one-fifth shares. Under the act, the reimbursement is divided in equal one-sixth shares among the five funds and the Wishes for Sick Children Income Tax Contribution Fund. As under prior law, the reimbursement is limited to 2.5% of contributions.

Continuing law requires that any new check-off category created by the General Assembly be effective for no more than two years. The act creates an exception to this rule for the Wishes for Sick Children Income Tax Contribution Fund, thereby allowing the Fund to exist beyond the two-year limit.



Taxpayers may contribute their income tax refunds to the Wishes for Sick Children Income Tax Contribution Fund beginning with taxable years that begin in or after 2015.

Income tax rate reduction based on vetoed provisions (VETOED)

(Section 757.100)

The Governor vetoed a provision that would have reduced income tax rates based upon the savings realized from the Governor's veto of appropriations and expenditures included in the act. Under the act, the Tax Commissioner, in consultation with the Director of Budget and Management, would have been required to (1) determine the total amount of vetoed appropriations and expenditures that would have cost at least \$5 million in FY 2016 and \$6 million in FY 2017 and (2) reduce income tax rates by the same proportion that that amount bears to the total amount of income revenue they estimate would have been received in the 2014-2015 biennium.

The income tax rate reduction would have been permanent and would have applied beginning in 2015. However, withholding tax rates would not have been adjusted to reflect the reduction until July 1, 2017.

Sales and use taxes

Use tax collection by remote sellers

(R.C. 5741.01 and 5741.03; Section 812.20)

The act defers the first date that the Director of Budget and Management is required to transfer new remote seller use tax collections to the income tax reduction fund (ITRF) from July 1, 2015, to the last day of January or July following the effective date of any federal law that authorizes states to require sellers that lack substantial nexus with a state to collect and remit use tax. A bill proposing such a law currently is pending in Congress – the "Marketplace Fairness Act of 2015," (S. 698). Similar legislation has been introduced in prior Congresses but has never been enacted.

Generally, use tax collections are credited to the state General Revenue Fund (GRF), with a portion of the revenue earmarked for the Local Government Fund and Public Library Fund. H.B. 59 of the 130th General Assembly required the Director to make biannual deposits of new use tax collections from remote sellers to the ITRF. Revenue in the ITRF is added to the surplus revenue for which an income tax rate reduction may be determined. Under continuing law, the amount of the tax rate reduction is based on the amount of "surplus revenue" that is available after the balance in the Budget Stabilization Fund (BSF) equals 5% of annual GRF expenditures and



certain inter-year fund carryovers and reserves are made. (The act increases the BSF threshold percentage from 5% to 8.5%. R.C. 131.44.)

The act also postpones the biannual deadline for such ITRF transfers in each year thereafter from the first day of January and July to the last day of January and July. The Director, along with the Tax Commissioner, is still required to compute the new remote seller use tax collections for a preceding six-month period (June to November and December to May, respectively) by the first day of January and July each year following the effective date of federal Marketplace Fairness-like legislation.

The act modifies the computation of new remote seller use tax collections for the purpose of making the required transfers to the ITRF. Prior law required the Director and the Tax Commissioner to compute "new" use tax collections by reference to the amounts that were voluntarily remitted in FY 2013 by sellers that did not have substantial nexus with the state. Specifically, new use tax collections were the collections remitted by remote sellers in excess of (1) remittances by sellers that collected use tax under the Streamlined Sales and Use Tax Agreement, (2) refunds issued to remote sellers, and (3) one-half of the use tax voluntarily remitted in FY 2013. Under the act, only use tax remittances from sellers that register with the Commissioner after the effective date of federal Marketplace Fairness-like legislation count as "new" use tax collections destined for the ITRF.

The act creates a presumption that sellers that register with the Commissioner after the effective date of such federal legislation are "remote sellers" for the purposes of computing new use tax collections. The seller or Commissioner may rebut that presumption by presenting evidence that the seller has substantial nexus with the state.

"Substantial nexus" standards

(R.C. 5741.01 and 5741.17; Section 803.260)

Under continuing law, state and local sales tax applies to every retail sale conducted in Ohio. State use tax applies to sales of tangible personal property or taxable services made outside Ohio in which the property or service is used or received in Ohio and on which sales tax was not collected. Sales and use taxes are levied at the same rate. Under U.S. Supreme Court precedent, only sellers that have a "physical presence" with a state may be required to and remit sales or use tax from a customer in that state.¹⁵⁹ Otherwise, a state cannot require a seller to collect and remit use tax. In instances where

¹⁵⁹ *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992) (catalog seller that delivered products to North Dakota customers by an out-of-state common carrier outside the state did not have a physical presence with North Dakota and was not required to collect and remit the state's sales tax).



use tax is not collected by the seller, continuing Ohio law requires that the consumer remit use tax directly to the state.

Continuing law codifies the physical presence requirement by requiring sellers with a "substantial nexus" with Ohio to collect and remit use tax from Ohio customers. The law provides several explicit examples of circumstances under which an out-of-state seller has substantial nexus with Ohio.

The act prescribes new criteria for determining whether sellers are presumed to have "substantial nexus" with Ohio and are therefore required to register with the Tax Commissioner to collect and remit use tax. A seller is presumed to have substantial nexus with Ohio in any of the following circumstances:

(1) The seller uses a place of business in Ohio operated by the seller or another person, other than a common carrier. Prior law included such a seller if the place of business was operated by the seller, a franchisee, a member of an affiliated group, or an employee or agent of the seller.

(2) The seller regularly uses employees or other agents and persons to conduct the seller's business or that use similar trademarks or trade names as the seller, or that sell a similar line of products under a business with the same industry classification as the seller. Prior law included only a seller that regularly employed or engaged individuals in Ohio to conduct the seller's business.

(3) The seller uses any person, other than a common carrier, to receive or process orders, promote, advertise, or facilitate customer sales, perform maintenance, delivery, and installation services for the seller's Ohio customers, or facilitate delivery by allowing Ohio customers to pick up property sold by the seller. Prior law included a seller who uses a person in Ohio to receive or process the seller's orders.

(4) The seller enters into an agreement to pay one or more Ohio residents to refer potential customers to the seller if gross sales to customers referred to the seller by all such residents exceed \$10,000 during the preceding 12 months. The customer may be referred by a link on a website, an in-person oral presentation, or through telemarketing. This nexus relationship has been referred to as "click-through nexus."

A seller is presumed to have substantial nexus with Ohio if, as under ongoing law, the seller makes regular deliveries of tangible personal property to Ohio other than by a common carrier, rents, leases, or offers on approval tangible personal property to Ohio customers, or is affiliated with a person that has substantial nexus with Ohio. For this purpose, affiliation is determined by stock ownership (50% for closely held corporations, 80% for others).



In addition, the act eliminates the following bases that would have caused a seller to have substantial nexus with Ohio:

(1) The seller is registered to do business in Ohio. Prior law included such sellers, except sellers registering with the streamlined sales tax central registration system.

(2) The seller has any other contact with Ohio that forms the basis of substantial nexus as allowed under the U.S. Constitution's Commerce Clause. Prior law included such sellers.

Substantial nexus presumption

Prior law provided several explicit examples of when a remote seller has substantial nexus with Ohio (see above). The act transforms the examples to rebuttable presumptions. A seller that has substantial nexus with Ohio, except for a seller that has click-through nexus, may rebut that presumption by demonstrating that the activities conducted by a person on the seller's behalf are not significantly associated with the seller's ability to establish or maintain an Ohio market for the seller's sales.

For a seller presumed to have click-through nexus with Ohio, the presumption may be rebutted by submitting proof that each Ohio resident the seller engaged to refer potential customers on the seller's behalf did not engage in activity significantly associated with the seller's ability to establish or maintain an Ohio market for the seller's sales during the preceding 12 months. The proof may consist of sworn written statements from each resident stating that the resident did not engage in solicitation in Ohio on behalf of the seller in the preceding 12 months, provided the statements were obtained and provided in good faith.

Out-of-state seller doing business with the state

The act requires an out-of-state seller and the seller's affiliates, before the seller sells or leases tangible personal property or services to a state agency, to register with the Tax Commissioner to collect and remit use tax, even if that seller would not otherwise have substantial nexus with Ohio.

Eliminate cash register adjustment compensation

(R.C. 5739.212 (repealed); Section 803.170)

The act eliminates a provision of prior law that required counties and transit authorities to compensate vendors for the expense of adjusting cash registers when a county or transit authority sales and use tax rate was increased or a new tax was imposed. Compensation is no longer required for taxes increased or imposed on or after July 1, 2015.



Under prior law, when a county or transit authority levied a new sales and use tax or increased the tax rate, it was required to compensate vendors by up to \$50 per cash register or, if only one register is in a place of business, up to \$100.

Remission of tax on vehicle sales and leases (VETOED)

(R.C. 4505.06, 5739.029, 5739.13, and 5741.12)

Under continuing law, applications for certificates of title for motor vehicles are filed with the Clerk of the Court of Common Pleas. The Clerk collects sales and use taxes along with the application for a certificate of title for the vehicle. The Clerk may not issue the title before collecting the taxes stemming from the sale of the motor vehicle.

The Governor vetoed a provision that would have allowed a new or used motor vehicle dealer licensed in Ohio to elect to remit the sales and use tax collected on vehicle sales and leases directly to the state on the dealer's monthly sales or use tax return rather than remitting the tax to the Clerk. A motor vehicle dealer that made such an election would have been required to submit to the Clerk, along with the application for a certificate of title, a certificate that acknowledges the sale or lease of the motor vehicle, stating the purchaser's county of residence, and pledging that the dealer would report and remit the tax due to the state on the dealer's monthly return. In effect, the act would have allowed motor vehicle dealers to defer remission of sales and use taxes for up to one month from the date of the sale or lease. The act would not have prohibited motor vehicle dealers from continuing to remit sales and use tax to the Clerk along with the application for a certificate of title.

The act would have required the Tax Commissioner to remit the Clerk's poundage fee to the appropriate county Certificate of Title Administration Fund upon collecting the tax. Under continuing law, the poundage fee equals 1.01% of the tax collected and is to be used to defray the expenses of processing titles for automobiles and other titled vehicles and, in the case of a surplus, to fund the county general fund.

Sales and use tax exemption for meat sanitation services

(R.C. 5739.01(II); Section 803.330)

Continuing law imposes the state's sales and use tax on the provision of "building maintenance and janitorial" services – i.e., cleaning services. Beginning October 1, 2015, the act exempts from sales and use tax the provision of such services to



a meat slaughtering or processing operation if the services are necessary for the operation to comply with federal meat safety regulations.¹⁶⁰

Exempt rental vehicles provided by warrantor

(R.C. 5739.02(B)(42); Section 757.110)

The act exempts from sales and use tax any transaction by which a rental vehicle is provided to someone whose motor vehicle is undergoing repair or maintenance. The exemption applies only if the cost for the rental vehicle is reimbursed by the manufacturer, warrantor, or other provider of maintenance or service contract or agreement, with respect to the vehicle being repaired or maintained. Under continuing law, a sales tax exemption is available for sales of "things" that are needed to fulfill a warranty or similar contractual obligation that was included in the price of the original thing purchased or that was purchased as a separate warranty or service contract.

The act also requires the Tax Commissioner to abate all unpaid sales and use taxes and corresponding penalties and interest stemming from the provision of rental vehicles before September 29, 2015 (the effective date of the exemption). The Commissioner is prohibited from making an assessment for such unpaid taxes, penalties, and interest.

Other state taxes

Cigarette excise tax

Ohio levies an excise tax on the sale, distribution, or use of cigarettes. The tax is paid primarily by wholesale dealers through the purchase of stamps that are affixed to packs of cigarettes. Retail sellers must pay the tax on cigarettes that are not taxed at the wholesale dealer level. Revenue from the cigarette tax is credited to the GRF.

Cigarette excise tax rate

(R.C. 5743.02 and 5743.32; Sections 803.220, 803.230, and 812.20)

The act increases the rate of the cigarette excise tax from \$1.25 per pack to \$1.60 per pack beginning July 1, 2015. On a per-cigarette basis, the increase is from 6.25¢ to 8¢. All revenue from the cigarette excise tax will continue to be credited to the GRF.

The rate increase also applies to cigarettes in wholesale and retail dealers' inventories and tax stamps in wholesale dealers' inventories on July 1, 2015. Dealers must pay a "net additional tax" on those inventories. The net additional tax is the

¹⁶⁰ 21 U.S.C. 608.



additional tax resulting from the rate increase for all cigarette packs bearing a tax stamp and for all unaffixed tax stamps in the dealer's possession at the beginning of business on that day. All dealers owing additional tax must file a return with the Tax Commissioner and pay the tax by September 30, 2015. A late charge applies for late payments or returns equal to \$50 or 10% of the tax due, whichever is greater.

Cigarette tax stamp purchase credit

(R.C. 5743.05)

Under continuing law, wholesale cigarette dealers pay the cigarette excise tax by purchasing tax stamps from the Tax Commissioner and affixing those stamps to packages of cigarettes the dealer sells. Between July 1 and May 1 of each fiscal year, prior law authorized a dealer that did not file a surety bond with the Commissioner to buy cigarette tax stamps on credit with a value up to 110% of its monthly average purchases if the dealer paid for the stamps within 30 days. The 110% limit does not apply if the dealer files a surety bond with the Commissioner, though the 30-day payment deadline does.

The act lengthens the period of time during which dealers may purchase cigarette tax stamps on credit to between July 1 and June 23 of each fiscal year. The act generally maintains the 30-day payment deadline, but requires dealers to pay for stamps purchased on credit no later than June 23 if the stamps are purchased within 30 days before that date.

Cigarette and other tobacco tax enforcement report

(R.C. 5703.85)

The act requires the Tax Commissioner to prepare a quarterly report, beginning September 1, 2015, that details each of the following:

- (1) The number of inspections and investigations conducted during the preceding four months related to the cigarette and tobacco excise taxes and minimum pricing laws.
- (2) The number of related violations found during those months.
- (3) The number of related prosecutions brought during those months.
- (4) The number of agents designated to enforce such violations in those months.

The Commissioner must submit the report to the chairpersons of the House and Senate standing committees that are normally responsible for tax legislation.



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.¹⁶¹

Payment date

The act 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 prior law, the Treasurer was 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 act 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 prior law, payment was due within 30 days of the date the Treasurer mailed the tax bill.

Penalties

The act also adjusts the penalties associated with late payment of the domestic insurance premiums tax. The penalty equals \$500 for each month the taxpayer fails to pay all taxes and interest due. (This equals the maximum penalty for failure to pay foreign insurance company taxes.¹⁶²) 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 prior law, the penalty for late payment was 5% of the taxes and interest due if the payment was made within ten days of the due date and escalated to 10% of the taxes and interest due if the payment was more than ten days late.

¹⁶¹ R.C. 5725.18, not in the act.

¹⁶² R.C. 5729.11, not in the act.



The act's changes to domestic insurance premium tax due dates and penalties apply to taxable years ending in or after 2016.

Financial institutions tax: exempt PCAs and ACAs

(R.C. 5726.01; Section 757.140)

The act exempts production credit associations (PCAs) and agricultural credit associations (ACAs) from the financial institutions tax (FIT), thereby subjecting both types of organizations to the commercial activity tax. Under prior law, PCAs were explicitly subject to the FIT. ACAs were neither explicitly subject to, nor exempt from, the FIT.

A PCA is an institution organized under the Farm Credit Act of 1933 to provide short- or intermediate-term loans to farmers, ranchers, and farm-related businesses, and to rural residents for housing. All PCAs are subsidiaries of ACAs. An ACA is formed through the combination of a PCA and either a Federal Land Credit Association (FLCA) or a Federal Land Bank Association (FLBA), and has similar functions to that of a PCA, except that an ACA may also make long-term loans. Under continuing law, FLBAs are exempt from the FIT, while FLCAs are neither explicitly subject to, nor exempt from, the tax.

The act applies the new exclusions to tax years beginning on and after January 1, 2014, the date the FIT took effect. The act further states that the changes are intended to be "remedial in nature" and to "clarify" existing law.

Kilowatt-hour excise and personal property 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, and some large end users, are subject to a kilowatt-hour tax based on the amount of kilowatt-hours of electricity distributed to or consumed by the end user each month.

The act specifies that, when a company generates electricity but donates all of that electricity to a political subdivision, the property used to generate or supply that electricity is not subject to property taxation and the donated electricity is not subject to the kilowatt-hour tax. The act states that this provision is intended to "clarify and be declaratory of" existing law.



Kilowatt-hour tax reimbursement for wind-generated electricity

(R.C. 5709.93(A)(22), (E), and (F)(2))

The act creates a special set of payments for a municipal corporation where a user of a substantial amount of wind-generated electricity (7,000,000 kwh/year) is located. The payment is incorporated into the act's proposed tangible personal property tax reimbursement scheme, payable from the Local Government Tangible Property Tax Replacement Fund, although it is not related to the loss of property tax revenue from tangible personal property (see "**Tangible personal property tax reimbursements**," below). The payment equals the amount of kilowatt-hour excise tax paid on the basis of wind-generated electricity received by the user. Payments would be made semiannually in any fiscal year following a calendar year in which kilowatt-hour tax is paid for the electricity. The payments continue indefinitely as long as the electricity is distributed to the user and the tax is being paid on the basis of that electricity. The municipal corporation must credit the payment to a special fund to be used to provide grants, tax reductions, or other financial assistance to the user of the wind-generated electricity.

Petroleum activity tax (PARTIALLY VETOED)

Continuing law levies the petroleum activity tax (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, under prior law, by the average price for unleaded gasoline or diesel fuel, as applicable.

Taxation of propane

(R.C. 5736.01 and 5736.02(C); Sections 757.150, 757.160, and 803.350)

The act changes the base on which the PAT is imposed in the case of liquid petroleum gas (a.k.a., LPG or propane) by using the market price of such gas, instead of the market price of diesel, to calculate taxable gross receipts. The change takes effect July 1, 2015.

Previously, PAT gross receipts were calculated separately for gasoline and for all other motor fuels, including diesel, propane, kerosene, and biodiesel. The distinction allowed the market price of gasoline to be used to calculate gross receipts from gasoline sales, but used the market price for diesel to be the basis for calculating gross receipts for diesel and other motor fuels (diesel being by far the most common such fuel other than gasoline).

Continuing law requires that, for purposes of calculating the PAT, the Department of Taxation publish the average market prices of gasoline and diesel at least 15 days before the first day of each quarterly tax period. The act applies this same



requirement to the posting of propane average market prices, but creates an exception for the first tax period after the act's changes take effect. The exception allows the Department additional time – until July 30, 2015 – to post the average market price of propane for the tax period beginning on July 1, 2015.

Credit for tax on blend stocks

(R.C. 5736.01; Section 757.150)

The act authorizes a PAT deduction on the basis of receipts derived from selling blend stocks or additives used for blending with motor fuel, if the PAT has already been paid with respect to the blend stocks or additives. A supplier may rely upon an invoice issued by the seller of the blend stocks or additives as evidence that the PAT has already been paid with respect to the blend stocks or additives, provided that the seller is a licensed Ohio motor fuel supplier that complies with the recordkeeping requirements prescribed by the Tax Commissioner and the invoice lists the tax as a separate charge. Blend stocks are additives that are sold for blending with motor fuel, such as ethanol.

Essentially, the deduction 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.

Rate reduction for railroad diesel fuel (VETOED)

(R.C. 5736.02(A); Section 757.160)

The Governor vetoed a provision that would have reduced the PAT rate applicable to gross receipts received from the sale of dyed diesel fuel when the end user of the fuel is a railroad company, from .65% to .26% (the CAT rate). Beginning July 1, 2014, the PAT replaced the CAT as it applied to receipts from the sale or exchange of motor fuel. The PAT rate is set at a higher percentage than the CAT rate because the PAT applies to only one transaction in the motor fuel distribution chain.

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 Ohio. The tax is due monthly. All revenue is credited to the GRF except for a percentage of the wine tax revenue (2%) earmarked for the Ohio Grape Industries Fund. Under prior law, the 2% earmark was set to expire June 30, 2015. The act extends the earmark for another two years, until June 30, 2017.



Tax identity verification (VETOED)

(R.C. 5703.057, 5703.36, and 5703.361; Sections 757.40 and 803.180)

The Governor vetoed a provision that would have limited information the Tax Commissioner could require a person to verify for the purpose of confirming the person's identity. The act would have prohibited the Commissioner from requesting that a person verify information created or compiled more than five years earlier.

Additionally, the Governor vetoed a provision that would have required the Commissioner to report on the effectiveness of any identity-verification measures the Commissioner employs to reduce personal income tax fraud.

Ohio 2020 Tax Policy Study Commission

(Section 757.50)

The act 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. Specifically, the commission must do all of the following:

(1) Recommend how to transition Ohio's personal income tax to a 3.5% or 3.75% flat tax by 2018;

(2) Recommend how to make the historic rehabilitation tax credit program more efficient and effective, including converting it to a fully refundable credit or a grant program;

(3) Recommend how to reform Ohio's severance tax to maximize competitiveness and enhance Ohio's general welfare;

(4) Review and evaluate all tax credits authorized by the state.

The commission consists of three members of the House appointed by the Speaker, three members of the Senate appointed by the Senate President, and one person appointed by the Governor. 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 Chairpersons of the House and Senate Ways and Means Committees are to serve jointly as Co-chairpersons of the commission.



The act directs the commission to utilize "dynamic analytical tools" and the Legislative Service Commission to provide any necessary services. (The act 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 commission must publish its findings and recommendations on Ohio's severance tax by October 1, 2015, and its findings and recommendations on the historic rehabilitation tax credit by October 31, 2016. The commission is required to publish its findings and recommendations on all other matters not later than October 1, 2017. The commission ceases to exist upon publication of both such reports.

Tax amnesty (VETOED)

(Section 757.130)

The Governor vetoed a provision that would have required the Tax Commissioner to administer a temporary tax "amnesty" from January 1 to February 15, 2016, with respect to delinquent state taxes, county and transit authority sales and use taxes, school district income taxes, taxes on business tangible personal property, and delinquent income tax withholding remittances by employers. The amnesty would have applied only to taxes that were due and payable as of May 1, 2015, that were unreported or underreported, and that remain unpaid on January 1, 2016 except for any tax for which a notice of assessment or audit has been issued, for which a bill has been issued, or for which an audit has been conducted or is pending. If, during the amnesty, a person paid the full amount of delinquent taxes owed and one-half of any accrued interest, the Commissioner would have waived all penalties and the other one-half of accrued interest. A detailed description of the vetoed provision is available on pages 547 and 548 of LSC's analysis of the Senate-passed version of H.B. 64. The analysis is available online at www.lsc.ohio.gov/budget/agencyanalyses131/passedsenate/h0064-ps-131.pdf.

Tangible personal property tax reimbursements

Background

The act resumes the phase-out of payments 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 (TPP). Beginning in 2001, the taxable value of some electric utility TPP was reduced by legislation that partly deregulated electric utilities. Subsequent utility deregulation legislation 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 gradually phased out 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.

School district reimbursement (PARTIALLY VETOED)

(R.C. 5709.92, 5727.84, 5727.85, 5751.20, and 5751.21)

Under prior law, reimbursement payments were generally constant for those districts whose reimbursements had not already been phased out under the 2011-2012 changes. The act'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 act includes an offsetting provision, effective for FY 2016 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. The Governor vetoed the supplemental payment that would have been effective for FY 2017. See Section 263.325 of the act, entitled "School District TPP Supplement.")

Under the act, 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 FY 2015 replacement payments are a relatively small 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:

| <u>Quintile</u> | <u>Percentage</u> |
|--------------------------|-------------------|
| 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. (R.C. 5709.92(C)(1)(a) and (b).)

The percentage for all joint vocational school districts is 2% initially, with a 2% incremental increase each year. The percentage is not adjusted for tax capacity.

Under prior law, school districts and JVSs received payments for such current expense levies only if the district's FY 2011 payment for those levies exceeded 4% of its total resources for the corresponding year. The annual payment equaled the amount by which a district's FY 2011 payment for those levies exceeded 4% of its total resources for the corresponding year.

Noncurrent-expense, nondebt levies: Under the act, replacement payments for levies funding purposes other than current expenses or debt payment (e.g., permanent improvement levies) will be made in FY 2016 in an amount equal to 50% of a district's FY 2015 payment, but no payments for such levies will be made after FY 2016. Prior law provided for annual payments equal to 50% of the payment a district received in FY 2011. (R.C. 5709.92(C)(1)(c).)

Emergency and other fixed-sum levies: The act phases-out 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) in one-fifth increments over five years. The phase-out begins in 2017 for utility TPP-based replacement payments and in 2018 for business TPP-based payments. Under prior law, payments for nondebt fixed-sum levies were scheduled to end in 2017 for utility TPP-based reimbursements and in 2018 for business TPP-based reimbursements. (R.C. 5709.92(D).)

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 prior law. (R.C. 5709.92(E) and (F).)



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 made under prior law to other local taxing units were generally constant for those still receiving payments after the 2011-2012 changes. The act's resumption of the phase-out of reimbursements begins in FY 2016 on the basis of a taxing unit'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").¹⁶³ 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. As under prior law, separate computations are made for each of the specific county functions. (R.C. 5709.93(C).)

Under prior law, taxing units and libraries received payments for such current expense levies only if their CY 2010 payment for those levies exceeded 6% of its total resources for the corresponding year. The annual payment equaled the amount by which the CY 2010 payment for those levies exceeded 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). (R.C. 5709.93(D).)

¹⁶³ For the purpose of certain county functions, total resources includes only county property taxes levied in TY 2014 for such functions and utility and business TPP replacement payments received for such functions in CY 2014 (mental health, disability, senior services, developmental disability, children's services, public health).



Nuclear power plant-affected taxing units (VETOED)

(R.C. 5709.92 and 5709.93)

The Governor vetoed a provision that would have exempted replacement payments for certain school districts and other taxing units from the act's phase-out of TPP replacement payments for fixed-rate current expense levies. The exemption would have applied to any district or taxing unit that has a nuclear power plant located in its territory and whose FY 2015 TPP reimbursement payment for fixed-rate current expense levies ("current expense allocation") equaled at least 10% of its total resources. In fiscal year 2016 and thereafter, those districts and taxing units would have continued to receive the same payment amount they received for fixed-rate current expense levies in fiscal year 2015 (schools) or CY 2014 (others). (The exempted school districts and taxing units were designated "qualifying school districts" and qualifying taxing units.")

Library total resources certification

(Section 757.10)

The act 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 act authorizes school districts and other local taxing units affected by the act'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 act 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 act 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 reimbursement payments to school districts and other local taxing units.

Kilowatt-hour excise tax revenue to GRF

(R.C. 5727.81, 5727.811, and 5727.84)

The act directs that nearly all revenue from the kilowatt-hour excise tax be credited to the General Revenue Fund beginning July 1, 2015. Under prior law, almost all revenue from the tax was 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. In accord with the change in the revenue distribution, the act changes the statement of the purpose of the tax.

Kilowatt-hour tax revenue that 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. Under continuing law, 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; Section 803.250)

The act 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 a taxpayer to foster job creation, job retention, and capital investment in Ohio.

The act revises the computation of JCTCs so that the amount of the credit equals an agreed-upon percentage of the taxpayer's Ohio employee payroll minus baseline payroll. For JRTCs, the amount of the credit equals an agreed-upon percentage of the taxpayer's Ohio employee payroll. "Ohio employee payroll" is the compensation paid by an employer and used in computing the employer's withholding requirements. It includes compensation paid in the form of retirement and other benefits as well as compensation paid to nonresident employees that are not exempt from Ohio income tax under a reciprocity agreement with another state. "Baseline payroll" is the employer's Ohio employee payroll during the 12 months preceding the agreement.

Under prior law, both credits were calculated as a percentage of the taxpayer's Ohio income tax withholdings. The act's change to the credit base prevents a reduction in the credit amount due to declining Ohio income tax rates.

The act also removes the 75% cap placed on the JRTC percentage under prior law. The JRTC percentage is multiplied by the taxpayer's Ohio employee payroll 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.

With respect to agreements approved on or after January 1, 2014, the act 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 act 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 Commissioner or the



Superintendent of Insurance. Continuing law permits the Commissioner or Superintendent to request a copy of the certificate when the taxpayer fails to include a copy with its return.

The act authorizes the TCA, upon mutual agreement of the taxpayer and the Development Services Agency (DSA), to revise JCTC agreements originally approved in 2014 or 2015 to conform with the act's revisions to the credit. Otherwise, the act's Ohio employee payroll formula applies to JCTC and JRTC agreements entered into on or after September 29, 2015 (the act's 90-day effective date).

The act also changes the formula for computing the credits awarded under JCTC and JRTC agreements approved by the TCA before 2014. Each year, beginning in 2016, TCA is required to compute a withholding adjustment factor for the purpose of accounting for increases or decreases in state income tax rates since June 29, 2013. The withholding adjustment factor applies to a JCTC or JRTC in each year that the employer satisfies its employment, payroll, and investment commitments. The failure of an employer to meet its commitments in one reporting period does not preclude the application of the withholding adjustment factor in ensuing reporting periods if the employer achieves compliance during those periods.

Evaluation of JRTC and data center sales tax exemption applications

(R.C. 122.171(C) and 122.175)

The act 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 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 law changed in part by the act, 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 the state and 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.



Under the act, the Commissioner and Superintendent would not submit any recommendations on the application to the TCA; they would submit only their determinations regarding economic impact. Only the Director of Development Services would determine the local economic impact of proposed projects and submit recommendations to the TCA.

Temporary historic rehabilitation CAT credit

(Section 757.170)

The act extends, to July 1, 2017, the authorization for 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"). Additionally, the act 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 is a nonprofit organization, to claim a tax "credit" as if the business or organization were a CAT taxpayer.

Uncodified law enacted by H.B. 483 of the 130th General Assembly authorized certificate owners to claim a similar credit against the CAT only for tax periods ending before July 1, 2015. Generally, a certificate holder may claim the credit against the personal income tax, financial institutions tax, or foreign or domestic insurance company premiums tax.

Ohio New Markets Tax Credit

(R.C. 5725.33, 5726.54, 5729.16, and 5733.58)

The act makes several changes to Ohio's New Markets Tax Credit, which is modeled on the Federal New Markets Tax Credit. The credit is nonrefundable and may be taken against the insurance and financial institution taxes. The credit is awarded to insurance companies and financial institutions that purchase and hold securities issued by Community Development Entities (CDEs) to finance investments in qualified businesses operating in low-income communities in Ohio. Under prior law, the credit equaled 39% of the "adjusted purchase price" of qualified equity investments in CDEs that used substantially all of the proceeds to make investments in such qualified low-income community businesses. Prior law defined "adjusted purchase price" of qualified investments as the percentage of those investments that were made in businesses located in Ohio. Under continuing law, to be a qualified equity investment, the investment must be acquired after October 16, 2009, for cash, and at least 85% of the



purchase price must be used by the issuer to make qualified low-income community investments.

Instead of basing the amount of a credit on the percentage of qualified investments made in Ohio businesses, the act bases the credit on the full amount paid for a qualified investment approved as eligible for the credit by the Director of Development Services, even if a portion of that investment was made in businesses outside Ohio. However, under a separate requirement, a credit is allowed for a qualified investment only if, in general, at least 85% of the proceeds of the investment are made in Ohio businesses.

The act also authorizes a foreign insurance company to claim the Ohio New Markets Tax Credit against the "retaliatory" tax, which is levied on insurance companies organized in a state whose insurance franchise tax rate as charged against Ohio insurance companies exceeds the tax rate charged in Ohio against that other state's companies. The rate of the retaliatory tax is the difference between that state's and Ohio's insurance franchise tax rate. Under continuing law, a foreign insurance company may also claim the credit against the foreign insurance company franchise tax.

The act specifies that a credit allowed to a pass-through entity may be allocated to the owners of the entity for each owner's direct use in accordance with an agreement between such owners. Prior law did not explicitly authorize or prohibit the credit from being allocated in such a manner.

Exclusion for health and beauty product supply chain receipts

(R.C. 5751.01(F)(2)(jj); Section 803.310)

Continuing law levies the CAT on the basis of a business' taxable gross receipts. The act retroactively excludes, for purposes of calculating the base of the CAT, receipts from sales of beauty, health, personal care, or aromatic products (including candles), or packaging or components of those products, between businesses within an integrated supply chain.

Under the act, an "integrated supply chain" is two or more businesses that do not share a common owner and have a location within one or more parcels of land totaling between 400 and 700 acres in a county with a 2010 population between 165,001 and 170,000 (i.e., Licking County) and a city with a 2010 population between 7,501 and 8,000 (i.e., New Albany). Each business must be primarily involved in manufacturing, assembling, or packaging retail goods and must coordinate its operations with a retailer "to improve long-term financial performance of" the business and its entire supply chain. The exclusion does not apply to receipts from sales to a retailer in the same supply chain or receipts from equipment sales.



The act states that the exclusion applies retroactively, for tax periods beginning on or after July 1, 2011, and is to be construed as "clarifying" the law, subject to existing statutes of limitations that generally impose a four-year limit on claiming CAT refunds or issuing CAT assessments.

Information exchange with Department of Insurance

(R.C. 5703.21(C)(17))

The act expressly authorizes Department of Taxation agents and employees to disclose information to the Department of Insurance as necessary to ensure that insurance companies subject to the insurance company taxes comply with terms of any tax credit administered by the Development Services Agency. Tax credits matching that description include the New Markets, job creation, job retention, and historic building rehabilitation tax credits. These credits may be taken against the insurance company taxes, which are administered by the Department of Insurance.

Under continuing law, taxpayer information possessed by the Department of Taxation may not be disclosed to anyone unless the law specifically permits disclosure.

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. The act extends this authority 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.¹⁶⁴ Prior law limited such levies to the Cleveland Metropolitan School District and the Columbus City School District.

The act makes no changes to the law pertaining specifically to the Cleveland Metropolitan School District, but removes criteria that were enacted specifically to

¹⁶⁴ 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.



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.

The act revises the qualifications for community schools that are allocated levy revenue in school districts other than the Cleveland Metropolitan School District. Under the act, 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.

The act 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. Prior law did not cap the percentage of levy revenue that could be allocated to community schools, but may have implied that at least a portion must be levied for the school district's own expenses. The resolution and ballot language proposing such a levy is required to specify that all of the levy proceeds are allocated to partnering community schools.

Tax exemption for electric generation property (VETOED)

(R.C. 321.24, 4909.161, 5705.34, 5709.92, 5709.93, 5709.94, 5727.031, 5727.06, 5727.09, 5727.11, 5727.111, 5727.15, and 5727.75; Sections 375.10, 757.20, and 803.353)

The Governor vetoed a provision that would have exempted from property taxation electric company generation equipment and "other" electric company tangible personal property that is not transmission and distribution ("T&D") or energy conversion equipment. The provision also would have required the Tax Commissioner to annually calculate an increased assessment rate on T&D property and energy conversion equipment and use the revenue from that increase to reimburse local governments for the revenue they would have lost due to the exemption.

Under ongoing law, electricity generation property is assessed at 24% of its true value, while all other property, including T&D property, is assessed at 85% of its true value.

Local government reimbursements

The vetoed provision would have required the Tax Commissioner each year to determine the amount of tax revenue that all taxing units would have collected with respect to generation equipment and "other" property for the tax year if the tax on such property were still in effect. The Commissioner then would have had to determine the amount by which the baseline 85% assessment rate had to be increased in order to raise enough additional revenue to fully reimburse the taxing units for their lost revenue. The increased assessment rate would have applied to all T&D property and energy conversion equipment statewide.



Once taxes were collected at the county level, each county treasurer would have forwarded to the Treasurer of State the amount of tax revenue collected on T&D property and energy conversion equipment attributable to the difference between the increased assessment rate and the baseline 85% assessment rate. The Treasurer would have deposited all of the amounts into a newly created Production Equipment Property Tax Replacement Fund. From that fund, the Tax Commissioner would have reimbursed taxing units for their lost revenue.

Recovery of the increased tax through electric rates

The vetoed provision would have permitted the electric companies to recover from customers, through a reconcilable rider, the payment of the increased tax on transmission and distribution property and energy conversion equipment that resulted from the vetoed provisions described above. To initiate the recovery, the company would have filed a request for the rider with the Public Utilities Commission (PUCO) outside of a rate case. The PUCO would have been required to approve the rider. The payment could then have been recovered in accordance with the PUCO's order.

Water-works tangible personal property tax assessment (VETOED)

(R.C. 5727.111(D) and (I))

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.

All tangible personal property of a water-works company is assessed at 88% of its true value. The Governor vetoed a provision of the act that would have reduced 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.

Uniform rules for appraisal of real estate (VETOED)

(R.C. 5715.01)

The Governor vetoed a provision of the act that would have required the rules for real estate appraisal, established by the Tax Commissioner, to include any definitions necessary to "clarify" appraisal methods. Under continuing law, all real property is subject to reappraisal once every six years and to reevaluation in the third



year after an appraisal. The Commissioner is required to direct and supervise this process. Part of this duty includes adopting rules for the determination of the true value and taxable value of real property, including rules that prescribe the methods of making appraisals. In effect, the vetoed provision would have required a higher degree of detail with respect to the Commissioner's rules of appraisal.

The vetoed provision specified that, if the Commissioner had not explicitly designated a rule, "The Appraisal of Real Estate, 14th Edition" and "The Dictionary of Real Estate Appraisal, 5th Edition" published by the Appraisal Institute would be controlling.

The valuation of real property for tax purposes is governed generally by Article XII, Section 2 of the Ohio Constitution (which requires all property to be taxed "be uniform rule, according to value") and judicial construction of that provision, as well as pertinent statutes and administrative rules.

Tax valuation for farmland storing dredged material

(R.C. 5713.30; Section 803.140)

Beginning with tax year 2015, the act 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 any year in which dredged material is stored on the land pursuant to that contract, for up to five years. 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.



Property tax bill records and penalty waiver

(R.C. 323.13 and 5715.39)

The act adds a circumstance under which a county auditor is required to waive late payment penalties when property taxes are not paid on time. The circumstance is when a property owner satisfies a mortgage, the lender fails to notify the county auditor that the mortgage has been satisfied, and the tax bill is not mailed to the property owner (i.e., the bill is instead mailed to the lender). The penalty waiver applies only to the first tax bill after the mortgage is satisfied.

Continuing law requires county auditors to waive late payment penalties under certain circumstances, including when the taxpayer is incapacitated, mail delivery fails, the county auditor or treasurer errs, or the taxpayer does not receive the bill but tries, in good faith, to obtain the bill within 30 days after the due date. In all other cases, the failure to receive a tax bill does not excuse a taxpayer from having to pay taxes on time or prevent the imposition of late payment penalties, unless the county board of revision finds that the lateness is "due to reasonable cause and not willful neglect."

The act also requires the county treasurer to maintain a record of the person or agent to whom each tax bill is sent. Under continuing law, county treasurers are required to mail property tax bills to the address provided by the property owner at least 20 days before the due date. If the property owner has designated an agent to pay the taxes (e.g., a mortgage lender), the bill is to be mailed to the agent. If the agent is a mortgage lender, a bill does not have to be mailed; instead, the lender and the county treasurer may arrange for payment of the taxes directly through the lender without a bill having to be mailed.¹⁶⁵

Renewable energy project tax exemption

(R.C. 5727.75)

The act extends by five years the deadlines by which the owner or lessee of a qualified energy project must submit a property tax exemption application, submit a construction commencement application, begin construction, and place into service an energy facility using renewable energy resources (wind, solar, biomass, etc.) to qualify for an ongoing real and tangible personal property tax exemption.

With respect to an energy facility using renewable energy resources, prior law required the owner or lessee to submit an exemption application to the Director of Development Services (DSA), to submit a construction commencement application to

¹⁶⁵ R.C. 323.134, not in the act.



the Power Siting Board (or, for smaller projects, to any other state or local agency having jurisdiction), and to commence construction before 2016. The law also required the owner or lessee to place the energy facility into service before 2017. The act extends each of these deadlines by five years.

Term of tax levies benefitting cemeteries

(R.C. 5705.19)

The act 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 prior law, such a levy could be imposed for a term of up to five years. The act 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. Townships have a duty to maintain public cemeteries in their unincorporated territory.¹⁶⁶ 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 757.190)

The act 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 to provide educational or health services on a not-for-profit basis. Formerly, the property had to be used primarily for meetings or administration of the organization. Another qualification – not affected by the act – is that annual gross income from renting the property to others may not exceed \$36,000.¹⁶⁷

The expanded eligibility applies to tax exemption applications that are pending on September 29, 2015, or that are filed on or after that date.

For the purpose of the tax exemption under ongoing law, a fraternal organization must be a domestic fraternal society, order, or association that operates under the lodge,

¹⁶⁶ 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.

¹⁶⁷ The act erroneously strikes part of the phrasing pertaining to the income limit.



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.

Township tax increment financing extension

(R.C. 5709.73(L))

The act 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.)

Property tax abatement for submerged land leases

(Section 757.180)

The act establishes a temporary procedure by which a municipal corporation may apply for a tax exemption and the abatement of unpaid property taxes, penalties, and interest charged and payable in 2000 and thereafter for a submerged land lease held by a municipal corporation pursuant to an assignment of the lease from a previous lessee. To qualify for the exemption and abatement, the unpaid charges must exceed the



assessed value of the property for 2014 and the property must currently be used for an exempt purpose. No taxes, penalties, or interest may be abated for any tax year in which the property was used in the operation of a business.

The application for exemption and abatement must be filed with the Tax Commissioner before January 1, 2016.

Under continuing law, municipally owned property is tax-exempt if it is used "exclusively for a public purpose," but such property may not be exempted if more than three years' worth of taxes remain unpaid. Submerged land leases are agreements by which the state leases submerged land within the state's territory in and along Lake Erie for development and improvement. Submerged land leases are administered by the Department of Natural Resources through the submerged lands program.

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 R.C. Chapter 718. 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 or after January 1, 2016.

Publicly traded partnership tax status election

(R.C. 718.01(D), (E), and (VV); Sections 803.01 and 803.160)

The act permits a publicly traded partnership to elect to be taxed as if the partnership were a C corporation for municipal income tax purposes. Under recently enacted legislation, an entity's federal tax status as a C corporation or a non-C corporation determines how its net profit is treated for municipal income tax purposes: beginning in 2016, municipal corporations must tax net profit from pass-through entities (like partnerships) at the owner (e.g., partner) level, and must tax net profits of C corporations at the corporate entity level (H.B. 5 of the 130th G.A.). The act permits a publicly traded partnership to choose to have its net profit taxed at the entity level instead of at the level of its partners even though its net profit is taxed as a partnership – i.e., at the partner level – for federal income tax purposes. If the election is made, the partners' shares of net profit from the partnership is not treated as the partners' net profit for municipal income tax purposes. This would have implications for, among



other things, the extent to which the partners' net profit is taxable by the municipal corporation where a partner lives and partners' reporting obligations.

If the election is made in any municipal corporation, it would have to be made for every municipal corporation where the partnership's net profits are taxed. The election would have to be made on the annual return filed with each such municipal corporation.

The act defines a publicly traded partnership as any partnership for which partnership interests are publicly traded on an established securities market. This is similar, but not identical, to the definition of publicly traded partnerships for federal income tax purposes (I.R.C. 7704). Under federal law, a publicly traded partnership is taxed as a corporation unless at least 90% of its annual gross income consistently arises from interest, dividends, real property, natural resources, capital assets held to produce income, and certain other sources, in which case the partnership may elect to not be treated as a corporation.

Due date for returns

(R.C. 718.05(G)(1); Sections 803.03 and 803.160)

H.B. 5 required 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 act 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); Sections 803.03 and 803.160)

Beginning January 1, 2016, the act 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 act does not specify the manner of that request.

Under prior law that was scheduled to apply on and after January 1, 2016, municipal income tax returns were 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.

Alternative municipal income tax base adjustments

(R.C. 718.01(A)(1); Sections 803.01 and 803.160)

The act 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 R.C. Chapter 718. However, under prior law, the tax base that could be used was that in effect on December 31, 2013 – no further adjustments could have been made.

Former taxpayer affidavit

(R.C. 718.05(N); Sections 803.03 and 803.160)

The act authorizes a person who has been subject to a municipal corporation's income tax to file an affidavit notifying a municipal corporation that the person no longer expects to be subject to the municipal corporation's income tax. To be eligible to file such an affidavit, the person must have been required to file a tax return with the municipal corporation for the preceding year on the basis of having performed services there, must no longer provide services there, and must not expect to be subject to the tax in the current year. Once the affidavit is filed, the municipal tax administrator may not require the person to file a return unless the administrator has information conflicting with the representations in the affidavit. The administrator retains the authority to audit the person, however. The affidavit must explain the person's circumstances, indicate the place in the municipal corporation where the person previously provided services, and the most recent date the services were performed or sales were made by the person in the municipality. Signing the affidavit is subject to the penalty of perjury.

Under continuing law, municipal income taxes apply to residents, and to nonresidents who work or otherwise perform services in a municipal corporation or make sales there.



Documents submitted with municipal income tax returns

(R.C. 718.05(F)(2); Sections 803.03 and 803.160)

The act 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 prior law that was scheduled to take effect in 2016, an administrator could 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. The act's change applies on and after January 1, 2016.

Municipal income taxation of foreign income

(R.C. 718.01(R)(2)(f); Sections 803.01 and 803.160)

Beginning January 1, 2016, the act requires a municipal corporation to tax an individual's foreign income under the following conditions:

- (1) The income is compensation paid to an employee for services;
- (2) The income either (a) is included in the taxpayer's federal gross income or (b) would have been included in the taxpayer's federal gross income if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code. (I.R.C. 911 authorizes U.S. citizens and residents living abroad for an extended period to elect to exclude foreign-earned income from their U.S. gross income for federal tax purposes under certain conditions.)
- (3) The amount was not subject to federal or municipal income tax withholding in any previous taxable year;
- (4) The amount will not be subject to federal income tax withholding in any future year.

Prior law made no specific reference to foreign earned income. Consequently, under municipal income tax law in effect until January 1, 2016, a municipal corporation may tax such income at its discretion, subject to any other limits in federal or state law. Beginning January 1, 2016, municipal corporations must adopt a uniform definition of taxable income, as specified in state law, which will now incorporate the act's express inclusion of foreign income for individuals.



Municipal corporation and school district revenue-sharing income tax

(R.C. 718.04(G); Sections 803.160 and 803.290)

The act allows a municipal corporation that shares at least 70% of its territory with a school district to enter into an agreement to share municipal income tax revenue with the school district, provided that a portion of the remaining 30% of the school district territory lies within another municipal corporation with a population of 400,000 or more. Under continuing law, municipal corporations may enter into a similar agreement if the municipality and school district have at least 95% of their territories in common, or if 90% of the territories are in common and the remaining 10% of school district territory lies entirely within another municipality with a population of 400,000 or more.

The new authorization is similar to the existing authority to levy revenue-sharing taxes, with two exceptions: first, the existing authority requires that the municipality share at least 25% of the tax revenue with the school district. The act includes no such requirement for the new authorization. Second, under the existing authority, revenue-sharing taxes first levied after 2005 may apply only to residents of the municipality. The act allows the newly authorized tax to be levied on both residents and nonresidents. The existing authority is not changed by the act.

Municipal income taxation of net operating losses

(R.C. 718.01(E)(8)(e); Sections 803.01 and 803.160)

The act clarifies a provision of H.B. 5 of the 130th General Assembly that requires all municipal corporations to adopt a uniform law related to the deduction of net operating losses (NOLs). The provision, which takes effect January 1, 2016, requires all municipalities to allow businesses to deduct new NOLs, but temporarily reduces the deduction allowed for any NOL incurred after 2016 and claimed for taxable years 2018 through 2022 to 50% of the amount otherwise allowed.

Under continuing law, if an NOL is not fully utilized due to this temporary limit, it may be carried forward for up to five future taxable years. The act specifies that, if the amount is carried forward to a taxable year beginning in 2019, 2020, 2021, or 2022, the 50% limit continues to apply to that carried-forward amount.



Taxpayer damages suits

(R.C. 718.37)

The act 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.

Prior law, changed in part by the act, authorized 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. Under continuing law, 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.

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 act provides that, in addition to these documents, municipal corporations must also publish online a summary of taxpayer's rights and responsibilities. Prior law also required that documents be posted on a site created by the Department of Taxation or on the municipal corporation's own website. The act instead requires that the required documents be posted on both websites if the municipal corporation has established a website for its municipal income tax.

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 act authorizes an additional 1% lodging tax for a county with a population between 175,001 and 225,000, that has an amusement park with an average annual attendance over 2 million, and that levied a 3% lodging tax on December 31, 2014 (i.e., Warren County). The additional lodging tax revenue must be used by the county to construct and maintain county-owned sports facilities and fund efforts by a convention and visitors bureau to promote travel and tourism with respect to the sports facilities.

The additional lodging tax is imposed by resolution of the board of county commissioners. It is not subject to voter approval or referendum. The county is not required to return any portion of the additional tax revenue to townships or municipal corporations.

For county agricultural societies

(R.C. 1711.15, 1711.16, and 5739.09(L))

The act authorizes an additional lodging tax of up to 3% for a county that hosts, or that has an independent agricultural society that hosts, an annual harness horse race with at least 40,000 one-day attendees. The additional lodging tax revenue must be used by the county to pay for the construction, maintenance, and operation of permanent improvements at sites where the agricultural society conducts fairs or exhibits.

The additional lodging tax is proposed by resolution of the board of county commissioners and is subject to voter approval. The term of the lodging tax may not exceed five years. The county is not required to return any portion of the additional tax revenue to townships or municipal corporations.



For sports park financing and tourism promotion

(R.C. 133.07, 307.679, and 5739.09(A)(9))

The act authorizes an additional 1% lodging tax for a county with a population between 75,001 and 78,000 (i.e., Erie County). The additional lodging tax revenue to pay the costs of acquiring, constructing, reconstructing, renovating, rehabilitating, expanding, adding to, equipping, furnishing, improving, maintaining, and operating a sports park and promoting county tourism. The act defines "sports park" as an entertainment and recreation venue that hosts athletic events and teams. The sports park may include related parking facilities, walkways, and auxiliary facilities.

The additional lodging tax is imposed by resolution of the board of county commissioners and is not subject to voter approval or referendum. The resolution must be adopted on or before October 15, 2015. The county is not required to return any portion of the additional tax revenue to townships or municipal corporations. Under the act, the Erie County board of commissioners may also amend the county's existing lodging tax to allocate all or a portion of the revenue derived from the existing tax to finance a sports park.

The act also authorizes the Erie County board of commissioners to enter into a cooperative agreement with a port authority, nonprofit corporation, operating company, or another person for the purpose of financing, acquiring, constructing, reconstructing, renovating, rehabilitating, expanding, adding to, equipping, furnishing, improving, maintaining, and operating a sports park. Each party to the agreement is authorized to agree to perform some or all of the following obligations:

| Obligation | Erie County | Port authority | Nonprofit corporation | Operating company |
|---|-------------|---|-----------------------|-------------------|
| Increase the rate of its lodging tax (see above) | X | | | |
| Construct or reconstruct a sports park | X | X | X | |
| Acquire, convey, or lease real property for the sports park project | X | X | X | X |
| Issue bonds to fund sports park construction or maintenance | X | X | | |
| Finance sports park bonds using lodging tax revenue and other sources | X | (Erie County is required to service port authority bonds) | | |
| Authorize another person to administer contracts related to | X | X | X | |



| Obligation | Erie County | Port authority | Nonprofit corporation | Operating company |
|---|-------------|----------------|-----------------------|-------------------|
| a sports park | | | | |
| Lease a sports park, including an agreement to purchase a sports park for \$1 following the end of the lease or retirement of sports park bonds | | | | X |
| Operate and maintain a sports park | | | | X |

Any such agreement terminates if no sports park bonds are issued within two years after the agreement takes effect. Sports park bonds supported by lodging tax revenue are not counted toward the county's statutory debt limits.

For Lake Erie shoreline improvements

(R.C. 305.31, 4582.56, and 5739.09(M))

The act authorizes an additional lodging tax of up to 2% for a county that levies a lodging tax at a 3% rate and that includes Lake Erie shoreline the length of which is at least 50% of the county's border with other Ohio counties. The county must pledge the additional lodging tax revenue to a port authority, which must use the revenue to fund the construction of port authority facilities under an agreement between the county and port authority. The facilities must be located within one mile of Lake Erie. The port authority may not enter into any contract regarding a project under the agreement without first obtaining the approval of the board of county commissioners.

The additional lodging tax is imposed by resolution of the board of county commissioners. The tax is not subject to voter approval but is subject to referendum. The county is not required to return any portion of the additional tax revenue to townships or municipal corporations.

For permanent improvements

(R.C. 133.07, 305.31, and 5739.09(A)(10))

The act authorizes an additional lodging tax of up to 3% by a county that meets one of the following criteria:

- The county has a 2010 population between 39,000 and 40,000 and does not currently levy a lodging tax (i.e., Defiance County);



- The county has a 2010 population between 71,000 and 75,000 and currently levies a 3% lodging tax to fund a convention and visitors bureau (i.e., Hancock County).

The county or counties levying such a tax must use the revenue to finance permanent improvements. Under continuing law, a "permanent improvement" is any property, asset, or improvement having an estimated life of at least five years. The additional lodging tax is imposed by resolution of the board of county commissioners. The tax is not subject to prior voter approval but is subject to referendum.

Tourism development districts

The act 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" (TDDs).

Creation of a TDD

(R.C. 503.56 and 715.014)

Under the act, 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 that levies county sales taxes the aggregate rate of which does 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 is considered to be operating within the proposed TDD only if it would be subject to a special gross receipts tax levied in the proposed TDD (see "**TDD gross receipts 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 measure designating the area of the subdivision to be included in the TDD. The area cannot be more than 200 contiguous acres. The subdivision must submit the measure, 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 sufficient for the Commissioner to determine whether a business is located there.

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.

Twice annually, a subdivision creating a TDD is required to provide the Tax Commissioner with information related to businesses located in the TDD that are required to collect sales taxes on their transactions, including the business' address and vendor's license number.

TDD gross receipts tax

(R.C. 5739.101, 5739.102, and 5739.103)

The act authorizes a subdivision creating a TDD to levy a gross receipts tax of up to 2% on business' gross receipts derived from making sales in the TDD (excluding food sales) provided the subdivision levies the tax before 2019.

A TDD gross receipts tax is administered and collected by the Tax Commissioner in the same manner as a gross receipts tax that has been permitted for certain "resort areas" under continuing law. However, unlike the existing resort area tax, the act expressly specifies that a business subject to a TDD or resort area gross receipts tax may separately or proportionately bill or invoice the tax to another person, e.g., a consumer as part of the price of the good or service sold.

TDD admissions taxes

(R.C. 503.57 and 715.014(D))

The act 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 act 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 act specifies that a municipal corporation is not prohibited from levying an admissions tax in a TDD pursuant to the municipal corporation's constitutional home rule authority.

TDD lessee fee

(R.C. 503.56(C) and 715.014(C))

Once a TDD is created, the act 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 lease 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.

Payment of county and transit authority sales tax revenue

(R.C. 5739.213)

The act authorizes a county or transit authority in which a TDD is located, under certain conditions, to make annual payments from its general fund to the municipal corporation or township that created the TDD equal to increased revenue from county or transit authority sales taxes levied in the TDD. Any such payments must be used solely to develop tourism in the TDD.

Before those payments may be made, the municipal corporation or township must adopt and certify to the county or transit authority that levies sales taxes in the TDD's territory a resolution expressing its intent to receive the payments and describing the boundaries of the TDD. After receiving this resolution, the county or transit authority may independently adopt a resolution providing for those payments to be made.

The amount of each annual payment equals the amount of revenue from the county's or transit authority's sales tax collected from vendors located in the TDD in the preceding year in excess of such revenue collected during the year before the TDD's creation (the act refers to this amount as "incremental sales tax growth"). The act requires the municipal corporation or township to annually provide the county or transit authority with a list of the vendors located in the TDD. The county or transit authority may require those vendors to report any information to the county or transit



authority necessary to allow the county or transit authority to calculate incremental sales tax growth in the TDD, such as the vendor's taxable sales.

TDD bonds

(R.C. 133.01, 133.04, 133.05, 133.083, and 133.34)

The act authorizes a subdivision creating a TDD to issue bonds to be repaid with revenue from taxes or fees levied for the purpose of developing and promoting tourism in the TDD. The bonds may be supported by TDD gross receipts taxes, admissions taxes, lessee development fees, or incremental sales tax growth payments. All bond proceeds must be used for the same purposes as the supporting revenue sources – to develop and promote tourism in the TDD. Bonds supported by these sources do not count toward the subdivision's statutory debt limits.

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 act 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. Prior law required these transfers to be made on a monthly basis after disbursements were made to counties from the Wireless 9-1-1 Government Assistance Fund without the Steering Committee's direction. 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.¹⁶⁸

Remedying shortfalls in monthly county disbursements

The act 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 2013. The funds come from a 25¢ monthly charge on Ohio wireless subscribers (and a charge of 0.5% of the sale price of prepaid wireless services).¹⁶⁹ Under continuing law, if the amount available in the Wireless 9-1-1 Government Assistance Fund is insufficient to make the required monthly

¹⁶⁸ R.C. 128.022, not in the act.

¹⁶⁹ R.C. 128.42, not in the act.



disbursements, each county's share is proportionately reduced for the month. Prior law did not provide for this shortfall to be remedied.



DEPARTMENT OF TRANSPORTATION

Contents of a public private (P-3) agreement

- Limits the requirement that a P-3 agreement contain a contract performance bond and a payment bond to only those agreements that contain a construction services component.
- Requires a contract performance bond or payment bond, for purposes of a P-3 agreement, to be executed by a surety authorized by the Department of Insurance to write surety bonds.
- Removes a provision that required a contract performance bond or payment bond under a P-3 agreement to be in conformance with any terms or conditions specified by the Director of Transportation.

Funding for airport improvements (PARTIALLY VETOED)

- Creates the Airport Improvement Fund, and requires that the Director distribute money in the Fund to provide matching funds, loans, and grants for aviation infrastructure and economic development projects.
- Would have required 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 (VETOED).

Study regarding limited driving privilege license

- Requires the Joint Legislative Task Force on Department of Transportation Issues to study the cost and feasibility of establishing a limited driving privilege license.

Report of the Maritime Port Funding Study Committee

- Extends the deadline for the report that the Maritime Port Funding Study Committee must issue from January 1, 2015, to January 1, 2016.

Traffic light relocation (VETOED)

- Would have required the Director to relocate a traffic light in Clinton County that is currently located at the intersection of the off ramp of the northeast bound lanes of I-71 and S.R. 73 to the intersection of S.R. 73 and S.R. 380 (VETOED).



Quarterly report by ODOT on MBE/EDGE compliance

- Requires ODOT to submit a quarterly report on Minority Business Enterprise (MBE)/Encouraging Diversity, Growth and Equity (EDGE) compliance to the majority and minority leaders of the General Assembly and the Governor to reaffirm compliance with federal and state mandates.

Contents of a public private (P-3) agreement

(R.C. 5501.73)

The act modifies the required contents of a P-3 agreement related to contract performance and payment bonds. Law retained in part by the act requires a P-3 agreement to provide for both of the following:

(1) A contract performance bond in an amount specified by the Director of Transportation, conditioned upon the private entity performing the work in accordance with the agreed upon terms, within the time prescribed, and in conformance with any other such terms and conditions as are specified by the Director;

(2) A payment bond in an amount specified by the Director, conditioned upon the payment for all labor, work performed, and materials furnished in connection with the agreement and any other such terms and conditions as are specified by the Director.

The act specifies that those requirements only apply if the P-3 agreement contains a construction services component. For purposes of the act, "construction services" means design-build, construction, reconstruction, replacement, improvement, or repair services. The act also requires such a bond to be executed by a surety authorized by the Department of Insurance to write surety bonds and eliminates the requirement that such bonds conform with any other terms and conditions specified by the Director.

Funding for airport improvements (PARTIALLY VETOED)

(Sections 399.15 and 757.60)

The act establishes, in uncodified law, the Airport Improvement Fund, to be administered by the Director. Money appropriated to the Fund in the upcoming biennium must be used to continue the Ohio Airport Grant Program in supporting capital improvements, maintaining infrastructure, and ensuring safety at publicly owned, public use airports in Ohio, provided that the airports receive neither Federal Aviation Administration Air Carrier Enplanement Funds nor Air Cargo Entitlements.



The Governor vetoed a provision of the act that would have required 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.¹⁷⁰ The Director would have been required to submit the draft legislation to the OAATC by June 30, 2016.

Study regarding limited driving privilege license

(Sections 610.01 and 610.02)

The act 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;

(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 act 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.

¹⁷⁰ 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. (e.g., a major air carrier). R.C. 5739.01(P) and 5739.02(B)(42)(a).



Traffic light relocation (VETOED)

(Section 745.20)

The Governor vetoed a provision of the act that would have required the Director to relocate a traffic light in Clinton County that is currently located at the intersection of the off ramp of the northeast bound lanes of I-71 and S.R. 73 to the intersection of S.R. 73 and S.R. 380.

Quarterly report by ODOT on MBE/EDGE compliance

(Section 745.30)

The act requires ODOT to submit a quarterly report on Minority Business Enterprise (MBE)/Encouraging Diversity, Growth and Equity (EDGE) compliance to the majority and minority leaders of the General Assembly and the Governor to reaffirm compliance with federal and state mandates.



TREASURER OF STATE

Agricultural Linked Deposit Program

- Modifies the Agricultural Linked Deposit Program, as follows:
 - Until July 1, 2020, makes agricultural businesses with land in the western basin of the state eligible for larger reduced rate loans if the businesses certify that the loan proceeds will materially contribute to their compliance with provisions of S.B. 1 (131st General Assembly) that restrict the surface application of manure;
 - Provides an alternative interest rate at which a lending institution may lend the linked deposit to eligible agricultural businesses;
 - Increases the period of time in which a lending institution may lend the funds after placement of the linked deposit with the institution.

Public depositories: pledging of security

- Modifies the Uniform Depository Law relative to the pledging of security for the repayment of uninsured public deposits that is required of financial institutions designated public depositories, as follows:
 - Requires the perfection of security interests in the eligible securities pledged by the public depositories in accordance with state and federal laws;
 - Modifies the total market value of pledged securities that is required;
 - Requires the Treasurer of State to create the Ohio Pooled Collateral Program not later than July 1, 2017, and, upon creation of the Program, terminates the prior procedures for a public depository to pledge a single pool of securities to secure the repayment of all public moneys deposited in that financial institution;
 - Under the Program, requires a public depository to pledge the entire pool of securities to the Treasurer of State, rather than to the public depositories, as was required under prior law;
 - Makes other procedural changes with respect to the pledging requirements.



Agricultural Linked Deposit Program

(R.C. 135.731 and 135.74)

The act modifies the Agricultural Linked Deposit Program, as follows:

--Before July 1, 2020, agricultural businesses that maintain land or facilities for agricultural purposes in the western basin of Ohio are eligible for loans of not more than \$500,000 if the businesses certify that the reduced rate loan (1) will be used exclusively for agricultural purposes on the land or facilities in the western basin and (2) will materially contribute to the businesses' compliance with the provisions of S.B. 1 (131st General Assembly) that restrict the surface application of manure. In evaluating the businesses, the Treasurer of State is to give priority to a business's financial need for the loan to comply with S.B. 1 as well as the overall financial need of the business and the economic needs of the area in which the business is located.

--The interest rate at which the lending institution may lend the linked deposit to eligible agricultural businesses is changed to be *either*:

(1) The rate specified in continuing law (that is, a rate equal to the present borrowing rate applicable to the specific business minus the difference between the market rate and the actual rate at which the CDs were placed, or the market rate and the actual rate at which the investments that constitute the linked deposit were made, as applicable), *or*

(2) A rate not more than 300 basis points below the present borrowing rate applicable to the specific business.

--The period of time in which the lending institution may lend the funds upon placement of the linked deposit is increased from two to five years, and the Treasurer of State's option to renew the period for an additional two years is eliminated.

Public depositories: pledging of security

(R.C. 135.01, 135.18, 135.181, 135.182, and 135.37 (primary); R.C. 113.06, 131.09, 131.15, 135.04, 135.14, 135.144, 135.145, 135.35, 135.353, 135.354, 731.59, 991.03, and 3315.08 (conforming changes))

The act modifies the Uniform Depository Law's requirement that financial institutions designated as public depositories pledge security for the repayment of uninsured public deposits. First, the act requires the perfection of security interests in the eligible securities pledged by the public depositories in accordance with state and federal laws. If a public depository elects to secure the uninsured public deposits of each public depositor separately, the act requires that the aggregate market value of the



pledged securities equal at least 105% of the total amount of those uninsured deposits. Under prior law, the aggregate market value of the pledged securities had to at least equal the total of the uninsured deposits.

The act also requires the Treasurer of State to create the Ohio Pooled Collateral Program by July 1, 2017. Upon creation of the Program, the procedures set forth in continuing law for a public depository to pledge a single pool of securities to secure the repayment of all public moneys deposited in that financial institution will terminate. Under the Program, a public depository will be required to pledge the entire pool of securities to the Treasurer of State, rather than to the public depositors, as was required under prior law. The total market value of the securities so pledged will have to equal at least 102% of the total amount of all uninsured public deposits. (Prior to the creation of the Program, the total market value must equal at least 105% of the total uninsured public deposits.)

Lastly, the act makes other procedural changes with respect to the pledging requirements.



DEPARTMENT OF VETERANS SERVICES

- Clarifies that the moratorium prohibiting induction of a person into the Ohio Veterans Hall of Fame may be waived by the Veterans Hall of Fame Executive Committee if the person is over 70 and regardless of whether the person holds a qualifying position.

Ohio Veterans Hall of Fame

(R.C. 5904.01)

The act clarifies that the moratorium, which prohibits induction into the Ohio Veterans Hall of Fame of certain public officials and employees until two years after the official or employee has vacated the government position, may be waived by the Veterans Hall of Fame Executive Committee. The moratorium may be waived only if the person is over age 70, and may be waived whether the person currently holds the position or has vacated it. Under continuing law, the moratorium applies to the following persons: state elected officials, members of the General Assembly, members of the Ohio Veterans Hall of Fame Foundation, members of the Veterans Hall of Fame Executive Committee, members of the Governor's staff, members of the Veterans Hall of Fame staff, members of any county veterans service commission, and the Director of Veterans Services.



STATE VETERINARY MEDICAL LICENSING BOARD

- Authorizes the State Veterinary Medical Licensing Board to suspend the certificate of license of an individual without first holding a hearing if the Board's Executive Director recommends the action be taken after determining both:
 - There is clear and convincing evidence that certain conditions apply to or certain actions have been committed by the individual, including alcohol or drug addiction and cruelty to animals;
 - The individual's continued practice presents a danger of immediate and serious harm to the public.
- Establishes procedures to be followed for such suspensions.
- Automatically suspends the license or registration of an individual who is found guilty of, has pleaded guilty to, or is subject to a judicial finding in relation to specified crimes, including murder and felonious assault.
- 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 Veterinary State Boards and removes the Board's ability to approve other certification programs.

Suspension of veterinary license

(R.C. 4741.22 and 4741.31)

The act authorizes the State Veterinary Medical Licensing Board to suspend the certificate of license of an individual without first holding a hearing if the Board's Executive Director recommends that such action be taken after determining that there is clear and convincing evidence that certain conditions apply to or certain actions have been committed by the individual, including alcohol or drug addiction and cruelty to animals, and that the individual's continued practice presents a danger of immediate



and serious harm to the public. The Executive Director must prepare written allegations for consideration by the Board. The Board, upon review of those allegations and by an affirmative vote of at least four members, may then suspend the certificate without a prior hearing. The act allows a telephone conference call to be utilized for reviewing the allegations and taking the vote on the suspension. It then establishes procedures to be followed for such a suspension, including an adjudicatory hearing if requested by the individual.

Finally, under the act, the license or registration of an individual who is found guilty of, has pleaded guilty to, or is subject to a judicial finding in relation to specified crimes, including murder and felonious assault, is automatically suspended. If the individual fails to either request or participate in an adjudication, the Board must permanently revoke the individual's license or registration.

Veterinary licensing

(R.C. 4741.03, 4741.09 (repealed), 4741.11, 4741.12, 4741.17, 4741.19)

The act makes changes to the law pertaining to veterinary licensing. First, the act 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 act increases the cost of an initial veterinary license, as follows:

- To \$425 from \$375 for a two-year initial license;
- To \$300 from \$250 for a one-year initial license.

Third, the act removes a separate initial license fee for licenses issued by reciprocity in favor of the standard license fee.

Fourth, the act 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 act also removes the right of an applicant who fails the examination to request a written report showing the reasons for the failure.

Finally, the act expands the list of veterinary college approval entities to include the Program for the Assessment of Veterinary Education Equivalence of the American Association of Veterinary State 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 act also removes the Board's ability to approve other certification programs.



DEPARTMENT OF YOUTH SERVICES

- 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 act modifies the composition of the Release Authority in the Department of Youth Services. Under the act, the Release Authority must consist of a minimum of three but not more than five members. Under prior law, the Release Authority consisted of five or perhaps six members.¹⁷¹

Under the act, the Director of Youth Services must ensure that appointments include: (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. Prior law, amended by the act, required that at least four members be appointed who met the qualification described in (1).

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.

¹⁷¹ The act resolves an ambiguity in the law.



LOCAL GOVERNMENT

- 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.
- Allows a township to appropriate money for a community improvement corporation to fund any of the corporation's activities and programs, rather than solely to defray the corporation's administrative expenses.
- Removes the minimum population necessary for a county to be able to adopt and implement 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.

Pay increases

- Increases the salaries of county sheriffs and prosecuting attorneys by 5% per year for calendar years 2016 through 2019, and reduces the number of pay classes for sheriffs and prosecuting attorneys from eight to six beginning in 2017.
- Increases the annual salaries of county auditors, county treasurers, common pleas court clerks, county recorders, county commissioners, county engineers, and coroners by 5% in 2016 and by 5% in 2017.



- Reduces from eight to six the number of population classes that are used to determine the salaries of these county elected officers, starting in 2017.
- Increases an appropriation for Operating Expenses – Judiciary/Supreme Court by \$33,840 in fiscal year 2017 to pay the state's share of salary increases for common pleas court clerks.
- Increases the per diem compensation amount for township trustees and the annual compensation of township fiscal officers by 5% in 2016 and by 5% in 2017.
- Revises the monetary size of the budgetary amounts that determine the pay ranges for township trustees and township fiscal officers, starting in 2016.
- Increases the annual compensation of members of boards of elections by 5% in 2016 and by 5% in 2017.
- Does not reinstate the annual cost-of-living adjustment that was last applied in 2008 to the salaries of those local elected officials.

Park district delegation of building standard administration

- Enables certified local government building departments to issue building permits, conduct inspections, and conduct certain other administrative actions in relation to a park district if the board of the park district so requests.

Report of traffic camera penalties; LGF reductions

- Requires any local authority that 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;
 - 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 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 that has not complied with the Traffic Camera Law and that reports fines, and redistributes that amount among other subdivisions in the county.

Minimum security jail

- Provides for the use of a minimum security jail for a person charged with a traffic violation or misdemeanor or a fourth or fifth degree felony who has not been released on bail and who is confined in jail pending trial, if the person is classified as a minimal security risk.

Regional transit authorities: private grants and loans

- Permits a regional transit authority to apply for and accept grants and loans from any private source for the purpose of taking specified actions related to transit facilities and transit systems, and to acquire real and personal property by borrowing from any federal, state, other governmental, or private sources.

Township removal of unsafe buildings

- Specifies, if a board of township trustees pursues action to remove any insecure, unsafe, or structurally defective building or other structure, that the board must notify each party in interest that the party is entitled to a hearing.
- Requires a party in interest to request a hearing within 30 days after the notice is mailed.
- Requires the board to set the time, date, and place of the hearing, and specifies that the hearing must be recorded by stenographic or electronic means.
- Requires the board to issue an order resolving the matter, and specifies that a party in interest who requested and participated in a hearing and who is adversely affected by the order may appeal the order to the court of common pleas.
- Specifies that the cost of removing, repairing, or securing an insecure, unsafe, or structurally defective building or other structure must be paid out of the township general fund, but specifies that if the cost exceeds \$500, moneys may be borrowed.
- Specifies that the cost may be collected by placing it on the tax duplicate or by a lawsuit.
- Removes a provision specifying that when costs have been placed on the tax duplicate, the resulting lien can be collected the same as other taxes are collected.



Maintenance of buffer around drinking water reservoir

- Requires a municipal corporation that has a watershed management program with regard to a drinking water reservoir to allow an owner of property that is contiguous to a buffer around the reservoir to maintain the buffer if the maintenance is for specified purposes.
- Prohibits a peace officer or other specified officials from issuing a citation to an individual who enters the buffer for the sole purpose of mowing vegetation or for any of the specified purposes.

Regional councils of government

- Permits an educational service center serving as a fiscal agent for a regional council of governments to establish an infrastructure loan program for the member governments.
- Permits a regional council of governments established to provide health care benefits to pool funds, including from out-of-state members, for the payment of health care related claims and expenses.

Health district licensing councils

- Makes the establishment of a health district licensing council in a city health district, general health district, or combined district permissive, rather than mandatory, at the discretion of the board of health.
- Eliminates a discrepancy in the health district licensing council law by clarifying that the licensing council appoints one member to the board of health, rather than appointing one of its own members to the board of health.

Annexation petitions

- Adopts, until January 1, 2017, in a chartered county with a population of at least one million, a lower petition signature threshold for purposes of annexing of municipal territory to a contiguous municipal corporation.

Permanent cemetery endowment funds

- Allows a board of township trustees or a board of cemetery trustees to use the principal of a permanent cemetery endowment fund to maintain a cemetery if income from the fund is insufficient for this purpose and the board unanimously consents.



Refunding general obligation debt

- Modifies the last maturity of refunding securities issued by a subdivision.
- Expands the types of securities a subdivision may issue to fund or refund various types of outstanding securities.
- Expands the types of securities that a subdivision may issue securities to fund or refund.
- Specifies when certain special obligations issued to fund or refund other securities are payable.
- Authorizes a subdivision to hold in cash any money derived from proceeds of securities issued to fund or refund other securities or obligations that is in escrow.

Cemetery lots sold before July 24, 1986

- Grants townships the right of reentry for burial lots for which the deed of sale was executed prior to July 24, 1986, and for an entombment, columbarium, or other interment right for which the terms of sale or deed was executed before September 29, 2015.
- Expands the provisions regarding a township sale of burial lots to other interment rights, including entombment or columbarium.

Township payment via direct deposit

- Specifies that a board of township trustees may adopt a resolution authorizing the payment of lawful obligations of the township by direct deposit of funds by electronic transfer.

Force account limits for townships (VETOED)

- Would have required a board of township trustees to use competitive bidding with regard to road maintenance or repair contracts exceeding \$90,000 rather than \$45,000 as under continuing law (VETOED).
- Would have required a county engineer to conduct a force account assessment when a board proceeds by force account (i.e., using township employees, materials, etc.) for a road maintenance or repair project that costs \$45,000 or more rather than \$15,000 or more as under continuing law (VETOED).



- Would have required a board to use competitive bidding with regard to road construction or reconstruction contracts exceeding \$30,000 per mile rather than \$15,000 per mile as under continuing law (VETOED).
- Would have required a county engineer to conduct a force account assessment when a board proceeds by force account for a road construction or reconstruction project that costs \$15,000 or more per mile rather than \$5,000 or more per mile as under continuing law (VETOED).

County hospital board funds

- Specifies the disposition of charter county hospital funds and the permissible investment of such funds by the hospital board.

New community authorities

- Eliminates or makes permanent provisions that applied only to new community authorities established between March 22, 2012, and March 22, 2015.
- Includes telecommunications facilities in the definition of "community facility."
- Shifts various roles from the board of county commissioners with which the petition was filed to the organizational board of commissioners.
- Eliminates the requirement that the acreage included in a proposed new community district be developable as one functionally interrelated community.
- Specifies differing hearing and notice requirements if the organizational board of commissioners is the legislative authority of the only proximate city for the proposed new community district.
- Eliminates the requirement that the organizational board of commissioners' resolution be entered of record in its journal and in the journal of the board of county commissioners with which a petition was filed.
- Modifies how the property of a new community authority is distributed upon dissolution.



Political subdivision sale and leaseback agreement

(R.C. 9.483)

The act 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 accept payments by transaction device

(R.C. 503.55)

The act 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;

(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 financial transaction device. Each township office that is permitted by the resolution to accept the payments by financial transaction device 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 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 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;

(3) A clear statement that the surcharge or convenience fee is nonrefundable.

If a person elects to make a payment to the township by financial transaction device and a surcharge or convenience fee is imposed, the payment of the surcharge or fee is 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. 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 is 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 act allows a township to contract with any department, agency, or political subdivision for the purchase or sale of a motor vehicle. Continuing law allows a township to sell a motor vehicle for which the fair market value exceeds \$2,500 by public auction or sealed bid process.



Township purchases at public auction through a designee

(R.C. 505.1010)

The act 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 at such an auction 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. Purchases must comply with continuing 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.

Community improvement corporations: use of township funds

(R.C. 505.701)

The act allows a township to appropriate money for a community improvement corporation to fund any of the corporation's activities and programs. Under prior law, a township could provide funding only to defray a community improvement corporation's administrative expenses.

Continuing law allows townships, counties, and municipalities to create a community improvement corporation to perform economic development functions on behalf of the political subdivision. Under prior law, only counties and municipalities could fund any of a community improvement corporation's economic development activities.

County land reutilization corporations

(R.C. 1724.04)

The act removes the former 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). Former law allowed 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. Under the act, there is no population threshold; any county of any population is allowed to create a CLRC.

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 tax-foreclosed properties that



failed to sell at the sheriff's sale, clears or rehabilitates the property, and attempts to sell the property to pay the delinquent taxes and other costs and return the property to productive use.

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.

Prior law authorized local governments to enter into enterprise zone agreements through October 15, 2015. The act 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 act 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 former limit of \$25,000, bids must be advertised as provided in continuing law, and the contract generally must be awarded to the lowest responsive and most responsible bidder under continuing law.

Salaries of sheriffs and prosecuting attorneys

(R.C. 325.06 and 325.11)

The act increases the salaries of county sheriffs and prosecuting attorneys by 5% each calendar year from 2016 through 2019. The increases for 2016 do not apply to any sheriff or prosecuting attorney who holds office on September 29, 2015. The pay of sheriffs and prosecuting attorneys varies in accordance with population of the county. The act reduces the number of pay classes from eight to six beginning in 2017.



The following tables show the salaries of sheriffs and prosecuting attorneys for calendar years 2015 (current) through 2019.

| County Sheriffs | | | | | | |
|------------------------|-----------|-----------|--------------|------------|------------|------------|
| Salary Class | Current | CY 2016 | Salary Class | CY 2017 | CY 2018 | CY 2019 |
| 1 | \$ 47,900 | \$ 50,295 | 1 | \$ 58,347 | \$ 61,264 | \$ 64,327 |
| 2 | \$ 50,912 | \$ 53,458 | 2 | \$ 67,985 | \$ 71,384 | \$ 74,953 |
| 3 | \$ 52,922 | \$ 55,568 | 3 | \$ 82,832 | \$ 86,974 | \$ 91,322 |
| 4 | \$ 61,664 | \$ 64,747 | 4 | \$ 92,797 | \$ 97,437 | \$ 102,309 |
| 5 | \$ 75,131 | \$ 78,888 | 5 | \$ 98,332 | \$ 103,249 | \$ 108,411 |
| 6 | \$ 84,170 | \$ 88,379 | 6 | \$ 101,182 | \$ 106,241 | \$ 111,553 |
| 7 | \$ 89,190 | \$ 93,650 | | | | |
| 8 | \$ 91,775 | \$ 96,364 | | | | |

| Prosecutors with Private Practice | | | | | | |
|--|-----------|-----------|--------------|-----------|------------|------------|
| Salary Class | Current | CY 2016 | Salary Class | CY 2017 | CY 2018 | CY 2019 |
| 1 | \$ 54,218 | \$ 56,929 | 1 | \$ 64,203 | \$ 67,413 | \$ 70,784 |
| 2 | \$ 56,226 | \$ 59,037 | 2 | \$ 71,399 | \$ 74,969 | \$ 78,717 |
| 3 | \$ 58,234 | \$ 61,146 | 3 | \$ 77,488 | \$ 81,363 | \$ 85,431 |
| 4 | \$ 64,761 | \$ 67,999 | 4 | \$ 86,344 | \$ 90,662 | \$ 95,195 |
| 5 | \$ 70,284 | \$ 73,798 | 5 | \$ 91,877 | \$ 96,471 | \$ 101,294 |
| 6 | \$ 78,317 | \$ 82,233 | 6 | \$ 95,276 | \$ 100,040 | \$ 105,042 |
| 7 | \$ 83,335 | \$ 87,502 | | | | |
| 8 | \$ 86,418 | \$ 90,739 | | | | |

| Prosecutors without Private Practice | | | | | | |
|---|------------|------------|--------------|------------|------------|------------|
| Salary Class | Current | CY 2016 | Salary Class | CY 2017 | CY 2018 | CY 2019 |
| 1 | \$ 92,565 | \$ 97,193 | 1 | \$ 114,809 | \$ 120,549 | \$ 126,577 |
| 2 | \$ 104,135 | \$ 109,342 | 2 | \$ 127,563 | \$ 133,941 | \$ 140,638 |
| 3 | \$ 104,135 | \$ 109,342 | 3 | \$ 127,563 | \$ 133,941 | \$ 140,638 |
| 4 | \$ 115,703 | \$ 121,488 | 4 | \$ 127,563 | \$ 133,941 | \$ 140,638 |
| 5 | \$ 115,703 | \$ 121,488 | 5 | \$ 130,661 | \$ 137,194 | \$ 144,053 |



| Prosecutors without Private Practice | | | | | | |
|--------------------------------------|------------|------------|---|------------|------------|------------|
| 6 | \$ 115,703 | \$ 121,488 | 6 | \$ 133,759 | \$ 140,447 | \$ 147,469 |
| 7 | \$ 118,513 | \$ 124,439 | | | | |
| 8 | \$ 121,323 | \$ 127,389 | | | | |

Notwithstanding the compensation specified in the last table, beginning in 2020 a prosecuting attorney in a county with a population of 1,000,000 or more who does not have a private practice will be paid \$100 less than a common pleas judge in that county.

Other pay increases

Overview

The act increases the compensation of county auditors, county treasurers, common pleas court clerks, county recorders, county commissioners, county engineers, and coroners; township trustees and township fiscal officers; and members of boards of elections. (Pay increases for sheriffs and prosecuting attorneys are discussed above.) The salaries of these elected officers were last increased by H.B. 712 of the 123rd General Assembly, which took effect December 8, 2000. Ohio Constitution, Article II, Section 20 requires the General Assembly, in cases not provided for in the Constitution, to fix the compensation of all officers. The Ohio Supreme Court has ruled that the General Assembly cannot delegate the authority to fix the compensation of officers conferred upon it by this constitutional provision.¹⁷²

In H.B. 712, the salaries of these local elected officers were increased and then indexed to the consumer price index (CPI) each calendar year from 2002, 2003, or 2005 through 2008 (depending on the group whose salaries were being increased). The annual cost-of-living adjustment, or COLA, that was applied to the salaries was the lesser of 3% or the percentage increase, if any, in the CPI for the previous year. Because the COLA ceased after 2008, salaries have not changed since that year. The exception to this appears to be members of boards of elections, whose salaries were not adjusted by the COLA, but instead were given 3% increases in 2001, 2002, and 2003, with no increases in 2004 or thereafter.¹⁷³

¹⁷² *Neff v. Bd. of County Commissioners*, 166 Ohio St. 360 (1957); *State ex rel. Godfrey v. O'Brien*, 95 Ohio St. 166 (1917).

¹⁷³ R.C. 3501.12.



County elected officers

(R.C. 325.03, 325.04, 325.08, 325.09, 325.10, 325.14, and 325.15)

The act has two major components that affect the compensation of county auditors, county treasurers, common pleas court clerks, county recorders, county commissioners, county engineers, and coroners (county elected officers). The act increases the annual compensation they receive in calendar years 2016 and 2017, and collapses the eight population classes presently used to determine the officers' salaries into six classes, starting in 2017. Because the change to the population classes is incorporated into the salary increases, it is addressed first.

New salary classification schedules

The salaries of the county elected officers are established by separate schedules that classify an officer according to the population of the county. In general, the larger the county population, the larger the salary. The act maintains this system of classification, but reduces the number of population classes from eight to six, beginning in 2017. The act's changes are shown in the following table:

| 2015 and 2016 Classifications | | 2017 New Classifications | |
|-------------------------------|-------------------------------|--------------------------|-------------------------------|
| Class | Population Range | Class | Population Range |
| 1 | 1-20,000 | 1 | 1-55,000 |
| 2 | 20,001-35,000 | 2 | 55,001-95,000 |
| 3 | 35,001-55,000 | 3 | 95,001-200,000 ¹⁷⁴ |
| 4 | 55,001-95,000 | 4 | 200,001-400,000 |
| 5 | 95,001-200,000 ¹⁷⁵ | 5 | 400,001-1,000,000 |
| 6 | 200,001-400,000 | 6 | 1,000,001 or more |
| 7 | 400,001-1,000,000 | | |
| 8 | 1,000,001 or more | | |

Pay increases

The act increases the annual salaries of county elected officers by 5% in 2016 and by 5% in 2017, as reflected in the tables below, but the percentage is higher for officers serving counties in the lower population classes when they are first combined in 2017.

¹⁷⁴ Under the act, for coroners without a private practice, population class 3 is 175,001-200,000. R.C. 325.15.

¹⁷⁵ Before 2017, for coroners without a private practice, population class 5 is 175,001-200,000.



The act does not reinstate the annual COLA that was last applied to their salaries in 2008.

The increased salaries will not be available to a county elected officer who is mid-term. Ohio Constitution, Article II, section 20 prohibits any change in the compensation of an officer during the officer's existing term, unless the office is abolished.

The following tables indicate the annual compensation of county elected officers in 2015, which are not increases, and show the 2016 and 2017 increases:

| County Auditor¹⁷⁶ | | | | |
|-------------------------------------|--------------------------|--------------------------|--------------------------|---------------------------------------|
| Class | 2015 Compensation | 2016 Compensation | 2017 Compensation | Compensation in 2018 and after |
| 1 | \$53,431 | \$56,103 | \$64,091 | Same as 2017 |
| 2 | \$56,256 | \$59,069 | \$75,400 | Same as 2017 |
| 3 | \$58,132 | \$61,039 | \$84,621 | Same as 2017 |
| 4 | \$68,390 | \$71,810 | \$94,935 | Same as 2017 |
| 5 | \$76,754 | \$80,592 | \$100,601 | Same as 2017 |
| 6 | \$86,109 | \$90,414 | \$103,618 | Same as 2017 |
| 7 | \$91,248 | \$95,810 | | |
| 8 | \$93,985 | \$98,684 | | |

| County Treasurer¹⁷⁷ | | | | |
|---------------------------------------|--------------------------|--------------------------|--------------------------|---------------------------------------|
| Class | 2015 Compensation | 2016 Compensation | 2017 Compensation | Compensation in 2018 and after |
| 1 | \$39,157 | \$41,115 | \$49,813 | Same as 2017 |
| 2 | \$42,172 | \$44,281 | \$58,668 | Same as 2017 |
| 3 | \$45,182 | \$47,441 | \$67,525 | Same as 2017 |
| 4 | \$53,214 | \$55,875 | \$75,273 | Same as 2017 |
| 5 | \$61,247 | \$64,309 | \$80,807 | Same as 2017 |
| 6 | \$68,275 | \$71,689 | \$83,636 | Same as 2017 |
| 7 | \$73,294 | \$76,959 | | |
| 8 | \$75,860 | \$79,653 | | |

¹⁷⁶ R.C. 325.03.

¹⁷⁷ R.C. 325.04.



| Common Pleas Court Clerk^{178,179} | | | | |
|---|--------------------------|--------------------------|--------------------------|---------------------------------------|
| Class | 2015 Compensation | 2016 Compensation | 2017 Compensation | Compensation in 2018 and after |
| 1 | \$39,157 | \$41,115 | \$49,813 | Same as 2017 |
| 2 | \$42,172 | \$44,281 | \$58,668 | Same as 2017 |
| 3 | \$45,182 | \$47,441 | \$67,525 | Same as 2017 |
| 4 | \$53,214 | \$55,875 | \$75,273 | Same as 2017 |
| 5 | \$61,247 | \$64,309 | \$80,807 | Same as 2017 |
| 6 | \$68,275 | \$71,689 | \$83,636 | Same as 2017 |
| 7 | \$73,294 | \$76,959 | | |
| 8 | \$75,860 | \$79,653 | | |

| County Recorder¹⁸⁰ | | | | |
|--------------------------------------|--------------------------|--------------------------|--------------------------|---------------------------------------|
| Class | 2015 Compensation | 2016 Compensation | 2017 Compensation | Compensation in 2018 and after |
| 1 | \$38,153 | \$40,061 | \$47,599 | Same as 2017 |
| 2 | \$41,165 | \$43,223 | \$55,349 | Same as 2017 |
| 3 | \$43,174 | \$45,333 | \$63,098 | Same as 2017 |
| 4 | \$50,203 | \$52,713 | \$71,951 | Same as 2017 |
| 5 | \$57,232 | \$60,094 | \$78,594 | Same as 2017 |
| 6 | \$65,262 | \$68,525 | \$82,051 | Same as 2017 |
| 7 | \$71,287 | \$74,851 | | |
| 8 | \$74,423 | \$78,144 | | |

¹⁷⁸ R.C. 325.08. Under R.C. 2303.03, not in the act, a common pleas court clerk who also serves as the clerk of the court of appeals receives from the state one-eighth of the clerk's county-paid compensation. As county-paid compensation increases, the amount paid by the state also increases.

¹⁷⁹ Under R.C. 1901.31 and 1907.20, not in the act, clerks serving as municipal or county court clerks are paid by the municipality or county an additional 25% of their county compensation. As their county compensation increases, so does this additional amount.

¹⁸⁰ R.C. 325.09.



| County Commissioner¹⁸¹ | | | | |
|--|--------------------------|--------------------------|--------------------------|---------------------------------------|
| Class | 2015 Compensation | 2016 Compensation | 2017 Compensation | Compensation in 2018 and after |
| 1 | \$37,353 | \$39,221 | \$48,974 | Same as 2017 |
| 2 | \$40,888 | \$42,932 | \$61,215 | Same as 2017 |
| 3 | \$44,421 | \$46,642 | \$72,346 | Same as 2017 |
| 4 | \$55,524 | \$58,300 | \$84,866 | Same as 2017 |
| 5 | \$65,620 | \$68,901 | \$96,000 | Same as 2017 |
| 6 | \$76,976 | \$80,825 | \$101,953 | Same as 2017 |
| 7 | \$87,075 | \$91,429 | | |
| 8 | \$92,474 | \$97,098 | | |

| County Engineer with a Private Practice¹⁸² | | | | |
|--|--------------------------|--------------------------|--------------------------|---------------------------------------|
| Class | 2015 Compensation | 2016 Compensation | 2017 Compensation | Compensation in 2018 and after |
| 1 | \$56,629 | \$59,460 | \$67,746 | Same as 2017 |
| 2 | \$59,039 | \$61,991 | \$73,059 | Same as 2017 |
| 3 | \$61,448 | \$64,520 | \$78,594 | Same as 2017 |
| 4 | \$66,267 | \$69,580 | \$83,022 | Same as 2017 |
| 5 | \$71,287 | \$74,851 | \$88,556 | Same as 2017 |
| 6 | \$75,303 | \$79,068 | \$92,009 | Same as 2017 |
| 7 | \$80,323 | \$84,339 | | |
| 8 | \$83,455 | \$87,628 | | |

| County Engineer without a Private Practice¹⁸³ | | | | |
|---|--------------------------|--------------------------|--------------------------|---------------------------------------|
| Class | 2015 Compensation | 2016 Compensation | 2017 Compensation | Compensation in 2018 and after |
| 1 | \$80,536 | \$84,563 | \$94,103 | Same as 2017 |
| 2 | \$82,944 | \$87,091 | \$99,417 | Same as 2017 |
| 3 | \$85,354 | \$89,622 | \$104,950 | Same as 2017 |
| 4 | \$90,174 | \$94,683 | \$109,378 | Same as 2017 |

¹⁸¹ R.C. 325.10.

¹⁸² R.C. 325.14.

¹⁸³ R.C. 325.14.



| County Engineer without a Private Practice¹⁸³ | | | | |
|---|-----------|-----------|-----------|--------------|
| 5 | \$95,193 | \$99,953 | \$114,914 | Same as 2017 |
| 6 | \$99,209 | \$104,169 | \$118,361 | Same as 2017 |
| 7 | \$104,230 | \$109,442 | | |
| 8 | \$107,357 | \$112,725 | | |

| Coroner with a Private Practice¹⁸⁴ | | | | |
|--|--------------------------|--------------------------|--------------------------|---------------------------------------|
| Class | 2015 Compensation | 2016 Compensation | 2017 Compensation | Compensation in 2018 and after |
| 1 | \$22,090 | \$23,195 | \$30,993 | Same as 2017 |
| 2 | \$25,102 | \$26,357 | \$45,384 | Same as 2017 |
| 3 | \$28,112 | \$29,518 | \$56,458 | Same as 2017 |
| 4 | \$41,165 | \$43,223 | \$69,739 | Same as 2017 |
| 5 | \$51,209 | \$53,769 | \$78,594 | Same as 2017 |
| 6 | \$63,255 | \$66,418 | \$83,310 | Same as 2017 |
| 7 | \$71,287 | \$74,851 | | |
| 8 | \$75,565 | \$79,343 | | |

| Coroner without a Private Practice¹⁸⁵ | | | | | |
|---|--------------------------|--------------------------|--------------|--------------------------|---------------------------------------|
| Class | 2015 Compensation | 2016 Compensation | Class | 2017 Compensation | Compensation in 2018 and after |
| 5 | \$115,703 | \$121,488 | 3 | \$127,563 | Same as 2017 |
| 6 | \$115,703 | \$121,488 | 4 | \$127,563 | Same as 2017 |
| 7 | \$118,513 | \$124,439 | 5 | \$130,661 | Same as 2017 |
| 8 | \$121,323 | \$127,389 | 6 | \$133,759 | Same as 2017 |

Appropriation

(Section 311.10)

The act appropriates an additional \$33,840 in fiscal year 2017 to GRF appropriation item 005321, Operating Expenses – Judiciary/Supreme Court, to be used to pay the state share of the salary increases for common pleas court clerks. The state

¹⁸⁴ R.C. 325.15.

¹⁸⁵ R.C. 325.15.



pays one-eighth of the annual compensation that the clerk receives for acting as the clerk of the court of appeals of the county.

Township trustees and township fiscal officers

(R.C. 505.24 and 507.09)

Township trustees are paid an amount for each day of service, based on the monetary size of the township's budget. The days of service for which township trustees can be paid are capped at 200 days. The act increases the compensation of township trustees by 5% in calendar year 2016 and by 5% in calendar year 2017, and, in 2016, revises the monetary ranges of the budgets they oversee. For example, for 2015, the smallest budget size for a township is \$50,000 or less, for which a township trustee is paid \$25.72 per day for not more than 200 days, but for 2016, the smallest budget size is \$250,000 or less, for which a township trustee will be paid \$38.49 per day for not more than 200 days. The act retains the requirement that the number of days of service for which a township trustee can be paid cannot exceed 200 days.

Like township trustees, township fiscal officers are paid a salary that is based on the monetary size of the township's budget. The act increases the annual compensation of township fiscal officers by 5% in calendar year 2016 and by 5% in calendar year 2017, and, in 2016, also revises the budget sizes they manage. For example, for 2015, the smallest budget size is \$50,000 or less, for which a township fiscal officer is paid \$4,502 annually, but for 2016, the smallest budget size is \$250,000 or less, for which a township fiscal officer will be paid \$10,398.

Because the smallest monetary budget ranges are combined, the percentage increase is higher than 5% for township trustees and fiscal officers serving townships with the smallest budget sizes.

The act does not reinstate the annual COLA that was last applied in 2008 to the salaries of township trustees and township fiscal officers.

The increased salaries will not be available to a township trustee or a township fiscal officer who is mid-term. Ohio Constitution, Article II, Section 20 prohibits any change in the compensation of an officer during the officer's existing term, unless the office is abolished.

The following table shows the budget sizes and per day pay for township trustees in 2015, and the new budget sizes and increases in 2016 and 2017:

| Township Trustees |
|--------------------------|
|--------------------------|



| (Amount per day, not to exceed 200 days) | | | | |
|---|--------------------|--------------------------------------|--------------------|--------------------|
| 2015 Budget Size | 2015 Amount | Budget Size in 2016 and after | 2016 Amount | 2017 Amount |
| \$50,000 or less | \$25.72 | \$250,000 or less | \$38.49 | \$40.42 |
| \$50,000.01-\$100,000 | \$30.87 | \$250,000.01-\$500,000 | \$44.57 | \$46.80 |
| \$100,000.01-\$250,000 | \$36.66 | \$500,000.01-\$750,000 | \$47.27 | \$49.63 |
| \$250,000.01-\$500,000 | \$42.45 | \$750,000.01-\$1.5 million | \$54.01 | \$56.71 |
| \$500,000.01-\$750,000 | \$45.02 | \$1,500,000.01-\$3.5 million | \$59.42 | \$62.39 |
| \$750,000.01-\$1.5 million | \$51.44 | \$3,500,000.01-\$6 million | \$64.82 | \$68.06 |
| \$1,500,000.01-\$3.5 million | \$56.59 | \$6,000,000.01-\$10 million | \$83.99 | \$88.19 |
| \$3,500,000.01-\$6 million | \$61.73 | More than \$10 million | \$107.98 | \$113.38 |
| \$6,000,000.01-\$10 million | \$79.99 | | | |
| More than \$10 million | \$102.84 | | | |

The budget sizes and annual compensation for township fiscal officers in 2015, and the new budget sizes and increases in 2016 and 2017, are as follows:

| Township Fiscal Officers | | | | |
|---------------------------------|---------------------------------|--------------------------------------|---------------------------------|---------------------------------|
| 2015 Budget Size | 2015 Annual Compensation | Budget Size in 2016 and after | 2016 Annual Compensation | 2017 Annual Compensation |
| \$50,000 or less | \$4,502 | \$250,000 or less | \$10,398 | \$10,918 |
| \$50,000.01-\$100,000 | \$7,074 | \$250,000.01-\$500,000 | \$13,370 | \$14,038 |
| \$100,000.01-\$250,000 | \$9,903 | \$500,000.01-\$750,000 | \$14,854 | \$15,597 |
| \$250,000.01-\$500,000 | \$12,733 | \$750,000.01-\$1.5 million | \$17,826 | \$18,717 |
| \$500,000.01-\$750,000 | \$14,147 | \$1,500,000.01-\$3.5 million | \$20,796 | \$21,836 |
| \$750,000.01-\$1.5 million | \$16,977 | \$3,500,000.01-\$6 million | \$22,282 | \$23,396 |
| \$1,500,000.01- | \$19,806 | \$6,000,000.01- | \$25,573 | \$26,851 |



| Township Fiscal Officers | | | | |
|---------------------------------|----------|---------------------------|----------|----------|
| \$3.5 million | | \$10 million | | |
| \$3,500,000.01- \$6 million | \$21,221 | More than \$10 million | \$29,585 | \$31,064 |
| \$6,000,000.01- \$10 million | \$24,355 | | | |
| More than \$10 million | \$28,176 | | | |

Members of county boards of elections

(R.C. 3501.12)

The annual compensation of a member of a county board of elections is based on the population of the county the member serves. Since 2004, a member of a board of elections has been paid \$92.89 for each full 1,000 of the first 100,000 population, \$44.26 for each full 1,000 of the second 100,000 population, \$24.04 for each full 1,000 of the third 100,000 population, and \$7.37 for each full 1,000 above 300,000 population. The minimum annual compensation of a member of the board is \$3,687, but the annual salary cannot exceed \$21,855. The revisions in the act for 2015 are not increases and merely reflect what board members currently are paid.

In 2016, the act increases each member's annual compensation by 5% over the preceding year, and specifies that a member's compensation cannot be less than \$4,830. In 2017, the act increases each member's annual compensation by 5% over the preceding year, and specifies that a member's compensation cannot be less than \$6,000. In calendar year 2018, and in each calendar year thereafter, the annual compensation and compensation minimum is the same as in 2017.

The act does not reinstate the annual COLA that was last applied in 2003 to elections board members' compensation.

The Ohio Supreme Court, in 1950, held that members of a county board of elections, although appointed by the Secretary of State, are officers whose compensation is subject to Ohio Constitution, Article II, Section 20, which precludes an in-term change of compensation.¹⁸⁶ But since the date of that decision, the General Assembly amended the compensation statute, R.C. 3501.12, to provide that members of boards of elections are not subject to that constitutional provision. The Ohio Attorney General has advised

¹⁸⁶ *State ex rel. Milburn v. Pethtel*, 153 Ohio St. 1 (1950).



that, in the absence of a judicial determination as to the constitutionality of the changes to R.C. 3501.12, members of boards of elections are entitled to receive in-term raises.¹⁸⁷

Building departments and park districts

(R.C. 3781.10)

The act enables a certified municipal, township, or county building department to exercise enforcement authority, accept and approve plans and specifications, and make inspections for a park district, if the board of park commissioners of the park district, by resolution, requests the municipal, township, or county building department, as appropriate, to exercise that authority and conduct those functions for the park district.

Report of traffic camera penalties

(R.C. 4511.0915)

The act 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 act, 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 camera, 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.

¹⁸⁷ O.A.G. 97-027 (1997).



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 act suspends or reduces LGF payments (1) to a subdivision that fails to file a civil fine report or statement of compliance with the Auditor of State ("delinquent subdivision") or (2) to a subdivision filing a civil fine report with the Auditor of State when the subdivision has not fully complied with the Traffic Camera Law ("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.¹⁸⁸ 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 remaining money is distributed directly to municipal corporations that levied a municipal income tax in 2006. Payments are made monthly.

"Delinquent" subdivisions

The act 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 municipality 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.

¹⁸⁸ R.C. 131.51(B), not in the act.



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 act requires the Tax Commissioner to do both of the following, when informed by the Auditor of State that a subdivision has filed a civil fine report but has not fully complied with the Traffic Camera Law:

(1) If the noncompliant subdivision is a municipality 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 municipality 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.

Minimum security jail

(R.C. 341.34)

The act provides that a person may be confined in a minimal security jail if the person meets all of the following conditions:



(1) The person is charged with a traffic violation, a misdemeanor, or a fourth or fifth degree felony;

(2) The person has had bail set and has not been released on bail and is confined in a county or municipal jail pending trial;

(3) The jail administrator or the jail administrator's designee has classified the person as a minimal security risk.

In determining whether the person is a minimal security risk, the administrator or designee must consider all relevant factors, including the person's escape risk and propensity for assaultive or violent behavior, based upon the person's prior and current behavior.

The act specifies that nothing in these provisions authorizes the operation or management of a minimum security jail by a private entity.

Regional transit authorities: private grants and loans

(R.C. 306.35)

The act permits a regional transit authority (RTA) to apply for and accept grants and loans from any private source for the purpose of taking specified actions related to the development of transit facilities and the purchase of transit systems. The act also authorizes an RTA to acquire real and personal property by borrowing from federal, state, other governmental, or private sources. The act adds to provisions of continuing law that permit an RTA to apply for and accept grants and loans from the United States, the state, or another public body, and to acquire real and personal property by installment payments, lease-purchase agreement, by lease with an option to purchase, or by condemnation.

Unsafe buildings or other structures

(R.C. 505.86; R.C. 3929.86 (conforming))

Notice of unsafe buildings or other structures

Continuing law authorizes a board of township trustees to provide for the removal, repair, or securance of buildings or other structures in the township that have been declared insecure, unsafe, or structurally defective by any fire, health, or building enforcement authority after giving parties in interest certified mail notice at least 30 days before doing so. The act additionally authorizes the township to take this action with respect to buildings or structures that have been declared to be in a condition dangerous to life or health. The act also clarifies that this action must be taken by



resolution, and specifies that the certified mail notice must be sent return receipt requested.

The act defines "party in interest" as an owner of record of the real property on which the building or structure is located, and includes a holder of a legal or equitable lien of record on the real property or the building or other structure. Prior law, repealed by the act, referred to the holders of legal or equitable liens of record upon the real property on which the building is located and to owners of record of the property.

Removal of unsafe buildings or other structures

If the board of township trustees, in the resolution adopted under the act, pursues action to remove any insecure, unsafe, or structurally defective building or other structure, the notice described above must include a statement informing the parties in interest that each party in interest is entitled to a hearing, if the party in interest requests a hearing in writing within 30 days after the notice was mailed. The hearing request must be made to the township fiscal officer.

If a hearing is timely requested, the board of township trustees must set the date, time, and place for the hearing, and must notify the party in interest, by certified mail, return receipt requested, of this information. The date set for the hearing must be within 15 days, but not earlier than seven days, after the hearing was requested, unless otherwise agreed to by both the board and the party in interest. The hearing must be recorded by stenographic or electronic means.

The board must make an order deciding the matter not later than 30 days after a hearing, or not later than 30 days after mailing notice of the unsafe building or other structure if no party in interest requested a hearing. The order may dismiss the matter or direct the removal, repair, or securance of the building or other structure. At any time, a party in interest may consent to an order.

A party in interest who requested and participated in a hearing, and who is adversely affected by the board's order, may appeal the order to the court of common pleas under the Little Administrative Procedure Act.¹⁸⁹

Cost of removal, repair, or securance

The act requires that the cost of removing, repairing, or securing the buildings or other structures, when approved by the board of township trustees, must be paid out of the township general fund from moneys not otherwise appropriated, except that, if the

¹⁸⁹ R.C. 505.86(C). The Little Administrative Procedure Act, which is not in the act, is located in R.C. Chapter 2506. It provides a procedure for appealing the quasi-adjudicative orders of political subdivisions to the court of common pleas.



costs incurred exceed \$500, the board may borrow moneys from a financial institution to pay for the costs in whole or in part.¹⁹⁰

The total costs may be collected in either of two ways. On the one hand, the board may have the fiscal officer certify the total costs and a description of the land to the county auditor, who must place the costs upon the tax duplicate. The total costs then are a lien upon the land from and after the date of entry on the tax list. The act removes a sentence specifying that the costs are to be collected as other taxes and returned to the township general fund. On the other hand, the board can sue to recover the total costs from the owner. The act clarifies that this authorization is referring to the owner of record of the real property on which the building or structure is located, and not to any other party in interest.

Maintenance of buffer around drinking water reservoir

(R.C. 743.50)

The act requires a municipality that has established and implemented a watershed management program with regard to a drinking water reservoir to allow an owner of property that is contiguous to property that constitutes a buffer around a body of water that is part of such a reservoir to maintain property that constitutes a buffer if the maintenance is for any of the following purposes:

- (1) Creation of an access path that is not wider than five feet to the body of water;
- (2) Creation of a view corridor along adjacent property boundaries;
- (3) Removal of invasive plant species;
- (4) Creation and maintenance of a filter strip of plants and grass that are native to the area surrounding the reservoir in order to provide adequate filtering of wastewater and polluted runoff from the owner's property to the body of water;
- (5) Beautification of the property.

The act prohibits a peace officer or other official with authority to cite trespassers on property that is owned by a municipality and that constitutes a buffer as described above from issuing a civil or criminal citation to an individual who enters the property for the sole purpose of mowing grass, weeds, or other vegetation or for any of the purposes outlined above.

¹⁹⁰ R.C. 505.86(F).



Regional councils of government

Infrastructure loans

(R.C. 167.041)

The act authorizes an educational service center serving as a fiscal agent for a regional council of governments to establish a program for the council in which the fiscal agent can enter into agreements with the governing body of one or more member governments to lend money to the member or members for the purpose of improving infrastructure within the territory of the member or members located within Ohio.

Pooling of funds

(R.C. 167.06)

The act provides that a regional council of governments established to provide health care benefits to the member governments' employees and the employees' dependents can pool funds received from all the members of the council, including members from other states to the extent that the laws of such other states permit, for the payment of health care related claims and expenses.

Health district licensing councils

(R.C. 3709.03, 3709.05, 3709.07, and 3709.41)

The act makes the establishment of a health district licensing council in a city health district, general health district, or combined district permissive, rather than mandatory. The board of health decides whether to establish the health district licensing council. The effect is that in a general health district, the district advisory council appoints five members to the board of health, but if the board of health has established a health district licensing council, the district advisory council appoints four members of the board of health, and the health district licensing council appoints one member of the board of health. In a city health district, the mayor, with the confirmation of the legislative authority, appoints five members to the board of health, but if the board of health has established a health district licensing council, the mayor, with the confirmation of the legislative authority, appoints four members of the board of health, and the health district licensing council appoints one member of the board of health. And in a combined district, one member of the combined board of health is appointed by the health district licensing council, if such council is established.



The act eliminates a discrepancy in the health district licensing council law, R.C. 3709.41. Three statutes¹⁹¹ require that the licensing council appoint one member or one individual to the board of health, but R.C. 3709.41 requires that the licensing council appoint *one of its own members* to serve on the board of health. The discrepancy is resolved in favor of the three statutes by having the health district licensing council appoint one member to the board of health.

Annexation petitions

(Section 707.10)

The act lowers the former petition signature threshold, until January 1, 2017, in a chartered county with a population of at least one million for an annexation petition for the annexation of municipal territory to a contiguous municipal corporation.¹⁹² The former petition signature requirement was a number not less than 25% of the number of electors who voted in the last regular municipal election. The act temporarily lowers that to a number not less than 10% of such electors.

Similarly, the former required number of signatures necessary to compel the legislative authority of the municipal corporation with which annexation is proposed to adopt an ordinance designating three commissioners to represent it in annexation negotiations is reduced from a number that is not less than 25%, to one that is not less than 10%, of the number of electors who voted in the last regular municipal election in the municipal corporation with which annexation is proposed. This petition is necessary only when the municipal corporation with which annexation is proposed fails to designate its three representative commissioners within 30 days after receipt of a certified copy of the ordinance from the municipality proposing annexation.

Permanent cemetery endowment funds

(R.C. 517.15 and 759.36)

The act allows a board of township trustees, upon unanimous consent, to use the principal of its permanent cemetery endowment fund to maintain, improve, and beautify its cemeteries if the board is unable to do so using only the income from the fund.

Similarly, the act allows a board of cemetery trustees of a union cemetery, upon unanimous consent, to use the principal of its permanent cemetery endowment fund to

¹⁹¹ R.C. 3709.03(B), 3709.05(A), and 3709.07 (fourth paragraph).

¹⁹² R.C. 709.24, not in the act.



keep its cemetery clean and in good order if the board is unable to do so using only the income from the fund.

Refunding general obligation debt

(R.C. 133.34)

The act requires the last maturity of refunding securities issued by a subdivision to be not later than the later of: (1) 30 years from the date of issuance of the original securities issued for the original purpose, or (2) the year of the last maturity that would have been permitted for the original securities if they had been issued as general obligation securities and the law as to the maximum maturity of general obligation securities issued for the original purpose was the same at the time the original securities were issued as the law existing at the time the refunding securities are issued. Prior law required that the last maturity not be later than 30 years from the date of issuance of the original securities issued for the original purposes.

The act expands, to include any special obligation security, the types of securities a subdivision may issue to fund or refund various types of outstanding securities. Previously, only sales tax supported securities could be issued.

The act also expands, to include sales tax supported securities, the types of securities a subdivision may issue securities to fund or refund. Under prior law, a subdivision could issue securities to fund or refund any outstanding revenue or mortgage revenue or general obligation or other special obligation securities.

The act specifies that special obligation securities issued to fund or refund other securities, other than sales tax supported securities, are payable as to principal at such times and in such installments as determined by the taxing authority and not subject to the provisions of the Public Utilities Law regarding payment of principal of securities. The last maturity of these refunding securities may be not later than the year of last maturity permitted by law for the obligations being refunded.

The act authorizes subdivisions to hold in cash any money derived from the proceeds of securities issued to fund or refund other securities or obligations that is in escrow, and specifies that the political subdivision may invest such proceeds in whole or in part, if and to the extent authorized by the taxing authority. Under prior law, a subdivision is required to invest the proceeds.



Cemetery lots sold before July 24, 1986

(R.C. 517.07 and 517.073)

The act grants townships the right of reentry for burial lots for which the deed of sale was executed prior to July 24, 1986, and for an entombment, columbarium, or other interment right for which the terms of sale or deed is executed before September 29, 2015. Previously, a township had a right of reentry only for burial lots for which the deed of sale was executed after July 24, 1986. As under continuing law, the act requires the board of township trustees to provide notice before reentering a lot or right.

The act expands the provisions regarding a township sale of burial lots to other interment rights, including entombment or columbarium.

Township payment via direct deposit

(R.C. 507.11)

Ohio law allows a public official to make, by direct deposit of funds by electronic transfer, any payment the official is required or authorized to make.¹⁹³ However, the law regarding payment of township funds contains a requirement that money belonging to a township be paid out only upon an order signed by at least two township trustees. The act specifies that, notwithstanding this requirement, a board of township trustees may adopt a resolution authorizing the payment of lawful obligations of the township by direct deposit of funds by electronic transfer.

Force account limits for townships (VETOED)

(R.C. 5575.01)

The Governor vetoed a provision of the act that would have altered the law governing township force account limits. When a township proceeds by force account, it generally uses township employees and materials to complete a project rather than proceeding by contract. The act would have altered the monetary thresholds that trigger competitive bidding and a force account assessment as follows:

| Type of project | Competitive bidding thresholds | Force account assessment thresholds |
|-----------------------------|---|---|
| Road maintenance and repair | Would have required a board of township trustees to use competitive bidding with regard to contracts exceeding \$90,000 rather than \$45,000 as under | Would have required a county engineer to conduct a force account assessment when a board proceeds by force account for a project that costs |

¹⁹³ R.C. 9.37.



| | | |
|-------------------------------------|---|--|
| | continuing law | \$45,000 or more rather than \$15,000 or more as under continuing law |
| Road construction or reconstruction | Would have required a board to use competitive bidding with regard to contracts exceeding \$30,000 per mile rather than \$15,000 per mile as under continuing law | Would have required a county engineer to conduct a force account assessment when a board proceeds by force account for a project that costs \$15,000 or more per mile rather than \$5,000 or more per mile as under continuing law |

County hospital board funds

(R.C. 339.06 and 339.061)

The act specifies that the board of county hospital trustees of a charter county hospital hold and administer all money received from the operation of the county hospital, including money arising from rendering medical services to patients and all other fees, deposits, charges, receipts, and income received as the result of the operation of the county hospital and medical staff.

The board must invest the money pursuant to an investment policy the board has adopted in a public meeting. The investment policy is ineffective unless it has been approved by the county investment advisory committee.

Title to the investments is not vested in the county. Rather, it is held in trust by the board of county hospital trustees, presumably for the benefit of the county hospital.

The investment policy must provide for all of the following:

(1) That all fiduciaries are to discharge their duties with the care, skill, prudence, and diligence under prevailing circumstances that a prudent person acting in like capacity and familiar with the circumstances would use in the conduct of an enterprise of a like character and with like aims;

(2) That at least 25% of the average amount of the investment portfolio over the course of the preceding fiscal year must be invested, as a reserve, in U.S. government securities, the Ohio Subdivisions Fund, Ohio state or political subdivision securities, certificates of deposit issued by national banks located in Ohio, repurchase agreements with Ohio financial institutions that are members of the Federal Reserve System or Federal Home Loan Bank, money market funds, or bankers acceptances maturing within 270 days or less that are eligible for purchase by the Federal Reserve System;



(3) That money not required to be invested as a reserve may be pooled with other institutional funds and invested;

(4) That an investment committee is to be created, and that an investment advisor may be retained.

The investment committee is created within the board of county hospital trustees. It is to meet quarterly to review and recommend revisions to the board's investment policy and to advise the board on the investments described in (1), (2), and (3) above, for the purpose of assisting the board in meeting its obligations as trustee of the investments.

An investment advisor must be licensed by the Division of Securities or registered with the U.S. Securities and Exchange Commission, and must have experience in the management of investments of public funds, and especially in the investment of state government investment portfolios, or be an institution that is eligible to be a public depository.

This investment authority is supplemental to the investment authority in continuing law and to any investment authority granted under the county charter or ordinances.

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," money appropriated by a board of county commissioners, and special tax levies. The 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 act, but there are differences in type and in description.)

A county hospital board of trustees of a charter county hospital may invest its funds as provided in continuing law or as provided in an ordinance adopted by the legislative authority of the county. In either case, the investments are subject to approval by the county investment advisory committee.

New community authorities

(R.C. 349.01, 349.03, 349.04, 349.06, 349.07, and 349.14; Section 703.10)

The act eliminates or makes permanent provisions that applied only to new community authorities established between March 22, 2012, and March 22, 2015. For example, members of the board of trustees of a new community authority represent the interest of present and future residents of the district. For a new community authority



established between March 22, 2012, and March 22, 2015, the members also represent the interests of employers within the district. The act makes this temporary, additional representation permanent.

Under the act, telecommunications facilities are included in the definition of "community facility."

The act requires that proceedings for the organization of a new community authority be initiated by the developer filing a petition in the office of the clerk of the organizational board of commissioners,¹⁹⁴ instead of with the clerk of the board of county commissioners of one of the counties in which all or part of the proposed new community district is located, as under prior law. The act similarly shifts various roles from the former to the latter.

The previous requirement that the acreage included in a proposed district be developable as one functionally interrelated community is eliminated by the act.

The act specifies that, if the organizational board of commissioners is the legislative authority of the only proximate city for the proposed new community district, then: (1) the required hearing on the petition for the establishment of the proposed new community authority must be held not less than 30 nor more than 45 days after the petition filing date, and (2) the clerk of the board is not required to provide written notice of the date, time, and place of the hearing or to furnish a certified copy of the petition to the clerk of the legislative authority of each proximate city that has not signed the petition. Prior law required the hearing be held not less than 95 nor more than 115 days after the petition filing date, and required the clerk to provide written notice.

The act eliminates a previous requirement that the organizational board of commissioners' resolution be entered of record in its journal and in the journal of the board of county commissioners with which a petition was filed.

Prior law specified that, upon dissolution, any property of a new community authority that is located within a municipality vested in that municipality, and any property not located within a municipality vested in the county in which it was located. A provision that applies to new community authorities established between March 22, 2012, and March 22, 2015, allows the property not located within a municipality to be vested in a township or in the developer according to a resolution adopted by the organizational board of commissioners. The act changes this process for all new community authorities, and specifies that property vests with a municipality, township,

¹⁹⁴ The "board of commissioners" referred to in this analysis is the governing board of the new community authority. It is *not* a shortened form of "board of county commissioners."



county, or developer as provided in a resolution adopted by the organizational board of commissioners. Continuing law requires the vesting of property in a county or township to be subject to acceptance of the property by resolution of the board of township trustees or board of county commissioners. The act applies this restriction also to a municipality by requiring approval by its legislative authority before property vests.

The act specifies that its new community authority amendments apply to any proceedings commenced after September 29, 2015, and, so far as their provisions support the actions taken, also apply to proceedings that, on September 29, 2015, are pending, in progress, or completed, notwithstanding the applicable law previously in effect or any provision to the contrary in a prior resolution, ordinance, order, advertisement, notice, or other proceeding.

Finally, the act specifies that any proceedings pending or in progress on September 29, 2015, are to be deemed to have been taken in conformity with the amendments.



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 by the act.
- Exempts certain individuals from those requirements.

OhioMeansJobs Revolving Loan Fund

- Requires the Treasurer of State, rather than the Chancellor of Higher Education or the Chancellor's designee, to service loans under the OhioMeansJobs Workforce Development Revolving Loan Fund Program and transfers other Program duties to the Treasurer of State that were formerly performed by the Chancellor.
- Requires an institution that receives Program funds to apply the loan proceeds to program costs for Program participants who satisfy an institution's eligibility requirements for the loan instead of disbursing the loan to Program participants as under prior law.
- Requires the first loan under the Program to go to the Lorain County Community College to establish and operate the Ready Mix Truck Driver Training Program.

Estate law

- Permits the transfer to a surviving spouse of one watercraft trailer of the decedent associated with the transfer of a watercraft or outboard motor.
- Allows executors the same commissions as existed before repeal of the estate tax.
- Unless a certificate of termination is filed, requires that annual accounts or waivers of partial accounts be made until the estate is closed.

Division of marital property

- Makes technical corrections to the law governing the division of marital property.

General Assembly members at state agency entry points

- Requires a state agency to recognize, at all entry points and check points within the state agency's building or office, without requiring additional credentials, the state identification card of a member, officer, or employee of the General Assembly.



Joint Education Oversight Committee

- Establishes the Joint Education Oversight Committee, and requires the committee to select, for review and evaluation, education programs at school districts, other public schools, and state institutions of higher education that receive state financial assistance in any form.

Joint Legislative Committee on Multi-system Youth

- Creates the ten-member Joint Legislative Committee on Multi-system Youth and requires the Committee to submit a report to the General Assembly and the Governor by December 31, 2015, and cease to exist after its submission.
- Requires the Committee to identify:
 - The services currently provided to multi-system youths and the costs and outcomes of those services;
 - Existing best practices to eliminate custody relinquishment as a means to receive services;
 - The best methods for person-centered care coordination; and
 - A system to monitor the progress of these youths in residential placement.
- Requires the Committee to recommend a funding and service delivery system to meet the needs of all multi-system youths.
- Permits the Committee, in the performance of its duties, to consult with specified state agency directors and representatives of any of several specified advocacy organizations.
- Defines a multi-system youth as a youth who is in need of services from two or more of the following systems (1) the child welfare system, (2) the mental health and addiction services system, (3) the developmental disabilities services system, or (4) the juvenile court system.

Grace Commission

- Establishes the Grace Commission to review all expenditures of state government for fiscal year 2015.



Montgomery County Workforce Study Committee (VETOED)

- Would have created the Montgomery County Workforce Study Committee to study workforce development issues and trends in the Montgomery County region, including workforce development system options for in-demand jobs and identifying supply and demand of in-demand job areas (VETOED).

Repeal of Ohio White Sulfur Springs conveyance authorization (VETOED)

- Would have repealed a previously authorized state land conveyance of real estate located in Delaware County (VETOED).

City of Moraine conveyance

- Authorizes the Governor to execute a release of any and all rights of reversion for the benefit of the state and any deed restrictions and covenants with respect to the construction on or use of certain real estate located in the city of Moraine in Montgomery County.

Conveyance of One Government Center to Toledo

- Authorizes the conveyance of state-owned real estate in Lucas County, known as One Government Center, to the city of Toledo or to an alternative grantee at a price acceptable to the Director of Administrative Services.

Eastern European Month

- Designates and encourages commemoration of April as "Eastern European Month."

Sunset Review Committee

- Requires the Sunset Review Committee to consider and evaluate the usefulness, performance, and effectiveness of certain agencies, and to report its findings and recommendations.

OhioMeansJobs registration

(R.C. 3304.171, 3333.92, and 6301.16)

Beginning January 1, 2016, the act 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 act 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.

OhioMeansJobs Revolving Loan Fund

(Sections 401.40, 610.22 (amending Section 2 of S.B. 1 of the 130th General Assembly), 610.23, and 812.20)

The OhioMeansJobs Workforce Development Revolving Loan Fund Program is a continuing law program that provides loans to eligible individuals to participate in approved workforce development programs at public and private educational institutions in Ohio. The act requires the Treasurer of State to service loans under the Program, rather than allowing the Chancellor of Higher Education to designate either the Treasurer of State or a third party to service these loans, as under prior law.

The act also transfers from the Chancellor to the Treasurer of State the duty to assess interest on a Program participant in accordance with continuing law. The act specifically requires the Treasurer to assess interest against a participant who fails to complete the workforce development program beginning six months after the individual's enrollment is terminated.

The Treasurer of State under the act, rather than the Chancellor as under prior law, must also adopt rules that do all of the following:

- Establish repayment terms for loans under the Program;



- Assess interest on loans for a participant who fails to complete the workforce training program for which the loan was made, or whose participation in the program is on a staggered basis;
- Disperse funds to public and private educational institutions.

The act also requires an institution that receives funds under the Program to apply the loan proceeds to program costs for Program participants who satisfy an institution's eligibility requirements for the loan. Under prior law, the institution was required to disburse the loan to the Program participants.

The first loan under the Program must go to the Lorain County Community College to establish and operate the Ready Mix Truck Driver Training Program.

The act eliminates the Chancellor's authority to include in the Chancellor's annual report on the amount each institution received under the Program any recommendations for legislative changes to the Program that the Chancellor determines are necessary to improve the Program's function and efficiency.

Estate Law

Transfer of watercraft trailer to surviving spouse

(R.C. 1548.11 and 2106.19)

The act 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.

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. If the trailer is untitled but registered, it passes to the spouse upon receipt of the affidavit by the Bureau of Motor Vehicles.

The act 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 act, the executor or administrator may



transfer title to a watercraft trailer in the same manner as the transfer of an automobile under continuing law.

Commissions of executors and administrators

(R.C. 2113.35)

The act 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 act allows a fee of 1% on the value of 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.

Rendering of account by the executor or administrator

(R.C. 2109.301)

The act provides that the requirement that every executor or administrator must render an account no later than 13 months after appointment does not apply if a partial account is waived. Each partial accounting of an executor or administrator may be waived by the written consent of all the legatees, devisees, or heirs in decedents' estates if none of them is under a legal disability. Under the act, unless a certificate of termination is filed, after the initial account is rendered or a waiver of a partial account is filed, every executor or administrator must, at least once each year, render further accounts or file waivers of partial accounts until the estate is closed.

Division of marital property

(R.C. 3105.171)

The act makes technical corrections to remove erroneous numerical references from the section of law governing the division of marital property in a divorce proceeding.

General Assembly members at state agency entry points

(R.C. 101.60)

The act requires a state agency and its officers, employees, and contractors to recognize the state identification card of an individual who is a member, officer who is not a member, or employee of the General Assembly as a form of identification at all



entry points and check points within the state agency's building or office and prohibits any additional credential or photograph from being required.

Joint Education Oversight Committee

(R.C. 103.44, 103.45, 103.46, 103.47, 103.48, 103.49, and 103.50; Section 701.07)

Establishment and purpose

The act establishes the Joint Education Oversight Committee, a joint committee of the General Assembly, and requires the committee to select, for review and evaluation, education programs at school districts, other public schools,¹⁹⁵ and state institutions of higher education 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;

(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.

The act requires the Committee to prepare a report of the results of each review and evaluation it conducts, and to 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 act authorizes the Committee, upon a majority vote of its members, to modify the scope and due date of the study to accommodate the availability of data and resources.

¹⁹⁵ "Other public schools" includes the State School for the Deaf, the State School for the Blind, community schools, STEM schools, and college-preparatory boarding schools.



Review of bills and resolutions

The act also authorizes the Committee to review bills and resolutions regarding education that are introduced or offered in the General Assembly, and authorizes the Committee to 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. 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.

Employees

The act 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 employees are in the unclassified service and serve at the Committee's pleasure. Also, the Committee is authorized to 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.

Powers of committee and its employees

The chairperson of the Committee may request the Superintendent of Public Instruction or the Director of Higher Education¹⁹⁶ to appear before the Committee, and if so requested, the Superintendent or Director must appear before the Committee at the time and place specified in the request.

The act 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 office when access is needed for an inspection.

The act prohibits a member or employee of the Committee from conducting an inspection unless the Committee chairperson grants prior approval for the inspection. The chairperson is prohibited from granting approval unless the Committee, the President of the Senate, and the Speaker of the House of Representatives authorize the chairperson to grant the approval. Each inspection must be conducted during the normal business hours of the office being inspected, unless the chairperson determines

¹⁹⁶ This reference should be to the Chancellor of Higher Education.



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.

The chairperson, when authorized by the Committee and the President and Speaker, 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, as specified in the law that governs the subpoena power of chairpersons of standing or select committees of the General Assembly.

The chairperson may administer oaths to witnesses appearing before the Committee.

Committee membership

The Committee is to consist of 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 five members of the Senate appointed by the President of the Senate, three of whom are members of the majority party and two of whom are members of the minority party.

The act requires the Speaker of the House and the President of the Senate to make initial appointments by October 29, 2015.

The term of each member begins on the day of appointment to the Committee 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 subsequent appointments not later than 15 days after commencement of the first regular session of each General Assembly. Members may be reappointed. A vacancy on the Committee is to be filled in the same manner as the original appointment.

In odd-numbered years, the Speaker is required to designate one of the majority members from the House as chairperson and the Senate President is required to designate one of the minority members from the Senate as the ranking minority member. In even-numbered years, the Senate President is required to designate one of the majority members from the Senate as the chairperson and the Speaker is required to



designate one of the minority members from the House as the ranking minority member. The act requires the President and Speaker to consult with the minority leader of their respective houses in appointing members from the minority, and in designating ranking minority members.

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.

Members of the Committee, 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, are entitled to be paid at the per diem rate of \$150 and their necessary traveling expenses. These amounts are to be paid from the funds appropriated for the payment of expenses of legislative committees.

Joint Legislative Committee on Multi-system Youth

(Section 701.80)

The act creates the ten-member Joint Legislative Committee on Multi-system Youth. The Committee must review specified issues regarding youths in need of services from two or more of the following systems: the child welfare system, the mental health and addiction services system, the developmental disabilities services system, and the juvenile court system. The Committee must identify (1) the services currently provided to multi-system youths and the costs and outcomes of those services, (2) existing best practices to eliminate custody relinquishment as a means of gaining access to services for multi-system youths, (3) the best methods for person-centered care coordination related to behavioral health, developmental disabilities, juvenile justice, and employment, and (4) a system of accountability to monitor the progress of multi-system youths in residential placement. The Committee must also recommend an equitable, adequate, sustainable funding and service delivery system to meet the needs of all multi-system youths.

The President of the Senate must appoint five members, three from the majority party and two from the minority party. The Speaker of the House must appoint five members, three from the majority party and two from the minority party. Appointments must be made by October 15, 2015, and the first meeting must occur not later than November 13, 2015. The Committee must elect a chairperson and vice-chairperson at the first meeting, and meetings take place at the call of the chairperson. Committee vacancies are filled in the same manner as appointments.

The Committee may consult with the directors of the Office of Health Transformation, Department of Youth Services, the Department of Mental Health and



Addiction Services, Department of Medicaid, Department of Developmental Disabilities, Department of Job and Family Services, Department of Insurance, Office of Human Services Innovation, and the Ohio Family and Children First Cabinet Council in the performance of its duties. The act requires those directors and the Department of Education to cooperate with the Committee and, upon request of the Committee, provide any information that will assist the Committee in the performance of its duties. The Committee also may consult with the Superintendent of Public Instruction as well as representatives of any of the following:

- Public Children Services Association of Ohio;
- Ohio Association of Child Caring Agencies;
- National Alliance on Mental Illness of Ohio;
- Autism Society of Ohio;
- Ohio Association of County Boards Serving People with Developmental Disabilities;
- Ohio Council of Behavioral Health and Family Services Providers;
- Ohio Association of County Behavioral Health Authorities;
- Juvenile Justice Coalition;
- Children's Defense Fund – Ohio;
- Ohio Family Care Association;
- Ohio Children's Hospital Association;
- County Commissioners Association of Ohio;
- Center for Innovative Practices;
- Disability Rights Ohio;
- The ARC of Ohio.

The Committee must prepare a report of its findings and recommendations and submit it to the General Assembly and the Governor by December 31, 2015. Upon submission of its report, the Committee ceases to exist.



Grace Commission

(Section 701.05)

The act establishes the Grace Commission to review all expenditures of the state government for fiscal year 2015. The Commission 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 Commission must present its findings by May 29, 2016, in a written report to the General Assembly and Governor.

The Commission is to consist of ten appointed members. The President of the Senate must appoint one member of the Senate and four other individuals. The Speaker of the House of Representatives must appoint one member of the House and four other individuals. The vice-chairperson of the Senate Finance Committee and the vice-chairperson of the House Finance Committee are ex-officio members and co-chairpersons of the Commission.

The act requires that members be appointed by October 29, 2015, and that the Commission convene, as summoned by the chairpersons, for the first meeting by November 29, 2015. Thereafter, the Commission must meet at least once per month.

The act requires the House to provide the Commission with meeting space and clerical staff support.

Montgomery County Workforce Study Committee (VETOED)

(Section 763.10)

The Governor vetoed a provision that would have created the Montgomery County Workforce Study Committee to study workforce development issues and trends in the Montgomery County region, including workforce development system options for in-demand jobs and identifying supply and demand of in-demand job areas.

A detailed description of the vetoed provision is available on pages 639 and 640 of LSC's analysis of the Senate version of H.B. 64. The analysis is available online at www.lsc.ohio.gov/budget/agencyanalyses131/passedsenate/h0064-ps-131.pdf.



Repeal of Ohio White Sulfur Springs conveyance authorization (VETOED)

(Section 690.10)

The Governor vetoed a provision that would have repealed the authorization for the conveyance of state-owned real property in Delaware County that is referred to as the "Ohio White Sulfur Springs Property." The property is further described as being located in Concord Township, and as consisting of two parcels totaling approximately 99 acres. The conveyance was authorized by H.B. 477 of the 130th General Assembly, effective July 16, 2014.

City of Moraine conveyance

(Section 753.10)

The act authorizes the Governor to execute a release of any and all rights of reversion for the benefit of the state and any deed restrictions and covenants with respect to the construction on or use of certain real estate located in the city of Moraine in Montgomery County. The Auditor of State must prepare the release, and the city of Moraine must present the release for recording in the office of the Montgomery County Recorder.

The authorization expires September 29, 2016.

Conveyance of One Government Center to Toledo

(Section 753.20)

The act authorizes the conveyance of state-owned real estate in Lucas County, known as One Government Center, to the city of Toledo or to a grantee to be determined through a real estate purchase agreement prepared by the Department of Administrative Services. Consideration for the conveyance of the real estate is to be at a price acceptable to the Director of Administrative Services. The real estate is to be sold as an entire tract and not in parcels.

The conveyance must include improvements and chattels situated on the real property, and is subject to all leases, easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable. The real property must be conveyed in "as-is, where-is, with all faults" condition.

The deed may contain restrictions, exceptions, reservations, reversionary interests, and other terms and conditions the Director of Administrative Services



determines to be in the best interest of the state. Also, subsequent to the conveyance, any restrictions, exceptions, reservations, reversionary interests, or other terms and conditions contained in the deed may be released by the state or the Department of Administrative Services without the necessity of further legislation.

If the real property is conveyed to the city of Toledo, the deed to the real estate must include a deed restriction stating that subsequent to the transfer of the deed to the grantee, in the event the grantee determines the real estate interest no longer is needed for the grantee's use and purpose, the grantee must notify the grantor and offer to return title of the real estate to the grantor conditioned upon written agreement from the grantor to accept the title. Should the grantor decline to accept this reversion of title interest not later than 90 days after receipt of the notice, the grantee is authorized to proceed with any subsequent transfer, conveyance, or disposal of the real estate the grantee determines to be in its best interest.

The act requires that, if the city of Toledo, or the grantee to be determined, does not complete the purchase of the real estate within the time period provided in the real estate purchase agreement, the Director of Administrative Services may offer to sell the real estate to an alternate grantee, through a real estate purchase agreement prepared by the Department of Administrative Services. Consideration for conveyance of the real estate to an alternate grantee is to be at a price acceptable to the Director.

Upon payment of the purchase price, the Auditor of State, with the assistance of the Attorney General, is to prepare a deed to the real estate. The deed must state the consideration. The deed must be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the grantee. The grantee must present the deed for recording in the Office of the Lucas County Recorder.

The act requires the grantee to pay all costs associated with the purchase, closing, and conveyance, including surveys, title evidence, title insurance, transfer costs and fees, recording costs and fees, taxes, and any other fees, assessments, and costs that may be imposed.

The act requires that the net proceeds of the sale be deposited into the state treasury to the credit of the General Revenue Fund.

The authorization for the conveyance expires September 29, 2018.



Eastern European Month

(R.C. 5.2298)

The act designates April as "Eastern European Month." The people of Ohio are encouraged to commemorate Eastern European culture during this month with relevant educational opportunities, ceremonies, and activities.

Sunset Review Committee

(Section 701.83)

The act requires the Sunset Review Committee to hold hearings to receive the testimony of the public and of the chief executive officer of each of the following agencies, and otherwise to consider and evaluate the usefulness, performance, and effectiveness of each of the following agencies: (1) Motor Vehicle Repair Board, (2) Ohio Landscape Architects Board, (3) Architects Board, (4) State Board of Optometry, (5) Ohio Optical Dispensers Board, (6) Barber Board, (7) State Board of Cosmetology, and (8) Board of Trustees of the Ohioana Library Association, Martha Kinney Cooper Memorial.

The act also requires the Sunset Review Committee specifically to consider and make recommendations to the General Assembly, by June 1, 2016, regarding whether or not continuation of the Motor Vehicle Repair Board is necessary or if the board should be eliminated; whether or not the Ohio Landscape Architects Board and the Architects Board should be combined to improve efficiency and save costs; and whether or not the State Board of Optometry and the Ohio Optical Dispensers Board should be combined to improve efficiency and save costs.

Under continuing law, the Sunset Review Committee, which is scheduled to be convened and operate during calendar years 2015 and 2016, is required to make recommendations regarding all boards and commissions under its purview by December 31, 2016.

The act requires the committee, after completion of its consideration and evaluation, to prepare and publish a report of its findings and recommendations. The committee must furnish a copy of the report to the President of the Senate, the Speaker of the House of Representatives, the Governor, and each affected agency. The report must be made available to the public in the offices of the House and Senate Clerks during reasonable hours. The committee's report may be in the form of a bill prepared for introduction in the Senate or House of Representatives.



NOTE ON EFFECTIVE DATES

(Sections 812.10, 812.20, 812.40, and 812.70)

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 act 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 act 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 act 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 act (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 |
| Reported, S. Finance | 06-18-15 |
| Passed Senate (23-10) | 06-18-15 |
| House refused to concur in Senate amendments (0-82) | 06-18-15 |
| Senate requested conference committee | 06-18-15 |
| House acceded to request for conference committee | 06-18-15 |
| Senate agreed to conference committee report (23-9) | 06-25-15 |
| House agreed to conference committee report (62-33) | 06-26-15 |
| House reconsidered vote on conference committee report | 06-26-15 |
| House agreed to conference committee report (61-34) | 06-26-15 |

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