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:

Quintile	Percentage
Fifth (highest capacity)	2%

Fourth	1.75%
Third	1.5%
Second	1.25%
First (lowest capacity)	1%

As each percentage increases incrementally each year, the amount of the payment decreases until the payments eventually end. (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 JVSDs 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).)

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[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

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[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,

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[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.