OFFICE OF BUDGET AND MANAGEMENT

- Provides that records or documents received by the Office of Internal Audit in the Office of Budget and Management (OBM) for the purpose of conducting internal audits of state agencies that are otherwise exempt from disclosure under state or federal law are not public records.
- Clarifies that infrastructure records that are an internal audit report or work paper of the Office are exempt from disclosure as a public record.
- Changes terminology in the Controlling Board law governing the expenditure of excess money from certain state funds.
- Requires surplus end-of-year revenue, before it is credited to the Income Tax Reduction Fund, to be used to offset costs to the GRF resulting from the Tax Commissioner lowering income tax rate withholding tables.
- Requires the Tax Commissioner to consult with OBM before adjusting income tax withholding tables.

OBM internal audit and confidential documents

(R.C. 126.48)

The bill provides that any internal audit report produced by the Office of Internal Audit in the Office of Budget and Management (OBM), and all work papers of the internal audit, are confidential and not public records until the final report of the findings and recommendations has been submitted. The bill adds that any record or document necessary for the performance of an internal audit received by OBM's Office of Internal Audit, that is otherwise exempt from disclosure as a public record under state or federal law, is also exempt from disclosure by the Office. Current law provides only that a preliminary or final report of an internal audit's findings and recommendations is not a public record until the final report is submitted. The bill also clarifies that any internal audit report or work paper that meets the definition of a security record or infrastructure record under current law is not a public record.

Expenditure of excess revenue

(R.C. 131.35)

The bill changes terminology in the law governing the expenditure of excess money received into certain state funds from which the Controlling Board may make transfers. Current law requires that excess "funds" received into those state "funds" be spent according to certain requirements, including when an appropriation can be increased or transferred. Because the term "fund" is defined in R.C. Chapter 131 and to clarify the terms used in the amended statute, under the bill, these requirements would apply to "revenue" received into these state funds.

Disposition of surplus revenue

(R.C. 131.44 and 5747.06; Section 812.20)

The bill permanently reprioritizes how end-of-year surplus GRF revenue is allocated. Under continuing law, surplus revenue is first allocated to the Budget Stabilization Fund (BSF or the so-called "rainy-day fund") until that fund reaches a balance equal to 8.5% of GRF revenue from the preceding fiscal year. Then, under current law, any remaining revenue is to be distributed to the Income Tax Reduction Fund (ITRF), which is used to subsidize the GRF, Local Government Fund, and Public Library Fund for revenue losses sustained from a temporary reduction in income tax rates funded by the surplus. This income tax reduction is triggered once the balance of the ITRF exceeds 0.35% of income tax collections during the fiscal year. The reduction lasts for only one year.

The bill redistributes GRF surplus revenue if, during the fiscal year, the Tax Commissioner intends to lower employer income tax withholding tables because of surplus GRF revenue from the preceding fiscal year. The Commissioner is required under continuing law to prescribe the amounts employers must withhold from employee compensation to approximate the income tax estimated to be due from that compensation. If income tax rates are reduced and the Commissioner decides to correspondingly reduce withholding rates, the result is that state income tax cash flow is temporarily distorted until the end of the fiscal year in which withholding adjustment took effect.

Presumably to mitigate this adverse cash flow impact, the bill requires the Commissioner, in consultation with OBM to certify to OBM, by July 31, of the estimated amount of revenue that will be forgone by the GRF in the current fiscal year as a result of the intended withholding adjustment. The Director of OBM then transfers new Income Tax Withholding Fund surplus GRF revenue in excess of that credited to the BSF, up to the amount certified by the Commissioner. That revenue, in turn, is transferred to the GRF as those funding reductions take effect.

Any surplus revenue in excess of the amount needed to make that transfer is credited to the ITRF. Moreover, any balance remaining in the Income Tax Withholding Fund at the end of the fiscal year is transferred to the ITRF.

Though this redistribution begins to apply in FY 2020, a separate provision in the bill (Section 513.10) temporarily arrests any transfer of FY 2019 surplus revenue as described above by keeping it in the GRF for FY 2020. Similarly, FY 2020's surplus revenue is retained in the GRF for FY 2021 (Section 513.20). This provision repurposes the FY 2019 surplus revenue for a variety of projects and purposes, including the H2Ohio Fund (see "**H2Ohio Fund**") and disaster services, addiction program, tobacco use prevention, and economic development programs.

The bill specifies that the Tax Commissioner may make withholding-table adjustments even if the Commissioner misses the deadline to notify OBM to direct surplus revenue to hold the GRF harmless for the resulting revenue loss.

Income tax withholding

(R.C. 5747.06)

The bill requires the Tax Commissioner to consult with OBM before adopting any rule to adjust income tax withholding tables regardless of whether it affects the disposition of surplus revenue.