Ohio Legislative Service Commission

Phil Cummins and other LSC staff

Fiscal Note & Local Impact Statement

Bill: Proposed Sub. H.B. 318 of the 128th G.A. (LSC 128 1604-5)

Date: November 20, 2009

Status: In Senate Finance & Financial Institutions

Sponsor: Rep. Sykes

Local Impact Statement Procedure Required: No – minimal local cost in the As Introduced version

Contents: Makes appropriation and other changes to the operation of state and local government

The fiscal effects of the appropriations and other changes in this bill are discussed in the following sections:

Section 1: Taxation

Section 2: Education

Section 3: General Government

Section 4: Judiciary

Section 5: Health and Human Services

Section 1: Taxation

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
General Revenue Fund			
Revenues	Gain of up to $291 million from delay in income tax rate decline	Gain of up to $332 million from delays in income tax rate decline and indexing	Gain estimated at $56 million per year from delay in indexing tax brackets for inflation
	- 0 -	Gain of up to $200 million in casino licensure fees	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- Delay in part of the income tax rate reduction scheduled for tax year 2009 until 2011 would increase GRF revenues in the current biennium. Delaying indexing of tax brackets for inflation from tax year 2010 to 2012 would increase GRF revenues starting in FY 2011.
- The income tax rate reduction may be increased based on anticipated casino gaming and video lottery terminal revenue to the state.
- The bill requires revenue from casino licensure fees to be deposited in the GRF in FY 2011.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
Local Government Funds			
Revenues	Gain of up to $17 million	Gain of up to $20 million	Gain estimated at $4 million per year
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Delay in part of the income tax rate reduction scheduled for tax year 2009 until 2011 would increase revenues to the local government funds in the current biennium. Delaying indexing of tax brackets for inflation from tax year 2010 to 2012 would increase revenues to the local government funds starting in FY 2011.

Detailed Fiscal Analysis

Use of casino licensure fees

Issue 3, the constitutional amendment authorizing the establishment of four full-service casinos in Cleveland, Cincinnati, Columbus, and Toledo, establishes license fees of up to $200 million ($50 million per casino). Issue 3 designates revenue from the license fee for "regional job training programs." The bill specifies that revenue from the licensure fees be deposited in the GRF in FY 2011 "to offset regional job development costs already incurred by the state." This provision increases GRF revenue in FY 2011 by up to $200 million.

Delay of income tax rate reduction, with trigger for full phase-in

The bill delays part of the income tax rate reduction scheduled for tax year (TY) 2009, allowing a 1.4 percentage point reduction instead of the full 4.2 percentage point reduction scheduled in current law. The full rate reduction goes into effect in TY 2011. The bill also delays indexing of the income tax brackets for inflation, measured by the price index for gross domestic product, from TY 2010 until TY 2012. These changes will increase personal income tax revenues, on an all-funds basis, in FY 2010 by an estimated $309 million, and will increase FY 2011 revenues by an estimated $351 million. GRF revenues would be increased by an estimated $291 million in FY 2010 and $332 million in FY 2011. Revenues to the local government funds, which receive 5.65% of total tax revenues during the current biennium, would increase an estimated $17 million in FY 2010 and $20 million in FY 2011. Because changes in tax brackets for inflation are cumulative, delaying the start of indexing by two years will result in higher income tax revenues after the current biennium, with the amount of the increase dependent on inflation in calendar years 2009 and 2010. The delay in the start of indexing is currently estimated to increase income tax revenues by $60 million per year in TY 2011 and thereafter, on an all-funds basis, including $4 million in additional revenues to the local government funds and $56 million in added revenues to the GRF.

The bill also requires the Director of Budget and Management to estimate, before the end of calendar years 2009 and 2010, the amount of casino gaming and video lottery terminal revenue that will be received in the then current fiscal year, and to certify that amount to the Tax Commissioner. Based on this estimate, the Tax Commissioner is required to compute adjustments to tax rates, uniform across brackets, that will reduce income tax revenue by an amount equal to that certified by the Director of Budget and Management. The rate reduction is limited by the rates specified for TY 2011, which equal those specified in current law for TY 2009.

The bill provides a safe harbor for taxpayers who underpaid their estimated tax payments because of the delay by this bill in the rate decline previously scheduled for TY 2009. This provision appears to hold unchanged the amount of any interest penalty owed by these taxpayers.

Section 2: Education

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
General Revenue Fund – Department of Education			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	$309.4 million increase	$600.5 million increase	- 0 -
Lottery Profits Education Fund (Fund 7017)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	$285.2 million decrease	$566.3 million decrease	- 0 -
General Revenue Fund – Department of Administrative Services			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase from taking over School Employees Health Care Board		

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The bill increases GRF appropriation item 200550, Foundation Funding, by $285.2 million in FY 2010 and $566.3 million in FY 2011 and decreases Lottery Profits Education Fund (Fund 7017) appropriation item 200612, Foundation Funding, by the same amount.
- The bill increases GRF appropriation item 200511, Auxiliary Services, by $17.4 million in FY 2010 and $24.4 million in FY 2011, and GRF appropriation item 200532, Nonpublic Administrative Cost Reimbursement, by $7.6 million in FY 2010 and $10.6 million in FY 2011.
- The bill eliminates GRF appropriation item 200458, School Employees Health Care Board, with an appropriation of $0.8 million in each of FYs 2010 and 2011.
- The bill's transfer of the duties and responsibilities of the School Employees Health Care Board from the Department of Education to the Department of Administrative Services (DAS) may increase DAS expenditures if DAS must absorb any costs related to the Board's operations.

Local Fiscal Highlights

- The bill delays by one year the requirement for districts to provide all-day kindergarten and the effective date of rules regarding school districts' expenditure of funds for core teachers. Any costs related to these requirements will, therefore, also be delayed.
- The bill permits certain school districts to terminate district transportation staff for reasons of economy and efficiency. Presumably, districts will take advantage of this provision only if it leads to reductions in transportation expenditures.

Detailed Fiscal Analysis

Department of Education appropriations

The bill amends H.B. 1 of the 128th General Assembly to make changes to certain appropriations for the Ohio Department of Education (ODE). It increases GRF appropriation item 200550, Foundation Funding, by $285.2 million in FY 2010 and $566.3 million in FY 2011 and decreases Lottery Profits Education Fund (Fund 7017) appropriation item 200612, Foundation Funding, by the same amount. These two appropriation items are both used to fund state formula aid payments to public schools.

The bill increases GRF appropriation item 200511, Auxiliary Services, by $17.4 million in FY 2010 and $24.4 million in FY 2011. This appropriation item provides assistance to chartered nonpublic elementary and secondary schools. The bill also increases GRF appropriation item 200532, Nonpublic Administrative Cost Reimbursement, by $7.6 million in FY 2010 and $10.6 million in FY 2011. This appropriation item is used to reimburse chartered nonpublic schools for mandated administrative costs.

The bill eliminates GRF appropriation item 200458, School Employees Health Care Board, with an appropriation of $800,000 in each of FYs 2010 and 2011. This line item supported staff hired by the School Employees Health Care Board to provide administrative support to the Board. Prior to FY 2010, funding was in the budget of the Department of Administrative Services (DAS).

School Employees Health Care Board

In addition to eliminating the GRF appropriation for the School Employees Health Care Board, the bill transfers any duties and responsibilities of the board that were acquired by ODE because this appropriation for the board was in ODE's budget to DAS. As a result, any costs related to the Board's operations will be shifted from ODE to DAS.

All-day kindergarten

H.B. 1 requires all school districts to provide all-day kindergarten beginning in FY 2011. The bill delays this requirement until FY 2012. To the extent that school districts may incur costs in complying with this requirement, the bill's delay may reduce districts' expenditures by postponing these costs or by providing additional time to implement less costly methods of compliance.

The cost of the requirement to provide all-day kindergarten varies depending on the circumstances of the school district. Many districts already provide the service and should, therefore, incur no additional cost. Prior to FY 2010, the state provided funding for all-day kindergarten to districts with concentrations of poverty students above the state average. In FY 2009, 129 districts (21.1%) received this funding and provided approximately 50,600 kindergartners with all-day services. This represents a comparatively high percentage of statewide kindergartners (38.2%), since many of the state's largest districts are among these 129. On a survey conducted by ODE as a result of H.B. 190 of the 127th General Assembly, 187 additional districts that were not receiving state assistance for all-day kindergarten reported providing all-day kindergarten services to at least 50% of their kindergarten students, or approximately 22,800 kindergartners (17.2% of the statewide total).[1]

For those districts that are not already providing all-day kindergarten there may be both operating and facilities costs. Presumably, switching from half-day to all-day services is similar to doubling the number of kindergarten students served. For example, in a half-day program one full-time teacher could teach 40 children in one classroom – 20 in the morning then 20 in the afternoon. The same 40 children in an all-day program would require two teachers and two classrooms. A cost may also be incurred in expanding the curriculum to cover more material.

The state's current school funding formula defines an adequacy amount for each school district that is partially based on the number of students in the district. Under this model, the marginal adequacy amount for a "typical"[2] kindergarten student based on FY 2010 assumed salary levels is about $6,100.[3] The marginal adequacy amount is a measure of the increase in the adequacy amount if the district's kindergarten student average daily membership[4] (ADM) increased by one student. Half this amount ($3,050) may be one proxy for the additional operating costs of increasing services from half-day to all-day for one kindergarten student.

The cost of facilities will largely depend on each district's current capacity. A district that is growing may need to add classroom space. A district that is losing students may already have the classroom space available. Continuing law provides districts with facilities constraints the option of using space in child day-care centers for kindergarten classes. This may be a less costly option for districts than constructing new facilities. Districts may also apply for a waiver from the all-day kindergarten requirement and the Superintendent may consider space concerns when determining whether to grant the waiver.

---

[1] Some of these additional districts reported charging tuition for all-day kindergarten. H.B. 1 prohibits this practice beginning in FY 2012.

[2] In this context, "typical" means a student who receives no special services, for instance, special education, LEP services, supplemental services, etc. This calculation also assumes an educational challenge factor of 1.0.

[3] This is assuming the student-to-teacher ratio of 19 to 1 for kindergarten students but otherwise fully phasing in the components of the model.

[4] ADM is the measure the state uses for the number of students funded in each district.

Expenditures for core teacher funding

H.B. 1 requires the Superintendent of Public Instruction to adopt rules regarding school districts' expenditure of certain funds received from the state, including funds for core teachers. H.B. 1 also stipulates that the rules may not be effective before FY 2011. The bill modifies this provision so that the rules regarding expenditures of state funds for core teachers may not be effective before FY 2012. To the extent that school districts may incur costs in complying with this requirement, the bill's delay may reduce districts' expenditures by postponing these costs or by providing additional time to implement less costly methods of compliance. The cost of compliance with the rules regarding expenditures of state funds for core teachers will depend on the rules actually adopted by the Superintendent.

Termination of transportation staff

The bill permits non-Civil Service school districts (local, exempted village, and some city districts) to terminate district transportation staff for reasons of economy and efficiency under certain conditions. This provision of the bill is identical to prior law that was repealed effective October 16, 2009, by H.B. 1. Presumably, districts will take advantage of this provision only if it leads to reductions in transportation expenditures.

Performance ratings for school districts and buildings

The bill makes several changes to the way adequate yearly progress (AYP) affects individual school district and building report cards. Report card ratings do not have a direct fiscal effect on school districts, so the bill's changes will have no direct fiscal effect either. Possible indirect effects of report card ratings may include state sanctions, interventions, and services for districts with low ratings, and exemptions from certain state mandates for districts with high ratings.

Junior ROTC

The bill adds Junior Reserve Officer Training (ROTC) to the list of electives permitted under the Ohio Core curriculum. The Ohio Core establishes the state's minimum high school curriculum that must be completed by students of public and nonpublic schools in order to earn a high school diploma. The Ohio Core first applies to members of the Class of 2014. This change may give schools more flexibility when establishing their high school curricula, but is not likely to have any significant fiscal effect on the state or school districts.

Section 3: General Government

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
Transfers			
General Revenue Fund			
Revenues	Gain of $15 million per year in FY 2010 and FY 2011 from transfers-in of liquor profits		- 0 -
	Gain of $15 million per year in FY 2010 and FY 2011 from transfers-in from the Low- and Moderate-Income Housing Trust Fund		- 0 -
Expenditures	- 0 -		- 0 -
Liquor Control Fund (Fund 7043) – Department of Commerce			
Revenues	- 0 -		- 0 -
Expenditures	Increase of $15 million per year in FY 2010 and FY 2011 from transfers-out to the GRF		- 0 -
Low- and Moderate Income Housing Trust Fund (Fund 6460) – Department of Development			
Revenues	- 0 -		- 0 -
Expenditures	Increase of $15 million per year in FY 2010 and FY 2011 from transfers-out to the GRF		- 0 -
Department of Natural Resources			
Oil and Gas Well Fund (Fund 5180)			
Revenues	- 0 -	Gain from oil and gas leases, well permit fees, royalties, and severance taxes	
Expenditures	Potential increase to begin implementation of oil and gas drilling in Salt Fork State Park	Increase to administer oil and gas drilling in Salt Fork State Park	
Department of Administrative Services			
State Architect's Fund (Fund 1310)			
Revenues	Gain in fees related to construction reform		
Expenditures	Increase in administrative costs related to construction reform		
IT Governance Fund (Fund 2290) or IT Services Delivery Fund (Fund 1330)			
Revenues	- 0 -		
Expenditures	Increase to implement statewide electronic form and process automation plan		
Auditor of State			
Public Audit Expense – Intrastate Fund (Fund 1090)			
Revenues	(1) Potential gain in performance audit fees from BWC, DNR, and EPA		
	(2) Potential gain in financial audit fees for examining BWC reserves (FY 2010 only)		
Expenditures	Increase for conducting required audits		
Various Funds – BWC, EPA, and DNR			
Revenues	- 0 -		
Expenditures	Potential increase in performance audit fees paid to the Auditor of State		

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

Transfers to the GRF

- **Liquor Control Fund transfers to GRF.** The bill requires the Director of Budget and Management to transfer $15 million per year from the Liquor Control Fund (Fund 7043) to the GRF in FY 2010 and FY 2011, notwithstanding any transfers of excess liquor profits to the GRF authorized in current law. Currently, planned transfers of excess liquor profits are $143 million in FY 2010 and $136.3 million in FY 2011.
- **Low- and Moderate-Income Housing Trust Fund transfers to GRF.** The bill requires the Director of Budget and Management to transfer $15 million per year from the Low- and Moderate-Income Housing Trust Fund (Fund 6460) to the GRF in FY 2010 and FY 2011. Currently, appropriations to the fund are $53.0 million in each fiscal year.

Department of Natural Resources

- **Oil and gas drilling.** The bill allows for the drilling of oil and natural gas in Salt Fork State Park. The Oil and Gas Well Fund (Fund 5180) in the Department of Natural Resources would likely incur some costs for oversight. Any resulting oil and gas lease payments, permit fees, royalties, and severance taxes would be deposited in this fund.
- **Soil and Water Conservation District Assistance Fund.** The bill requires that 50% of the proceeds from the $1 per tire fee on the sale of new tires be directed to the Soil and Water Conservation District Assistance Fund (Fund 5BV0). The $1 fee is estimated to raise about $3.2 million yearly. Diverting 50% of these proceeds to Fund 5BV0 will increase funding to that fund by an estimated $1.6 million in FY 2011 and by a lesser amount, perhaps roughly $0.5 million, in FY 2010, depending on when these provisions become effective. This would decrease funding to the Environmental Protection Administration's Scrap Tire Management Fund (Fund 4R50) by the same amounts.
- **Lake Hope State Park.** The bill requires that the Department of Natural Resources use the insurance proceeds for the fire at the Lake Hope State Park Dining Lodge on February 10, 2006, for reconstruction of the lodge. This restriction precludes any use of these funds for other purposes. The $5 million insurance settlement payment was made to the State Park Fund (Fund 5120).

Energy facilities

- **Permitting and financial assistance.** The bill requires the Department of Development, Department of Natural Resources, and the Environmental Protection Agency to streamline permitting processes related to certain energy projects and administering the Energy Planning Task Force. In addition, the bill modifies the definition of "air quality facility" in the Air Quality Development Authority Law to include facilities or projects that will assist Ohio in achieving energy independence and allows the Air Quality Development Authority to construct, operate, and issue air quality revenue bonds for the funding of such projects and facilities.

Construction reform

- **Additional construction contract models.** The bill allows state agencies, including the School Facilities Commission (SFC) to choose the manager-at-risk or design-build construction contract model for capital projects. The flexibility to choose other forms of contracts may or may not result in construction savings, some of which could be used to fund other construction projects. The bill includes a number of related provisions.

Auditor of State

- **Performance audits of selected state agencies.** The bill requires the Auditor of State to conduct performance audits of the Bureau of Workers' Compensation, Environmental Protection Agency, and Department of Natural Resources that focus on the timeliness and effectiveness of agency regulatory procedures. The fees that the Auditor collects from these agencies for these audits would be deposited into the Public Audit Expense – Intrastate Fund (Fund 1090).
- **Audit of Bureau of Workers' Compensation reserves.** The bill requires the Auditor of State to perform an audit of the Bureau of Workers' Compensation to determine if the amounts kept in reserve for injury claims are in excess of those required to meet obligations when compared to industry standards. The cost for the audit would be paid from the Public Audit Expense – Intrastate Fund (Fund 1090).

Department of Administrative Services

- **Electronic forms initiative.** The bill requires the Office of Information Technology (OIT) in the Department of Administrative Services to develop and implement an initiative to increase the use of electronic forms and automation throughout state agencies. Likely funding sources would be either the IT Governance Fund (Fund 2290) or the IT Services Delivery Fund (Fund 1330).

Study commissions and task forces

- **Commission on the Restructuring of State Government**. The bill creates a 15-member Commission on the Restructuring of State Government. No member of the Commission would be provided with any type of compensation. The Commission would be required to provide a report to the Governor, the Senate President, the House Speaker, and the Auditor of State by December 31, 2010.
- **Competitive Workers' Compensation Task Force.** The bill creates the Competitive Workers' Compensation Task Force. Presumably, the cost of any actuarial study that the Task Force obtains and any staff support would fall to the Bureau of Workers' Compensation, in which case these costs would be borne by the Workers' Compensation Fund (Fund 7023). The Task Force would be required to submit its findings to the Governor, Senate President, and House Speaker by December 31, 2010.
- **State employee four-day work week.** The bill creates a commission to determine the best process for transitioning state employees to a four-day work week. The bill

requires the commission to report its findings to the Senate President, the House Speaker, the Governor, and the Auditor of State, no later than December 31, 2010.

- **State Function Privatization Commission.** The bill creates the State Function Privatization Commission, consisting of 21 members appointed by the President of the Senate, the Speaker of the House of Representatives, the Governor, and the Auditor of State. The Commission is required to report its findings to legislative leadership, the Governor, and the Auditor of State no later than December 31, 2010.

Local Fiscal Highlights

- **Construction reform.** The bill permits school districts participating in a School Facilities Commission (SFC) assisted project to use the construction manager-at-risk or a design-build system, in addition to the lowest responsive, responsible bidder. This may provide school districts with some flexibility in selecting firms that will construct their facilities.
- **Regional councils of government – unit price contracts.** In addition to the existing types of contracting methods, the bill authorizes regional councils of government to enter into unit price contracts for certain types of projects. Presumably, these political subdivisions would select whatever form of procurement method is most efficient or provides greatest cost savings.

Detailed Fiscal Analysis

Transfers to the GRF

Liquor profit transfers to the GRF

The bill requires the Director of Budget and Management to transfer $15 million per year from the Liquor Control Fund (Fund 7043) to the GRF in FY 2010 and FY 2011, notwithstanding any transfers of excess liquor profits to the GRF authorized in current law. Currently, planned transfers of excess liquor profits are $143 million in FY 2010 and $136.3 million in FY 2011.

Housing Trust Fund transfers to the GRF

The bill requires the Director of Budget and Management to transfer $15 million per year from the Low- and Moderate-Income Housing Trust Fund (Fund 6460) to the GRF in FY 2010 and FY 2011, notwithstanding any current statutory requirements for the use of money in the fund. Currently, appropriations to the fund are $53.0 million in each fiscal year.

Department of Natural Resources

Oil and gas drilling on state lands

The bill grants the Department of Natural Resources (DNR) exclusive authority to lease lands in Salt Fork State Park for oil or natural gas drilling activities. DNR would likely incur initial administrative costs to begin the implementation of the program, including rulemaking. The Department would also likely incur increased ongoing administrative costs to oversee drilling activities on the land. Such costs would most likely be borne by the Oil and Gas Well Fund (Fund 5180).

The bill does not specify the fund into which lease payments would be made; however, it is likely this would be Fund 5180. The fund would also gain income from drilling permit fees, royalties, and severance taxes paid on the extraction of oil and gas. Currently, the severance tax is 10 cents per barrel of oil and 2.5 cents per 1,000 cubic feet of natural gas; 90% of receipts from the tax on oil and natural gas are credited to Fund 5180, and the remaining 10% is credited to the Geological Mapping Fund.

The amount of oil and gas reserves under Salt Fork State Park is unknown. Any actual revenues received from oil and gas drilling activities would depend on (1) the amount of acreage opened to drilling, (2) the rental rates established for private entities to conduct drilling activities on the land, (3) the viability of drilling given market conditions and oil and gas prices, (4) the number of active wells drilled, and (5) the volume of oil and gas produced from each active well. It should be noted that while exploration activity by oil and natural gas producers would generate leasing and permit income in fairly short order once drilling on state lands were approved, income directly tied to drilling activities would likely take longer to materialize. The timing of royalties and severance tax collections would depend on how quickly productive areas are exploited. Income from these sources could take several years to achieve peak levels. There would also be some decline over time as oil and gas reserves on state lands are depleted.

Reallocation of new tire fee – soil and water conservation districts

The bill provides that 50% of the proceeds from the $1 per tire fee on the sale of new tires is directed to the Soil and Water Conservation District Assistance Fund (Fund 5BV0). The $1 fee is estimated to raise about $3.2 million yearly. Diverting 50% of these proceeds to Fund 5BV0 will increase funding to that fund by an estimated $1.6 million in FY 2011 and by a lesser amount, perhaps roughly $0.5 million, in FY 2010, depending on when these provisions become effective, and decrease funding to the Scrap Tire Management Fund (Fund 4R50) by the same amounts.

Reconstruction of Lake Hope State Park Dining Lodge

The bill requires that the Department of Natural Resources use the insurance proceeds for the fire at the Lake Hope State Park Dining Lodge on February 10, 2006, for reconstruction of the lodge. This restriction precludes any use of these funds for other purposes. The $5 million insurance settlement payment was made to the State Park Fund (Fund 5120).

Energy facilities

Streamlined permitting for certain energy facilities

The bill requires the directors of Environmental Protection, Natural Resources, and Development to develop a streamlined permitting process for the siting or expansion of oil and gas refineries, coal gasification facilities, and other energy resource-related facilities. There could be some new administrative costs to these agencies for carrying out this process.

Energy Planning Task Force

The bill creates an Energy Planning Task Force to consist of the directors of Natural Resources, Environmental Protection, and Development or their designees; two members of each political party from the House of Representatives and the Senate; and various members representing Ohio's business community, energy sector, environmental groups, and who have expertise on alternative energy and coal gasification to be appointed by the Speaker of the House of Representatives and President of the Senate. The Task Force is charged with developing a state energy plan with the goal of maximizing access to and utilization of Ohio's energy resources, and is required to submit a report to the Governor and General Assembly. The bill requires DNR to provide technical support to the Task Force, which may result in unknown administrative costs to the Department.

Definition of "air quality facility"

The bill modifies the definition of "air quality facility" in the Air Quality Development Authority Law to include facilities or projects that will assist Ohio in achieving energy independence through the utilization of the state's resources such as facilities for the development of solar, wind, natural gas, oil, and other energy resources. Essentially, the bill allows the Air Quality Development Authority to construct, operate, and issue air quality revenue bonds for the funding of such projects and facilities. The bill may increase the Authority's administrative expenditures related to additional facilities and projects that would be eligible for construction, operation, and financial assistance from the Authority. However, LSC staff could not determine the amount of the fiscal impact to the Authority.

Construction reform

The bill makes extensive revisions to the state's current public improvement construction laws. These changes would affect all state agencies that oversee capital infrastructure, institutions of higher education, and would also have an impact on school districts that use School Facilities Commission (SFC) funds. The total amount spent on capital projects during FY 2009 was $1.7 billion. Expenditures by SFC ($1.05 billion) and the Board of Regents ($284.2 million) combined for $1.33 billion (78.2%) of this amount. Although the bill gives public entities flexibility in choosing project delivery methods, it is not clear what impact these changes would have on overall statewide public construction costs.

Additional construction models

In addition to the multiple-prime contract model required under current law, the bill would allow state agencies to choose the manager-at-risk or design-build construction contract model for capital projects. The flexibility to choose other forms of contracts may or may not result in construction savings, some of which could be used to fund other construction projects.

Higher contract thresholds

The bill increases from $50,000 to $600,000 the contract threshold for which agencies must divide up each branch of work in a construction project into separate contracts. The effect of this provision is unclear as the increased thresholds may or may not increase contract costs due to less competition amongst vendors. The bill would increase from $50,000 to $200,000 the contract threshold for which agencies must obtain additional design or construction documentation, such as full and accurate plans of the construction, a full and accurate estimate of each item of expense, and a life-cycle cost analysis. Agencies that contract with manager-at-risk or design-build firms would be exempted from this requirement altogether. This provision is expected to decrease costs for agencies that are not able to provide these services in-house.

Electronic bidding of contracts

The bill requires state agencies to electronically receive bids made by vendors on construction opportunities. Measures needed to be met in order to ensure that the bidding process remained both public, reliable, and secure would require electronic bidding to be accomplished via either a stand-alone system or integration with the OAKS Capital Improvements (OAKS CI) system. The cost of adding this functionality to OAKS CI would be a one-time cost of roughly $500,000.

Certification of general contractors and subcontractors

Under the bill, all general contractors bidding on projects below the $600,000 threshold would have to be pre-certified by the Department of Administrative Services (DAS). Additionally, all subcontractors bidding on portions of a contract controlled by a manager-at-risk or a design-build firm would also have to be pre-certified or qualified. The bill requires that the certification program be independently reviewed to ensure that the system adequately vets potential contractors. Counties and townships are not required to use contractors certified by DAS. Dependent upon the volume of work associated with the certification, DAS may be required to add staff to the State Architect's Office (SAO). As such, vendors would be charged a fee for certification. Fee revenue would be deposited in the State Architect's Fund (Fund 1310). The bill appropriates these additional amounts for use by the SAO to operate the certification program.

Public notices

The bill enables public owners to advertise construction opportunities by electronic means as an alternative to advertising in a newspaper or other periodical. All public improvement opportunities are already posted on the DAS web site (http://procure.ohio.gov/proc/stateConstructionOpps.asp). Thus, there would be no new costs associated with publishing this information on-line.

Auditor of State

Performance audits

The bill requires the Auditor of State to conduct performance audits of the Bureau of Workers' Compensation, Environmental Protection Agency, and Department of Natural Resources and submit a report of the results of each audit to the Governor, the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of the House of Representatives, the Minority Leader of the Senate, and the Inspector General. Audit costs are to be paid from the Auditor of State's Public Audit Expense – Intrastate Fund (Fund 1090). Typically, the Auditor of State bills agencies for these services at an hourly rate and deposits these receipts into Fund 1090. The current rate is $64.43 per hour. The bill does not specify whether these agencies would be charged for these audits.

Audit of the Bureau of Workers' Compensation funds

The bill requires the Auditor of State to perform an audit of the Bureau of Workers' Compensation (BWC) funds to determine if those amounts kept in reserve are in excess of those amounts necessary to satisfy the Bureau's obligations, when compared with such amounts kept by other workers' compensation entities. The Auditor of State is required to furnish its findings to the General Assembly by December 31, 2010. Because such a study could be quite complex, this would likely increase costs for the Auditor of State. Typically, the Auditor of State bills agencies for these services at an hourly rate and deposits these receipts into Fund 1090. The current rate is $64.43 per hour. The bill does not specify whether these agencies would be charged for these audits.

Department of Administrative Services

Electronic form and process automation

The bill requires the Office of Information Technology (OIT) in DAS to develop and implement an initiative to increase the use of electronic forms and automation throughout state agencies. OIT would be required to consider methods by which a smooth transition from paper to electronic forms can be achieved and any other related issues listed in the bill. The provision also requires that OIT report on its progress in implementing this initiative to the President of the Senate and Speaker of the House of Representatives by June 30, 2010.

There would likely be costs involved with developing and implementing such a plan. If the initiative required the purchase of new hardware or the development of new software, these costs could be substantial. Although the bill does not specify a funding source for this project, the cost would most likely be borne by either the IT Governance Fund (Fund 2290) or the IT Services Delivery Fund (Fund 1330), both of which are supported by user fees assessed to state agencies for information technology services. In the long run, it may be that this initiative leads to reduced paper consumption and document storage needs.

Study commissions and task forces

State Function Privatization Commission

The bill creates the State Function Privatization Commission, consisting of 21 members appointed by the President of the Senate, the Speaker of the House of Representatives, the Governor, and the Auditor of State. Commission members would serve without compensation or reimbursement for any expenses incurred in the performance of their duties.

Generally, the State Function Privatization Commission is tasked to reviewing the literature concerning privatization and learning about the performance auditing, cost saving, government restructuring, and privatization efforts of other commissions created by this bill. The Commission is also to identify and review all governmental and proprietary functions that are being performed by state agencies, and out of all these functions identify the particular functions that feasibly might be privatized to achieve greater efficiency in their performance and delivery along with the method that would offer the best means of privatizing the function. The bill allows the Commission to obtain research and technical services and support from any individual, state agency, organization, association, college, or university. The Commission is required to report its findings and recommendations along with the rationale for those recommendations to legislative leadership, the Governor, and the Auditor of State no later than December 31, 2010. Upon submission of its report, the Commission ceases to exist.

Commission on the Restructuring of State Government

The bill creates the 15-member Commission on the Restructuring of State Government, which would be responsible for devising and recommending an implementation plan and schedule for the restructuring of state government in substantially the manner prescribed by H.B. 25 and S.B. 52. Five members would be appointed by the President of the Senate, five by the Speaker of the House of Representatives, three by the Governor, and two appointed by the Auditor of State. No member of the Commission would be provided with any type of compensation. The Commission would be responsible for providing a report to the Governor, the Senate President, the House Speaker, and the Auditor of State by December 31, 2010.

Competitive Workers' Compensation Task Force

The bill creates the Competitive Workers' Compensation Task Force, which would be responsible for studying the feasibility of allowing employers to obtain workers' compensation insurance from an entity other than the Bureau of Workers' Compensation. The Commission would be comprised of 19 members. Members of the Commission would receive compensation only for travel expenses. The bill authorizes the Commission to contract with a firm that possesses significant actuarial evaluation experience to provide recommendations on how privatization of the Workers' Compensation system might be carried out. Any cost associated with providing administrative support and travel reimbursement for the Commission are likely to be quite small; however, the cost of contracting with an actuarial firm could be quite substantial. Presumably these costs would fall to the Bureau of Workers' Compensation, in which case any costs would be borne by the Workers' Compensation Fund (Fund 7023). The Task Force would be required to submit its findings to the Governor, the Senate President, and the House Speaker by December 31, 2010.

Commission on the four-day work week

The bill creates a commission to determine the best process for transitioning state employees to a four-day work week. The commission would consist of 15 members, with five being appointed by the President of the Senate, five being appointed by the Speaker of the House of Representatives, three being appointed by the Governor, and two being appointed by the Auditor of State. Members of the commission would not receive compensation of any type. The commission is permitted to obtain support for its work from individuals, professional organizations, state agencies, colleges, and universities. The bill requires the commission to report on its findings to the Senate President, the House Speaker, the Governor, and the Auditor of State, no later than December 31, 2010.

Regional council of governments contracting authority

The bill allows a regional council of government to enter into a contract that establishes a unit price for, and provides on a per unit basis, materials, installation, services, overhead, profit, and associated expenses for roofing repairs and replacement, athletic artificial, synthetic, or natural grass and turf, running track systems, and all related work if the contract is awarded under the competitive bidding procedure of a specified council member entity. The bill also specifies the conditions for meeting public notice requirements pertaining to the contract and prohibits a council member from participating in such a contract entered into by the council if the member has received bids for the same work under another contract unless the council's contract allows the member to obtain the same work under the same conditions but at a lower price.

Under a unit price contract, the contractor is paid a specific amount for each unit of work that is completed. This can potentially lower costs by providing a fair comparison between qualified contractors while allowing the project owner to pay only for the work that has been actually done. Unit contracts also permit some minor adjustments to the quantity of work completed without the need to renegotiate the unit price agreement. Presumably, a regional council of governments would opt for this type of contract if it determined that this contracting method would be the most efficient way to complete a project or the most likely way to achieve cost savings.

Section 4: Judiciary

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011 – FUTURE YEARS
General Revenue Fund (GRF)		
Revenues	Gain of between $1.63 million and $1.79 million from cash balance transfers	- 0 -
Expenditures	- 0 -	Up to $13.7 million potential annual incarceration cost savings, likely offset to some degree by need to increase funding for parole and community services operations
Victims of Crime/Reparations Fund (Fund 4020)		
Revenues	- 0 -	- 0 -
Expenditures	- 0 -	Potential increase up to around $1.4 million annually for GPS monitoring payments, subject to available cash balance
OMVI Enforcement/Education Fund (Fund 83G0)		
Revenues	Loss of approximately $330,000-$480,000 from cash balance transfer	- 0 -
Expenditures	Decrease, commensurate with revenue loss	- 0 -
Elementary School Seat Belt Program Fund (Fund 83N0)		
Revenues	Loss of approximately $1.15 million from cash balance transfer	- 0 -
Expenditures	Decrease, commensurate with revenue loss	- 0 -
Seat Belt Education Program Fund (Fund 8440)		
Revenues	Loss of approximately $150,000-$165,000 from cash balance transfer	- 0 -
Expenditures	Decrease, commensurate with revenue loss	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- **General Revenue Fund (GRF) expenditures.** The Department of Rehabilitation and Correction (DRC) estimates that the net effect of the bill's sentencing and correctional reform provisions will be to reduce the need for approximately 3,528 inmate beds and result in a total savings of about $13.7 million in annual incarceration costs.
- **Victims of Crime/Reparations Fund (Fund 4020)**. The bill requires that the Crime Victims/Reparations Fund (Fund 4020), administered by the Office of the Attorney General, be used to pay the monitoring cost for certain indigent inmates released under parole supervision and requiring global positioning system (GPS) monitoring in specified cases. The analysis provided by DRC calculates the annual cost for the mandatory GPS supervision placed on first and second degree felony offenders to be

$1,443,600. If Fund 4020 ceases to be a viable financing option, the Department could find itself responsible for covering those monitoring cost payments.

- **Cash balance transfers.** As a result of the bill's cash balance transfer provision, in FY 2010, the GRF will gain additional one-time revenues estimated at between $1.63 million and $1.79 million from certain Department of Public Safety funds that receive fine moneys from OVI and seat belt violations.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010 – FUTURE YEARS
Counties and Municipalities	
Revenues	Potential gain in state community corrections funding, annual magnitude uncertain
Expenditures	Potential criminal justice system increase to sanction offenders, annual magnitude uncertain

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Threshold amount determining increased penalties.** There will be a shifting of some cases from the felony jurisdiction of the courts of common pleas to the misdemeanor jurisdiction of municipal and county courts. As misdemeanor cases are generally less expensive to process, there should be some savings, of uncertain magnitude, for an affected county, and, in theory, a corresponding cost increase in criminal case processing cases for an affected municipality. Presumably, counties and municipalities will also incur additional jail costs to sanction these offenders who would not be sentenced to a prison term. It is not clear how much additional jail time will result from the bill, but at an average cost of around $65 per day, it would take just 77 additional jail days to exceed the minimum local impact threshold of $5,000 per year for any affected county or municipality.
- **Increased diversion of offenders.** The bill provides that, in certain felony criminal cases, a preference for one or more community control sanctions. To the degree that the preference functions as envisioned, then there would presumably be some increased demand on local community control sanction systems. This could in turn increase the local demand for DRC's community corrections grants funding, which means that, to some degree, the annual savings in state incarceration costs will be offset by the need to enhance funding for its parole and community services operations.

Detailed Fiscal Analysis

Sentencing and correctional reforms

The bill contains numerous sentencing and correctional reform provisions that are generally designed to reduce the size of the state's prison population and related institutional operating expenses by: (1) diverting otherwise prison-bound nonviolent offenders into less expensive community-based alternative punishments or (2) reducing the lengths of stay for certain offenders that are sentenced to a prison term from what those lengths of stay might otherwise have been under current law and practice. The Department of Rehabilitation and Correction (DRC) estimates that the net effect of these provisions will be to reduce the need for approximately 3,528 inmate beds and result in a total savings of about $13.7 million in annual incarceration costs. With regard to this estimated annual incarceration cost savings, the following caveats should be noted.

- The magnitude of this annual savings effect may be reduced by the need to transfer GRF funds not needed for the appropriated purpose of institutional operations to the Department's parole and community services operations for the purpose of handling an increase in the number of offenders subject to community-based sanctions. In that regard, H.B. 1 of 128th General Assembly contains a temporary law provision requiring, for the purposes of implementing criminal sentencing reforms, the Director of Budget and Management, at the request of the Director of Rehabilitation and Correction, to transfer up to $14,000,000 in appropriations, in each of FYs 2010 and 2011, from GRF appropriation item 501321, Institutional Operations, to certain GRF appropriation items that fund community-based corrections programs.
- Not all of the bill's provisions will have an immediate effect in terms of reducing DRC's institutional operating expenses. Some provisions, such as the earned credit reform, for example, may not begin to reduce inmate population and produce a savings effect until a year or two after the bill becomes effective.

Cash transferred to the GRF

OVI fines

The bill transfers the cash balance in the OMVI Enforcement/Education Fund (Fund 83G0), which contains fine moneys collected from OVI convictions stemming from arrests by the Ohio State Highway Patrol, to the GRF at the time of enactment. LSC fiscal staff estimates the amount of the cash balance in Fund 83G0 at the time of enactment that would be transferred to the GRF at between $330,000 and $480,000.

Seat belt fines

The bill transfers, at the time of enactment, the cash balances in the Elementary School Seat Belt Program Fund (Fund 83N0) and the Seat Belt Education Program Fund (Fund 8440) to the GRF. Both of these funds, administered by the Department of Public Safety, receive a portion of the fines imposed for violations of the Seat Belt Law. LSC fiscal staff estimates that, at the time of enactment, the amount of the cash balance in Fund 83N0 that would be transferred to the GRF at $1.15 million and the amount of the cash balance in Fund 8440 to be transferred to the GRF at between $150,000 and $165,000.

GRF

In FY 2010, as a result of the above-noted cash transfers, the GRF will gain additional one-time revenues totaling between $1.63 million and $1.79 million.

Section 5: Health and Human Services

State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	$7.35 million increase	$7.35 million increase	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The bill increases appropriations to GRF line item 334408, Community and Hospital Mental Health Services, by $7.35 million in FY 2010 and FY 2011.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
Local Drug Addiction and Mental Health Boards			
Revenues	Up to $7.35 million	Up to $7.35 million	- 0 -
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Local drug addiction and mental health boards will likely receive a portion, or perhaps all, of the increase in appropriation to GRF line item 334408, Community and Hospital Mental Health Services, in the Department of Mental Health's operating budget for FY 2010 and FY 2011.

Detailed Fiscal Analysis

The bill amends H.B. 1 of the 128th General Assembly to increase the amounts appropriated in GRF line item 334408, Community and Hospital Mental Health Services, by $7.35 million in FY 2010 and FY 2011. This line item funds the Department of Mental Health's operating budget for state mental health hospitals and services purchased by community mental health boards from local providers.

HB0318S1.docx / lb