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## SPORTS FACILITIES AND UNCLAIMED FUNDS

### Major sports facilities funding

- Authorizes \$1 billion in unclaimed funds that have escheated to the state to pay for Ohio Sports and Cultural Facilities, with \$600 million going to the costs of the Cleveland Browns major sports facility stadium project in the city of Brook Park, Ohio, in Cuyahoga County, and \$400 million going to future projects.

### Sports facilities definitions

- Defines the following terms for the purpose of major sports facilities in Ohio:
  - “Major sports facility” means a stadium, arena, complex, or other facility that a governmental agency owns or has an ownership interest in, designed for the use of a professional sports franchise from certain major sports leagues.
  - “Transformational major sports facility mixed-use project” means a mixed-use project that includes the construction of a major sports facility, and integrates retail, residential, recreational, or other uses, the construction of which costs at least \$1 billion.
  - “Transformational major sports facility mixed-use project district” means the geographic area encompassing the land upon which the transformational major sports facility mixed-use project is located.
  - “Base professional sports franchise state tax revenues” means an amount either set by the General Assembly, or equal to all state tax revenues generated pursuant to state income, sales, and CAT taxes that are attributable to the professional sports franchise’s operations at existing facilities in Ohio, increasing by 3.5% every year.
  - “Total major sports facility mixed-use project district state tax revenues” means the total aggregate state tax revenue generated in the territory of a transformational major sports facility mixed-use project district.
  - “Incremental major sports facility mixed-use project district state tax revenues” means the amount of state tax revenues received by the state, subtracting base professional sports franchise state tax revenues from total major sports facility mixed-use project district state tax revenues in a calendar year.
  - “Owner” means a person that has a controlling interest in a professional sports franchise.

### State funding of major sports facilities

- Permits state funds to be used to pay or reimburse up to 25% of the costs of a major sports facility if certain criteria are met, including a contribution of at least 50% of the costs from the professional sports franchise that plans to use the facility.
- Prohibits the state from incurring debt to pay for a major sports facility.

- Creates the Ohio Cultural and Sports Facility Performance Grant Fund, consisting of money appropriated to it, including escheated unclaimed funds, to be used to pay for major sports facilities.
- Requires the professional sports franchise to deposit an amount equal to 8⅓% of the award into an escrow account, and create a supplemental reserve of equal amount, to be used to pay any deficits between tax revenues collected and the total grant amount.
- Establishes a schedule under which increased tax revenues produced by the major sports facility over a 16-year period must meet target amounts, which increase every four years, the sum of which is equal to the grant amount.
- If the total incremental major sports facility tax revenues do not achieve target amounts every four years, requires the deficit to be offset with money from the escrow account, and if that is insufficient, the supplemental reserve, to be deposited in the GRF.
- Permits revenue in excess of target amounts to be applied towards future target amounts.
- Returns the escrow amount, plus interest it has accrued, to the professional sports franchise upon hitting all target amounts after 16 years, and permits the professional sports franchise to apply to receive its escrow money early if the total increased tax revenues have already equaled or exceeded the performance grant amount.
- Requires that, if the owner loses a controlling share of ownership or control interest in the professional sports franchise, the rights and obligations of the owner are assigned to, and assumed by, any new owner with controlling ownership interest.
- Prohibits the professional sports franchise from moving to a stadium outside of the district until the franchise hits the target amounts, or 30 years after its initial home game, whichever is earlier.

### **Tax reporting requirements**

- Requires every person who owns real property in a project district to comply with special tax reporting requirements, as required by the Department of Taxation (TAX).
- Requires persons that collect transformational major sports facility mixed-use project district tax revenues to report those tax revenues separately from other tax revenues in the state, on forms provided by TAX, including estimated payments on corporate income taxes and gross revenues generated from the district.
- Permits TAX, as well as municipal corporations, to disclose taxpayer information to the governmental agency that owns or has an ownership interest in the major sports facility.

### **Performance grants for sports and cultural facilities (PARTIALLY VETOED)**

- Appropriates \$400 million from escheated unclaimed funds for performance grants for sports and cultural facilities.

- Creates a process by which organizations may apply to OBM for performance grants to pay up to 25% of the project cost of the construction or renovation of Ohio sports facilities and Ohio cultural facilities.
- Would have awarded only 15% for projects less than \$500 million, and would have required sports facilities to have a minimum cost of \$50 million (\$5 million for cultural facilities) to be eligible for funding (VETOED).
- Requires the facility to be owned by the state or a governmental agency, a new community authority, or a nonprofit organization.
- Requires the applicant organization to provide a financial and development plan, which must demonstrate that the project will benefit the state in one or more specified ways.
- Permits OBM to enter into an agreement specifying the grant conditions, including provisions to recoup the grant through increased tax revenues or economic impact, and escrow payments.
- Requires the agreement to be approved by the Controlling Board.
- Subjects people producing tax revenue involved with the facility to reporting requirements as may be required by TAX, in consultation with OBM and FCC, for the purposes of the grant program.

### **Professional sports franchise – moving facilities**

- Permits an owner of a professional sports team using a tax-supported facility to move to a new facility if the new facility is located within Ohio.
- Maintains requirements for owners seeking to move a team to a facility located outside of Ohio.
- Requires a professional sports franchise owner desiring to move to a new facility, in lieu of an agreement permitting the owner to do so, to give six months' written notice to its host political subdivision, rather than just notice.
- Deems an expired lease or agreement as permission by a political subdivision for a team to move to a different facility located within Ohio.

### **Tourism attractions and professional sports facilities funding**

#### **Roadwork Development Fund**

- Expands the purposes of the Roadwork Development Fund to include funding the following:
  - Construction, reconstruction, maintenance, or repair of public roads that provide or improve access to professional sports facilities;
  - Associated improvements necessary for access to tourism attractions and professional sports facilities; and

- Improvements associated with the retail and residential components that are a part of a tourism attraction or professional sports facility.

### **Facilities Establishment Fund**

- Expands the purposes of the Facilities Establishment Fund to include funding persons that are engaged in developing tourism attractions and professional sports facilities.

### **Division of Unclaimed Funds**

- Transfers ownership of unclaimed funds to the state if the funds are not claimed by the owner or another person that has a right to payment within ten years after the date the funds are first reported to the Department of Commerce (COM).
- Requires the COM Director, two times each year, to remit unclaimed funds and interest that escheat to the state to the Ohio Cultural and Sports Facility Performance Grant Fund (OCSFPGF).
- Specifies that all property rights, legal title to, and ownership of unclaimed funds and interest vest solely in the state on the date the funds escheat.
- Provides a ten-year grace period, ending January 1, 2036, during which former owners of unclaimed funds may file a claim and seek repayment after the funds escheat.
- Requires the COM Director to pay claims filed during the grace period from the Unclaimed Funds Trust Fund (UFTF) and not to seek reimbursement from the OCSFPGF or any other source.
- Requires private holders of unclaimed funds to return the funds to the COM Director when the funds escheat to the state.
- Requires the COM Director to develop guidelines and procedures for repayment of unclaimed funds and interest that are invested in nonliquid assets and to ensure that the balance of the UFTF is sufficient to meet the state's repayment obligations.

### **Major sports facilities funding**

(R.C. 123.28, 123.281, 123.282, 123.283, 169.08, 307.696, and 718.13; Section 229.40)

The act creates the Ohio Cultural and Sports Facility Performance Grant Fund in the state treasury, the proceeds of which must be used to support construction of major sports facilities. The act permits the use of state funds to pay up to 25% of the costs of a major sports facility, if certain conditions are met.

The act authorizes \$600 million in unclaimed funds that have escheated to the state (see “**Division of Unclaimed Funds**” below) to pay the costs of the Cleveland Browns major sports facility stadium project in the city of Brook Park, in Cuyahoga County.

## Sports facilities definitions

The act defines a “major sports facility” as a stadium, arena, complex, or other facility that a governmental agency owns, will own, or has a sufficient ownership interest in, the primary purpose of which is to provide a site or venue for the presentation of events of a professional sports franchise for a period of at least 30 years after completion of the construction of the sports facility.

A “professional sports franchise” is a member of the National Football League, Women’s National Football Conference, Women’s Football Alliance, Women’s Football League Association, National Hockey League, Professional Women’s Hockey League, Major League Baseball, Women’s Professional Baseball League, Major League Soccer, National Women’s Soccer League, National Basketball Association, Women’s National Basketball Association, or a successor of such an entity.

A “transformational major sports facility mixed-use project” is a mixed-use project that includes the construction of a major sports facility; integrates some combination of retail, office, hotel, residential, recreation, structured parking, or other similar uses into one or more mixed-use developments; is expected to generate increased state tax revenues; and has an initial total estimated construction cost, excluding any site acquisition cost, greater than \$1 billion.

A transformational major sports facility mixed-use project also may include:

- Other projects supporting or relating to the major sports facility or the professional sports franchise;
- Any mixed-use project adjacent or relating to practice facilities for the professional sports franchise;
- Conference centers, concert, or other entertainment venues and facilities;
- Retail, food, restaurant, and beverage facilities, whether fixed or mobile;
- Parks and other public open spaces or facilities;
- Related on-site infrastructure necessary or desirable for all these elements for the major sports facility mixed-use project.

A “transformational major sports facility mixed-use project district” is the geographic area encompassing the land upon which the transformational major sports facility mixed-use project is located, as designated by a municipal corporation.

An “affiliate” is a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, is under common control with, or acts in concert with, or is a participant in a joint venture, partnership, consortium, or similar business arrangement with, a professional sports franchise or owner.

An “owner” is a person that has a controlling ownership interest in a professional sports franchise, and a “person,” for the purpose of these provisions, means “one or more individuals, receivers, assignees, trustees in bankruptcy, estates, firms, limited liability companies,

partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, and combinations of individuals in any form.”

### **Major sports facility tax revenue definitions**

The act creates tax reporting requirements by which increased tax revenues of the major sports facility mixed-use project district may be measured.

First, the “base professional sports franchise state tax revenue” is calculated. It measures how much income, sales, and CAT tax revenue the professional sports franchise currently generates in its existing facilities. It is calculated by the Department of Taxation (TAX) in the calendar year occurring immediately before the calendar year in which the professional sports franchise plays its initial regular season home game in the new major sports facility. It is increased by 3.5% each year for up to 16 years.

For the Brook Park Project, for the first three years while the new stadium is under construction and the current stadium in Cleveland still operates, the base amount will be equal to the actual state tax revenues generated at the Cleveland stadium, and the incremental major sports facility mixed-use project district state tax revenues will be equal to the state tax revenue from the construction of, and the purchasing of or leasing of materials and items used in the construction of, the Brook Park Project.

Then, the “total major sports facility mixed-use project district state tax revenues” is calculated by determining the total aggregate state tax revenue generated in the territory of a transformational major sports facility mixed-use project district, including state tax revenues attributable to purchasing or leasing materials and items used in construction in the territory of a transformational major sports facility mixed-use project district, and tax revenues attributable to the professional sports franchise and its operations at the major sports facility, beginning in the calendar year in which the performance grant is eligible for disbursement under an appropriation, and for 16 years afterwards.

The “incremental major sports facility mixed-use project district state tax revenues” is determined by subtracting base professional sports franchise state tax revenues from total major sports facility mixed-use project district state tax revenues in a calendar year, beginning with the calendar year in which the professional sports franchise plays its initial regular season home game in the major sports facility.

Finally, the “total incremental major sports facility mixed-use project district state tax revenues” is the sum of both of the total aggregate incremental major sports facility mixed-use project district state tax revenues beginning in the calendar year in which a performance grant is eligible for disbursement under an appropriation and for 16 years thereafter.

### **State funding of major sports facilities**

The act permits state funds to be used to pay or reimburse up to 25% of the initial estimated construction costs of a major sports facility, in the form of a “performance grant,” if the following criteria are met:

- The major sports facility upon completion will be a part of a transformational major sports facility mixed-use project;

- OBM, in consultation with the Ohio Facilities Construction Commission (FCC), has received a satisfactory financial and development plan, including provision of 75% of the total initial estimated construction cost from sources other than the state, with at least 50% of the total from the professional sports franchise that plans to use the facility, or its owner or affiliate (“franchise”);
- The General Assembly has specifically authorized, or appropriated money for, the construction of the major sports facility, provided that the grant’s authorization or appropriation does not include planning or determining the feasibility of or need for the major sports facility as a cost of constructing the major sports facility;
- The franchise has entered into an agreement with OBM, under which total incremental tax revenues must equal or exceed the performance grant amount over a 16-year period, deficits to be offset by an escrow deposit and supplemental reserve, as described below.

The performance grant is not subject to Controlling Board review. The state may not incur debt to fund or assist a major sports facility under these provisions.

### **Tax revenues and target amounts**

When a performance grant is appropriated, the franchise must enter into an agreement with OBM, under which the total incremental major sports facility mixed-use project district state tax revenues meet target amounts every four years, over a 16-year period, the total of which must be greater than or equal to the original grant amount.

The four year target amounts, along with the calculation for the \$600 million grant under the Brook Park Project in parenthesis, are as follows:

- For the first four full calendar years beginning in the year in which the performance grant is eligible for disbursement under an appropriation, 10% of the total appropriated amount (\$60 million);
- For the second four-year period, 26% of the total appropriated amount (\$156 million);
- For the third four-year period, 32% of the total appropriated amount (\$192 million);
- For the fourth four-year period, 32% of the total appropriated amount (\$192 million).

Incremental tax revenues in excess of target amounts must be credited towards future amounts.

The act establishes that the incremental major sports facility mixed-use project district state tax revenues generated for 2026-2028 are equal to the income, state, and CAT taxes for the construction of, and the purchasing of or leasing of materials and items used in the construction of, the project. The act explains that, because the new stadium will be under construction and the old stadium will still be operating, the base tax amount is automatically met – i.e., the revenues from the existing stadium – and any revenue from the construction of the new stadium is in excess of the base amount – i.e., the incremental revenue.



## Escrow and supplemental reserve

To receive the performance grant, the franchise must deposit an amount equal to 8⅓% of the award (\$50 million for the Brook Park Project) into an interest-bearing escrow account within the state treasury, to be used to pay any deficits between tax revenues collected and the target amounts.

The franchise also must establish a supplemental reserve amount in the same amount as the escrow account (\$50 million), which may take the form of a line of credit or other commercially reasonable type of certifiable and available liquidity.

Once OBM confirms receipt of the escrow amount and a certification of funds or other requisite proof of the supplemental reserve amount, the grant may be disbursed for payment or reimbursement of construction costs, without regard to the other sources of contribution for the costs of construction of the major sports facility and not on a pro rata basis.

If, after any four-year period, the incremental tax revenues do not hit target amounts, the deficit is first offset by any excess revenue from previous periods. If a deficit remains, the amount is taken from the escrow account and deposited into the GRF to offset the deficit. If a deficit remains, the amount is taken from the supplemental reserve and deposited into the GRF. These amounts are nonrefundable. The act does not address what happens if a deficit remains in the event both accounts are depleted. Whatever remains in the escrow account after a 16-year period is refunded to the franchise, interest earnings included.

Beginning nine years after the performance grant is eligible for disbursement, and once each year afterwards until the 16<sup>th</sup> year, the franchise may apply to OBM, in consultation with TAX, for a determination that the total incremental tax revenues have equaled or surpassed the original performance grant amount. If the amount has been met, the franchise receives its escrow reimbursement early.

If the owner's share of the ownership interest in the professional sports franchise becomes less than a controlling ownership interest, all rights, privileges, responsibilities, and obligations of the owner are assigned to, and assumed by, any new owner with a controlling ownership interest.

The professional sports franchise may not cease playing most of its home games at the major sports facility and begin playing most of its home games at a different facility located outside of the transformational major sports facility mixed-use project until the tax revenues hit all target amounts, or until 30 years after the initial regular season home game, whichever comes earlier. The act clarifies that this provision is "in addition to, independent of, and operates concurrently with" R.C. 9.67, an existing provision of law prohibiting the owner of a professional sports team that uses state funding from moving to a new stadium outside of the state, unless the owner either gets the permission of their host political subdivision, or gives six-months' notice of moving, along with an opportunity for locals to purchase the team (see "**Professional sports franchise – moving facilities**").



## **Transformational major sports facility districts**

The agreement between the franchise and OBM also must establish the metes and bounds of the proposed transformational major sports facility mixed-use project district, including all areas within. The territory must be contiguous and contain only one transformational major sports facility mixed-use project.

OBM must receive a petition, accompanied by a description of the proposed district, signed by every record owner of a parcel of real property located in the district and the owner of every business that will operate in the district.

The district's territorial boundary may not be enlarged after it is established with OBM, which may consult with TAX and FCC, and any applicable county or municipal offices to ensure each tax reporting requirement is met.

## **Tax reporting requirements**

Every person who owns real property in a project district, or leases, licenses, uses, or operates all or a portion of a building or facilities in the project district, is subject to special reporting requirements as TAX may require, in consultation with OBM and FCC. These may be evidenced by an instrument duly recorded with the county recorder.

Each person doing business in a project district must file taxes and register for a separate withholding account, remitting the wages and salaries withheld from employees for activities performed in the territory of a project district separately from all income taxes withheld by the employer. If they collect transformational major sports facility mixed-use project district tax revenues, they must report those tax revenues separately from other tax revenues in Ohio, on forms provided by TAX, including estimated payments on corporate income taxes and gross revenues generated from the district. This includes tax revenues from construction or transactions in the territory of a project district, estimated payments for corporate income taxes generated from the project district, information regarding gross revenues generated from activities in the project district and gross revenues from all activities in Ohio, and payments to independent contractors attributable to construction or transactions in the territory of a project district, by January 31 of each year.

TAX may disclose taxpayer information regarding transactions, real or personal property, income, or business of any person to the governmental agency that owns, or holds a sufficient ownership interest in, a major sports facility as may be necessary for the administration of these provisions.

Likewise, municipal corporations may provide tax information related to municipal income tax revenues derived from a project district to both TAX and the fiscal officer of the governmental agency.

TAX must promulgate the forms necessary to implement and administer these requirements.

## **County sales tax levies and bond issuances**

Continuing law permits a board of county commissioners to enter into an agreement with a corporation to issues bonds or sales tax levies to construct and operate a sports facility, and collect the tax revenue to pay back the bonds and be used for other purposes. If the sports facility would be in a host municipal corporation, the board also must include the host municipal corporation in the agreement, which must use the excess revenue for redevelopment and economic development purposes related to the sports facility.

Under former law, a municipal corporation was only eligible to be a host municipal corporation if it is associated with an NFL, MLB, or NBA sports franchise on March 20, 1990. The act repeals this requirement, permitting any municipal corporation to be a host municipal corporation for the purposes of the agreement.

## **Performance grants for sports and cultural facilities (PARTIALLY VETOED)**

The act appropriates, in FY 2026 from appropriation item 042428, Major Sports Facilities Performance Grants, \$400 million in unclaimed funds that have escheated to the state, for performance grants to Ohio sports facilities and Ohio cultural facilities.

Funds from the Ohio cultural and sports facility performance grant fund are permitted to be used to pay up to 25% of the initial estimated construction or renovation cost of the project. No single grant may be more than \$250 million.

The Governor vetoed a provision that would have limited awards to projects costing less than \$500 million to 15% of the initial estimated cost, and would have required sports projects to have a minimum cost of \$50 million, and cultural projects to have a minimum cost of \$5 million.

The provision uses continuing Ohio sports facility and major sports facility definitions, except that an “Ohio sports facility” may be owned by the state or a governmental agency, a nonprofit corporation, or a new community authority, rather than just owned by the state or a governmental agency, as under a continuing law program permitting the state to issue bonds to fund sports facilities. Public ownership is a constitutionally required precondition for projects paid for by state debt, but the performance grants would not be state debt.

An Ohio sports facility is all or a portion of a stadium, arena, tennis facility, motorsports complex, or other capital facility, the primary purpose of which is to provide a site or venue for the presentation to the public of motorsports events, professional tennis tournaments, or events of one or more major or minor league professional athletic or sports teams that are associated with the state or with a city or region of Ohio.

The act also defines “initial estimated construction or renovation cost” as the initial estimated cost to construct a new Ohio sports facility or Ohio cultural facility, or the initial estimated cost to renovate an existing Ohio sports facility or Ohio cultural facility, not including any site acquisition cost, and not including any other state funds awarded to, or to be spent on, the project. In other words, state funds from other sources do not count towards the initial cost calculation, and therefore do not count towards the grant amount calculation.

Funds may be used only for construction and renovation, to effectuate permanent improvements at a facility.

### **OBM application and agreement**

The organization that would operate the facility (a professional sports franchise, governmental agency, nonprofit corporation, new community authority, or other organization) may apply to OBM, on a form and in a manner prescribed by OBM, to receive a grant. The application must include a financial and development plan, which OBM must evaluate in consultation with OBM and TAX as applicable. The plan must identify the facility, and include the following:

- An agreement, operating agreement, management agreement, nonrelocation agreement, cooperative use agreement, or other similar agreement, or an executed and binding term sheet if no other agreement is available;
- The length of time remaining on any existing agreement, including any options to extend, or agreed to in any new agreement or binding term sheet;
- Any state tax credit program that has been awarded, applied for, or is anticipated or otherwise expected to be awarded or applied for, and any associated fiscal impact that it will have on the project;
- Project phases and associated timelines.

Additionally, the application must demonstrate that the project will benefit the state, through one or more of the following mechanisms:

- That the facility will generate increased income, sales, and commercial activity tax revenues, which over an agreed-upon period of time no more than 30 years, will equal or exceed the amount of the performance grant;
- That the facility will bring a positive economic impact to Ohio, as demonstrated by an objectively verifiable economic impact study provided by an independent third party;
- Any other objectively verifiable metric or measurement established by OBM, and approved by the Controlling Board, that demonstrates that the facility will positively impact the local community, region, or state;
- In case of a cultural facility, that the facility will benefit the public in a meaningful way and support culture in Ohio, and that the facility can be completed and ready to support culture without exceeding the grant amount, as determined by OBM and approved by the Controlling Board.

If OBM, in consultation with FCC and TAX as applicable, is satisfied with the financial and development plan, OBM may enter into a tentative agreement with the applicant organization, which must identify the facility to be constructed or renovated, and must specify the following:

- Target tax revenue amounts to be generated by the facility, and the period over which they must be generated, not to exceed 30 years;

- Any economic impact targets or indicators, or other objectively verifiable metric or measurement targets or indicators, which may be combined with tax revenues or other economic activity at OBM's discretion;
- If the increased state tax revenues, economic activity, or other objectively verifiable metric or measurement do not achieve target amounts or indicators, as determined by OBM in consultation with TAX, that OBM must take a nonrefundable amount of money equal to the deficit from the escrow account (see "**Performance grants – escrow account**" below) and deposit it into the GRF;
- The applicant organization must hold the state of Ohio, including OBM, FCC, TAX, and the Controlling Board harmless from all liability for the operation and maintenance costs of the facility, and any costs incurred related to the grant application.

There are specific requirements for other facilities. In the case of an Ohio sports facility, if a professional sports franchise intends to use the facility, the professional sports franchise may not cease playing most of its home games at the Ohio sports facility and begin playing most of its home games at a different facility until the earlier of one of the following dates:

- The total increased state tax revenues or economic activity have achieved target amounts or indicators, including with funds from the escrow amount:
- 30 years after the professional sports franchise plays its initial regular season home game at the newly constructed or renovated Ohio sports facility.

This requirement is "in addition to, independent of, and operates concurrently with" an existing law section of the Revised Code prohibiting sports team owners from moving out of state under certain circumstances (see "**Professional sports franchise – moving facilities**").

For Ohio cultural facilities, the facility must be completed and ready to support culture without exceeding the grant amount, and the project scope must meet the intent and purpose of the performance grant program, and of the development plan as approved by OBM and the Controlling Board.

For motorsports complexes, any motorsports organization that commits to using the facility for an established period must give OBM not less than six months' advance notice if the organization intends to cease utilizing the facility before the expiration of that established period. If the motorsports organization does so, the motorsports organization is liable to the state for any performance grant funds used on the construction or renovation costs of the facility, which includes drawing down the remainder of any escrow account.

For tennis facilities, the owner or manager of the facility must provide contractual commitments from a national or international professional tennis organization that assures that one or more sanctioned professional tennis events will be presented at the facility during each year of the period described in the agreement. Any national or international professional tennis organization that commits to using the facility for an established period must give the owner or manager of the facility and OBM not less than six months' advance notice if the organization intends to cease utilizing the facility before the expiration of that established period. If the

organization does so, the organization and owner or manager of the facility are jointly and severally liable to the state for any performance grant funds used on the construction or renovation costs of the facility, which includes drawing down the remainder of any escrow account.

### **Performance grants – escrow account**

For facilities that are required to achieve target tax revenue amounts, economic impact, or other economic indicators, the applicant organization, upon reaching the tentative agreement with OBM, must execute and file with OBM an escrow amount equal to 5% of the total amount of the performance grant applied for, which must be deposited in an interest-bearing account maintained within the state treasury. Nonrefundable disbursements must be made from the account as required in the event target tax revenues or economic indicators do not achieve target amounts.

Whatever remains of the amount in escrow after the period agreed upon, including any interest earnings thereon, is returned to the applicant organization, upon certification OBM, in consultation with TAX, as applicable, that all conditions of the agreement are satisfied. The agreement may provide for a process and timeline by which the applicant organization may seek a determination that all target amounts and indicators have been achieved or exceeded, then apply for the return of any remaining escrow balance.

### **Controlling Board approval**

After the applicant and OBM have entered into a tentative agreement, the agreement is sent to the Controlling Board for final approval, which is entirely in its discretion. The Controlling Board may evaluate all grant application and agreement requirements and materials, any other factor, criteria, data, metric, measurement, or information or documents the board determines is necessary.

### **Tax reporting requirements**

People using or owning property used in construction or renovation of the facility may be subject to special tax reporting requirements by TAX, in consultation with OBM and FCC, for the purposes of tracking tax revenues for projects.

The requirements apply to each person who owns real property located in, enters into a lease, license, use, or operating agreement for all or a portion of the building and facilities located in, or purchases or leases materials and items used in construction or renovation in the facility.

Compliance with these requirements may be evidenced by an instrument that is duly recorded with the county recorder.

## **Professional sports franchise – moving facilities**

(R.C. 9.67)

The act permits an owner of a professional sports team using a tax-supported facility to move to a new facility within the state without notice to, or permission from, the host political subdivision.

Former law prohibited an owner of a professional sports team, if the team uses a tax-supported facility for most of its home games and receives financial assistance from the state or a political subdivision, from ceasing to play most of its home games at the tax-supported facility and play most of its home games elsewhere (i.e., move to a different stadium) unless the owner got permission from the political subdivision in which the tax-supported facility is located, or the owner gave the political subdivision six months' notice and an opportunity to purchase the team.

The act maintains these requirements only if the sports team is moving to a facility located outside of Ohio. A professional sports team may move freely to any facility within Ohio.

The act also requires the notice given to a political subdivision to be written notice.

Additionally, the act deems any lease, operating agreement, management agreement, nonrelocation agreement, or other similar agreement entered into with the political subdivision "before, on, or after the effective date" of the act, that expressly obligates the professional sports team to play all or most of the professional sports team's regular season home games at the tax-supported facility for the term of the lease or agreement (or a shorter period), is, upon the expiration of the term, deemed "an agreement with the political subdivision permitting the team to play most of its home games at a different facility," unless the different facility is located outside of Ohio.

Because the act permits a professional sports team to move to a different facility within the state without the political subdivision's permission, and the above provision does not apply to facilities outside of Ohio, it is not clear what the provision described in the paragraph above accomplishes.

## **Tourism attractions and professional sports facilities funding**

### **Roadwork Development Fund**

(R.C. 122.14)

The act expands the purposes of the existing Roadwork Development Fund (RDF) to include both of the following:

- Funding construction, reconstruction, maintenance, or repair of public roads that provide or improve access to professional sports facilities; and
- Funding associated improvements that are necessary for access to tourism attractions and professional sports facilities.

The act then authorizes tourism attractions and professional sports facilities to use the money received from DEV from the RDF to make improvements that are associated with the retail and residential components within their surrounding development. The RDF consists of investment earnings of the Security Deposit Fund and revenue transferred from the Highway Operating Fund. Each of these sources is limited in how its money can be used by Article XII, Section 5a of the Ohio Constitution, thus the RDF has the same limitation.

That limitation, in relevant part, states that the money derived from fees and taxes (including motor fuel taxes) associated with motor vehicle registration, operation, or use must

be used only for the costs for construction, reconstruction, maintenance, and repair of public highways and bridges and the costs associated with administration and enforcement of traffic laws. The RDF's expansion to include similar activities on public roads and associated improvements for professional sports facilities appears to be consistent with that limitation.

However, if challenged, a court might examine whether the constitutional limitations on the RDF permit the act's authorization for tourism attractions and professional sports facilities to use RDF money towards retail and residential components within their development, without any specification that it only be for public roads.

### **Facilities Establishment Fund**

(R.C. 166.01, 166.02, 166.12, and 166.17)

The act expands the purposes of the existing Facilities Establishment Fund (FEF). The FEF finances loans to persons engaged in "industry, commerce, distribution, or research" to encourage such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, furnish, or otherwise develop various eligible projects. Under continuing law, eligible projects must relate to innovation, research, and development in various capacities.

The act adds persons engaged in the development of tourism attractions or professional sports facilities as entities eligible for loans from the FEF and through the Department of Development programs financed through that fund. Additionally, it adds the development of tourism attractions or professional sports facilities as types of eligible projects to receive the funding, regardless of what entity is sponsoring their development.

### **Division of Unclaimed Funds**

(R.C. 169.08)

#### **Background**

The Unclaimed Funds Law (1) specifies the types of funds that are "unclaimed," (2) requires holders of such funds to report them to the Director of Commerce (COM Director), give notice to the owners or beneficiaries, and pay a portion of the funds to the COM Director, and (3) requires the COM Director to annually publish notice of the funds in the appropriate county. Under prior law, unclaimed funds did not become the property of the state but were generally required to be held indefinitely until claimed by the owner.

#### **Escheatment**

Under the act, beginning January 1, 2026, unclaimed funds that are not claimed by an owner or another person with a valid right or interest within ten years are deemed abandoned and escheat to the state. "Escheatment" means that all property rights, legal title to, and ownership of unclaimed funds and interest vest solely in the state. The ten-year escheatment period begins when the unclaimed funds are reported to the COM Director by the holder, as required by continuing law.

The act requires the COM Director to remit escheated unclaimed funds to the Ohio Cultural and Sports Facility Performance Grant Fund (OCSFPGF), created by the act, two times each year, on the first days of January and July, beginning in 2026. The first \$1 billion of the



escheated unclaimed funds will pay for Ohio Sports and Cultural Facilities, with \$600 million designated to pay the costs of the Cleveland Browns major sports facility stadium project in the city of Brook Park, Ohio, in Cuyahoga County, and \$400 million going to other qualifying projects. The COM Director must notify the OBM Director of all funds and interest remitted.

### **Grace period**

Generally, once unclaimed funds escheat to the state, the owner is not permitted to seek repayment. However, the act establishes a ten-year grace period during which the former owner or other person claiming a property interest in escheated unclaimed funds may file a claim and seek payment. Once the person provides sufficient proof of the validity of the claim, the COM Director must pay the claim less any expenses and costs incurred by the state in securing full title and ownership of the unclaimed funds. The grace period ends on January 1, 2036.

If a payment is made for escheated unclaimed funds during the grace period, no action can be maintained by any other claimant against the state for or on account of the payment of the claim. The act requires the COM Director to pay these claims from the Unclaimed Funds Trust Fund (UFTF) and not seek reimbursement from the OCSFPGF or deduct the amount of such claims from future remissions to that Fund. The act specifies that any claim filed for escheated unclaimed funds after the grace period is void.

### **Holder-invested funds**

Under continuing law, the holder of unclaimed funds may enter into an agreement with the COM Director whereby the holder keeps and invests the unclaimed funds until such time as the funds are claimed. The act specifies that unclaimed funds and interest invested by the holder under such an agreement must be returned to the state when the funds are deemed abandoned and escheat.

### **Guidelines**

The act requires the COM Director to develop guidelines and procedures to implement the escheatment provisions including procedures addressing (1) repayment of unclaimed funds and interest that are invested in nonliquid assets, and (2) ensuring that the balance of the UFTF is sufficient to meet the state's financial obligations under the Unclaimed Funds Law.