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## **DEPARTMENT OF ADMINISTRATIVE SERVICES**

### **State agency efficiency review**

- Requires designees from the Department of Administrative Services (DAS) and the Office of Budget and Management (OBM) jointly to review functions and programs of state agencies with the purpose of identifying areas for consolidation.
- Not later than January 1, 2020, requires the designees to identify agency functions and programs to be consolidated.
- Allows the DAS Director to transfer employees, equipment, and assets of a consolidated program.
- Allows the OBM Director to cancel and re-establish encumbrances and make other necessary budget changes to reflect the consolidated programs.

### **Office of Information Technology funds**

- Creates the Enterprise Applications Fund within the state treasury.
- Adds certain fees and rates charged by DAS to the list of operating appropriation items for which the Information Technology Chief Information Officer must compute the amount of revenue attributable to amortization.
- Allows the OBM Director, on request from the DAS Director, to transfer cash from the MARCS Administration Fund, the Enterprise Applications Fund, or the Professions Licensing System Fund to the Major Information Technology Purchases Fund.

### **Coordinated vendor debarment**

- Requires state agencies to exclude from participation in state contracts, any vendors who have been debarred under any sections of the Revised Code.
- Provides for a general prohibition against vendor participation in any state contract for the duration of the debarment.
- Defines “participate,” “state contract,” and “state agency” for purposes of the general provision.
- Specifies that eligibility for participation in state contracts is restored only when the vendor is not otherwise debarred from state contracts.

### **Surplus property**

- Codifies a law that allows DAS to use the Investment Recovery Fund to pay the operating expenses of the Federal Surplus Property Program in addition to the State Surplus Property Program.

## **Death Benefit Fund recipient participation in state health plan**

- Requires a Death Benefit Fund recipient to file an election form with the Ohio Police and Fire Pension Fund Board of Trustees, rather than DAS, of the election to participate in a health benefit offered to state employees.
- Requires the Board to forward the form to DAS after approving the recipient's application for death benefits.
- Requires DAS to notify the Board of the amount of the cost of a recipient's benefits that the Board must withhold from the recipient's death benefit payments and forward to DAS.
- Requires the Board to pay DAS the remaining costs of the benefits, including any administrative costs, from appropriations made for that purpose.
- Specifies that receiving a health benefit does not make the recipient a state employee, and that a recipient who is a state employee is not eligible for a health benefit through the fund.
- Requires the DAS Director to provide the Board with election forms and notify the Board when a recipient enrolls, disenrolls, or re-enrolls in benefits or when DAS terminates a recipient's health benefits.

## **Vision benefits for state employees**

- Specifically includes vision benefits in the types of benefits DAS contracts for or otherwise provides to state employees.

## **Invoices for state purchases**

- Removes alternate options for inclusion in a state purchasing invoice; requires, instead that all items listed be on the invoice.

## **Public safety answering point staffing**

- Specifies that a public safety answering point (PSAP) may be deemed compliant with minimum staffing standard rules adopted by the Statewide Emergency Services Internet Protocol Network Steering Committee if it complies with all other operational standard rules.

## **Deferred Compensation automatic enrollment**

- Authorizes automatic enrollment of new state government employees in the Ohio Public Employees Deferred Compensation Program, and prescribes procedures for an employing authority to elect or cease automatic enrollment for new employees.
- Requires the Ohio Public Employees Deferred Compensation Board to establish the deferral amounts from the compensation of employees automatically enrolled in the program and investment options in which those amounts will be invested.

## **State agency efficiency review**

(Section 701.10)

The bill requires designees from the Department of Administrative Services (DAS) and the Office of Budget and Management (OBM) to jointly review functions and programs of state agencies to determine if any overlap or duplicative functions exist. The designees must collaborate with affected agencies in the course of their review and must determine the cost-effectiveness of the programming in terms of administrative and operational costs, including facilities, personnel, technology, supplies, contracts, and services.

By January 1, 2020, the DAS and OBM Directors jointly must determine, in consultation with the affected agencies, the functions that may be consolidated within and across state departments. The bill places a specific emphasis on facilities utilization, laboratory testing facility consolidation, and field or regional office operation consolidation, but the determination also may include other functions, programs, and services that would reduce costs and improve services and would be suitable for operation within OBM's Shared Services Center.

If the consolidation of functions results in consolidation within the Shared Services Center or otherwise impacts an employee not subject to Ohio's Public Employees' Collective Bargaining Law,<sup>1</sup> the DAS Director may assign, reassign, classify, reclassify, transfer, reduce, promote, or demote any transferred employee. Employment records and actions, including personnel actions, disciplinary actions, performance improvement plans, and performance evaluations transfer with the employee. The employees are subject to the policies, procedures, and work rules of the agency to which they are transferred. The bill also gives the DAS Director authority to transfer equipment and assets relating to a program or function that is being consolidated to the department that is newly responsible for the functions after a consolidation.

Finally, after a consolidation occurs the OBM Director may make necessary budget changes, including cancelling and reestablishing encumbrances.

## **Office of Information Technology funds**

(R.C. 125.18)

The bill creates the Enterprise Applications Fund within the state treasury. Additionally, the bill adds the following to the list of operating appropriation items for which the Information Technology Chief Information Officer must compute the amount of revenue attributable to amortization:

--MARCS administration, including the user fees charged by DAS and deposited into the Marcs Administration Fund;

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<sup>1</sup> R.C. Chapter 4117.

--Enterprise applications, including the rates charged by DAS to benefiting agencies for the operation and management of information technology applications and deposited in the Enterprise Applications Fund;

--Professions licensing system, including the rates charged by DAS for the cost of ongoing maintenance of the professions licensing system and deposited into the Professions Licensing System Fund.

Under continuing law, the Chief Information Officer also must compute the amount of revenue attributable to the amortization of all equipment purchases and capitalized systems from information technology service delivery and major technology purchases operating appropriation items and major computer purchases capital appropriation items that are recovered as part of the information technology service rates charged by DAS and deposited into the Information Technology Fund.

Additionally, the bill allows the OBM Director, on request from the DAS Director, to transfer cash from the MARCS Administration Fund, the Enterprise Applications Fund, or the Professions Licensing System Fund to the Major Information Technology Purchases Fund.

## **Coordinated vendor debarment**

(R.C. 9.242, 125.25, 153.02, 5513.06, and 5525.03)

Specific sections of state law authorize the DAS Director, the Executive Director of the Ohio Facilities Construction Commission, and the Director of Transportation to debar vendors who have engaged in specified wrongdoing in the state contracting process. When each of those directors reasonably believes that grounds exist for debarment, they provide the vendor notice and an opportunity for a hearing, determine the length of debarment, and maintain a list of currently debarred vendors. When the debarment period ends, under each specific list, the vendor must be eligible to be awarded contracts by state agencies. The bill provides, in each section, that the vendor may be eligible if the vendor is not otherwise debarred under any list that applies to state contracts.

The bill also provides for a general provision in state law that prohibits any vendor who has been debarred on any list of debarred vendors from participating in state contracts including those specific sections and any other section of the Revised Code. The bill defines “participate,” “state contract,” and “state agency” for purposes of the general provision. “Participate” means to respond to any solicitation or procurement issued by a state agency or be the recipient of an award of a state contract, or to provide any goods or services to any state agency. “State contract” means any contract for goods, services, or construction that is paid for in whole or in part with state funds. “State agency” means “every organized body, office, or agency established by the laws of [Ohio] for the exercise of any function of state government” but does not include JobsOhio.

## Surplus property

(R.C. 125.14)

The bill codifies (makes permanent) a provision of law that allows DAS to use the Investment Recovery Fund to pay the operating expenses of the Federal Surplus Property Program in addition to the State Surplus Property Program. Currently, DAS may do so under a provision of the previous main operating budget act that expires June 30, 2019.<sup>2</sup>

Under the continuing Federal Surplus Property Program, DAS assists other state agencies, political subdivisions, and certain private entities in acquiring surplus property from the federal government. DAS deposits the fees it charges for that service in the Investment Recovery Fund.<sup>3</sup>

## Death Benefit Fund recipient participation in state health plan

(R.C. 124.824; Section 361.10)

The Ohio Public Safety Officers Death Benefit Fund pays benefits to the surviving spouse, children, or, in limited cases, surviving parent, of a law enforcement officer or firefighter killed in the line of duty.<sup>4</sup> Under continuing law, a Death Benefit Fund recipient who is a spouse or child may elect to participate in any medical, dental, or vision benefit (a “health benefit”) that DAS contracts for or otherwise provides to state employees. The bill specifies that a recipient receiving a health benefit through the fund is not a state employee. Also, under the bill, if a recipient is eligible to receive these health benefits as a state employee, the recipient cannot receive them through the fund. Continuing law also excludes a recipient eligible to enroll in the federal Medicare program from receiving these benefits through the fund.

Continuing law requires the DAS Director to develop forms for a recipient to enroll, disenroll, or re-enroll in health benefits. The bill requires the DAS Director to provide these election forms to the Ohio Police and Fire Pension Fund Board of Trustees (which administers and serves as the trustees of the fund) and to notify the Board when a recipient enrolls, disenrolls, or re-enrolls in benefits, or when DAS terminates the benefits of a recipient. To receive health benefits through the fund, a recipient must file the election form with the Board of Trustees, rather than with DAS as under current law. The Board of Trustees must forward the election form to DAS after the Board has approved an application for death benefits.

The bill requires DAS to notify the Board of Trustees of the amount of the cost for a recipient’s health benefits that the Board must withhold from the recipient’s death benefit payments and forward to DAS, rather than requiring the recipient to pay the premium or cost directly to DAS as under current law. The amount withheld is the amount of the cost that would be paid by a state employee for those benefits. Under the bill, the Board must pay DAS the

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<sup>2</sup> Sections 207.40 and 809.10 of H.B. 49 of the 132<sup>nd</sup> General Assembly, not in the bill.

<sup>3</sup> R.C. 125.84 and 125.87, not in the bill.

<sup>4</sup> R.C. 742.63, not in the bill.

remaining cost of the benefits and any administrative costs from appropriations made for that purpose.

The bill appropriates additional funding for health benefits for Death Benefit Fund recipients, which has an immediate effective date. The appropriation language includes a similar provision regarding the administration of health benefits for Death Benefit Fund recipients, thus appearing to give that provision an immediate effective date. The appropriation language also specifies that the administrative costs paid by the Board to DAS cannot exceed 2% of the total costs of the benefits. This cap applies to the FY 2020-FY 2021 biennium.<sup>5</sup>

Under continuing law, the Board must provide DAS with any information DAS requires to provide the benefits. The bill adds that the Board must provide that information to a designated third-party administrator or to both the third-party administrator and DAS.

## **Vision benefits for state employees**

(R.C. 124.82)

The bill specifically includes vision benefits in the types of benefits for which DAS may contract. Continuing law requires DAS to contract for the issuance of a policy or contract of health, medical, hospital, dental, or surgical benefits, or any combination of those benefits, covering state employees. DAS, under continuing law, also may offer these benefits directly.

## **Invoices for state purchases**

(R.C. 125.01)

The bill changes the current definition of “invoice” in the state purchasing law to require all of the items specified to be described in the itemized listing showing delivery of the supplies or service contracted for in the order: date of purchase or rendering of the service; an itemization of things done, material supplied, or labor furnished; and the sum due under the contract. The current definition of “invoice” provides for an option of including, in the itemized listing showing delivery of the supplies or performance of the service described in the order, either the date of purchasing or rendering of the service *or* an itemization of the things done, material supplied, or labor furnished, and the sum due under the contract. Among other things an “order” (contract) must include an authorization to pay for the contemplated expenditure, signed by the person instructed and authorized to pay upon receipt of a proper invoice. A proper invoice must include all of the items listed above.

## **Public safety answering point staffing**

(R.C. 128.021)

The bill specifies that a public safety answering point (PSAP) may be deemed compliant with rules for PSAP minimum staffing standards, if the PSAP can demonstrate its compliance with all other rules for operational standards.

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<sup>5</sup> Section 812.23.

Under current law, the Statewide Emergency Services Internet Protocol Network Steering Committee is responsible for advising the state regarding a statewide emergency services Internet protocol network and the dispatch of emergency service providers.<sup>6</sup> The Steering Committee is also responsible for adopting rules that establish the technical and operational standards for PSAPs. A PSAP is a facility to which 9-1-1 system calls for a specific territory are first routed for response. PSAP personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message, or transferring the call, to the appropriate provider.<sup>7</sup>

## **Deferred Compensation automatic enrollment**

(R.C. 148.01, 148.04, 148.041, and 148.042)

### **Overview**

The bill authorizes employers of state government employees to automatically enroll new employees in the Ohio Public Employees Deferred Compensation Program. Both state and local government employees may elect to participate or not participate in the program under continuing law. Under the program, a portion of a participating employee's income is deferred and invested for retirement free of federal and state income tax until these amounts are paid to the employee. The Ohio Public Employees Deferred Compensation Board must administer the program to result in favorable tax treatment under the federal Internal Revenue Code (I.R.C.). The Board has established the plan under I.R.C. 457(b), which permits pretax deferrals, and adopted a plan document that governs the plan.<sup>8</sup> The program is distinct and separate from the state retirement systems, and any contributions to it are voluntary and in addition to contributions to the retirement systems.

### **Automatic enrollment**

An employing authority may not elect automatic enrollment, or elect to cease it, if doing so would conflict with a collective bargaining agreement between the employer and an exclusive representative (essentially, a union) representing its employees. The Supreme Court, House of Representatives, Senate, Legislative Service Commission, Secretary of State, State Auditor, State Treasurer, or Attorney General is the employing authority for their employees, and the Department of Administrative Services is the employing authority for other state officials and employees who are paid by OBM Director warrant.

An employing authority that elects automatic enrollment for new employees must notify the Board. Automatic enrollment begins as soon as administratively practical for the Board and the employing authority. An eligible employee is automatically enrolled in the

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<sup>6</sup> R.C. 128.02(C), not in the bill.

<sup>7</sup> R.C. 128.01(P), not in the bill.

<sup>8</sup> 26 United States Code (U.S.C.) 457(b) and *Amended Plan Document as of December 1, 2018*, Ohio Public Employees Deferred Compensation Program, <https://www.ohio457.org/tcm/ohio457/static/PlanDoc.pdf>.

program if one of the following occurs on or after the date the employing authority begins automatic enrollment:

- The employee initially begins employment with the employing authority;
- An employee who had but is not currently contributing to the program separates from employment with an employing authority and begins employment with an employing authority that has elected automatic enrollment;
- An employee employed in a state government position transfers employment from an employing authority that has not elected automatic enrollment to another state government position with an employing authority that has elected automatic enrollment (this does not apply to an employee who is already participating in the program).

An employing authority that elects automatic enrollment must provide an employee subject to it with notice of the employee's rights and obligations in the manner prescribed by the Board. The bill does not indicate whether an employee who is automatically enrolled may choose not to participate. However, the plan document specifies that the employee has 90 days after notice of enrollment is given to make an affirmative election to "opt-out" before deferrals are made.<sup>9</sup>

An employing authority may cease automatic enrollment of its employees by notifying the Board and specifying the date it will cease, which must be at least 90 days after the notice is sent. Cessation of automatic enrollment does not affect the employees already enrolled. Employees who begin employment after automatic enrollment ceases may still choose to enroll. An employing authority that ceases automatic enrollment may subsequently elect automatic enrollment by notifying the Board.

### **Deferral amounts and investment options**

Under the bill, the Board establishes the amounts that will be deferred from the compensation of employees automatically enrolled. Deferral amounts are not to exceed the lesser of 10% of an employee's compensation or the maximum contribution permitted by federal law. For 2019, the general limit on the amount that may be deferred is the lesser of the participant's annual compensation or \$19,000, although participants who are within three years of normal retirement age or wish to "catch up" may have higher amounts deferred.<sup>10</sup> (Contributions to the program are in addition to the contributions employees must make to the state retirement systems. Employee contributions to the retirement systems range from 10% of salary for most members of the Public Employees Retirement System (PERS) to 14% of salary

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<sup>9</sup> *Amended Plan Document as of December 1, 2018*, Section 2.02, Ohio Public Employees Deferred Compensation Program, <https://www.ohio457.org/tcm/ohio457/static/PlanDoc.pdf>.

<sup>10</sup> "Retirement Topics – 457(b) contribution limits," Internal Revenue Service, <https://www.irs.gov/retirement-plans/plan-participant-employee/retirement-topics-457b-contribution-limits>.

for members of the State Teachers Retirement System.<sup>11</sup> Employers also contribute on behalf of employees, with contributions ranging from an amount equal to 14% of employee salaries (PERS) to an amount equal to 26.5% (State Highway Patrol Retirement System).<sup>12</sup>)

The bill also requires the Board to specify the investment options into which deferred amounts will be invested for employees who are automatically enrolled. Currently, participants choose the options in which the deferred amounts are invested.<sup>13</sup>

### **IRS authorization of automatic enrollment**

Neither the I.R.C. nor related regulations specifically authorize automatic enrollment in 457(b) plans. However, the Internal Revenue Service concluded in a private letter ruling that including automatic enrollment in a county's 457(b) plan did not cause the plan to be in violation of federal law.<sup>14</sup> A private letter ruling applies only to the party requesting it, but is an indication of how the Internal Revenue Service views a particular issue.

### **Tax treatment**

The Board is required by current law to undertake to obtain as favorable conditions of tax treatment as possible regarding distribution of deferred amounts and earnings, beneficiary designations, and optional provisions. Under the bill, instead of being subject to "applicable contract provisions," the Board's action in this regard is subject to the program plan. The bill adds a new requirement that the Board take all actions necessary to ensure that the program qualifies as an eligible deferred compensation plan under I.R.C. 457(b).

### **Informational materials**

The bill retains a provision of current law that requires employers of state employees to do both of the following:

- Provide each new employee with materials provided by the Board regarding the advantages of long-term savings through deferred compensation;
- Secure, in writing or by electronic means, the employee's election to participate or not participate in the program.

The bill provides, however, that these requirements do not apply for employees who will be automatically enrolled in the program. Also, if an eligible employee who is already a

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<sup>11</sup> R.C. 145.47 and 3307.26, not in the bill, and OPERS, Reference Tables: "Contribution Rates," <https://www.opers.org/employers/tables/index.shtml>.

<sup>12</sup> R.C. 145.48 and 5505.15, not in the bill, and OPERS, Reference Tables: "Contribution Rates," <https://www.opers.org/employers/tables/index.shtml>.

<sup>13</sup> "Understanding Investment Options," Ohio Public Employees Deferred Compensation Program, <https://www.ohio457.org/iApp/tcm/ohio457/investments/investment-options/index.jsp>.

<sup>14</sup> Internal Revenue Service, PLR 201743002, October 20, 2017, <https://www.irs.gov/pub/irs-wd/201743002.pdf>.

program participant transfers employment from one position paid by OBM Director warrant to another such position, the employer is not required to secure the employee's election of whether to participate.

Under continuing law, the Board must provide informational materials and participation forms to employers. An election must be forwarded to the Board not later 45 days after the date the employee's employment begins.

### **Contract**

The bill changes the requirement that an employer contract with an employee on the employee's application for participation in the program to a requirement that the employer enroll the employee on the employee's application to participate, on the employee's election on first being employed, or on the employee's being automatically enrolled. The bill also changes the definition of "participating employee" from an eligible employee who is having compensation deferred pursuant to a contract to an eligible employee who is having compensation deferred pursuant to either an agreement entered into with the employee's employer and the Board or automatic enrollment in the program.